

**FINAL**

**Environmental Impact Report  
for the  
San Bernardino County Master Storm Water System  
Maintenance Program**

*Prepared for:*

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## ACRONYMS AND ABBREVIATIONS

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Acronym/Abbreviation	Definition
AB	Assembly Bill
BLM	Bureau of Land Management
CBD	Center for Biological Diversity
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CNPS	California Native Plant Society
DRECP	Desert Renewable Energy Conservation Plan
EIR	environmental impact report
ESA	federal Endangered Species Act
GHG	greenhouse gas
GIS	geographic information system
HCP	habitat conservation plan
I-	Interstate
IPMP	Integrated Pest Management Plan
ITP	Incidental Take Permit
LOPP	local overlapping permitting process
MCT	Maintenance Compliance Tracker
MM	Mitigation Measure
MMRP	mitigation monitoring and reporting program
MT CO <sub>2</sub> E	metric tons of carbon dioxide equivalent
NCCP	Natural Community Conservation Plan
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
PCE	passenger car equivalent
SBVAS	San Bernardino Valley Audubon Society
SC	Sierra Club
SOP	standard operating procedure
USFWS	U.S. Fish and Wildlife Service
WQO	water quality objective

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# CHAPTER 1 INTRODUCTION

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## 1.1 Purpose and Organization of the Final EIR

This final environmental impact report (EIR) assesses the potentially significant environmental effects of the proposed Master Storm Water System Maintenance Program (proposed program).

As described in the Draft EIR, San Bernardino County Flood Control District (the District) is proposing to implement the proposed program, which provides a comprehensive approach to maintenance of flood control facilities so that the District can meet its principal functions of flood protection and water conservation in a timely and cost-effective manner for the benefit of residents, businesses, and other stakeholders. A streamlined maintenance program would allow the District to maintain its facilities at their current/designed capacity without unnecessary delays or burdens to the resource agencies (the U.S. Army Corps of Engineers, State Water Resources Control Board, California Department of Fish and Wildlife, and U.S. Fish and Wildlife Service). The goal of the proposed program is to obtain permits from the resource agencies that would cover 20 years of maintenance activities. The proposed program also includes a comprehensive list of standard operating procedures (SOPs) that are employed as part of the District's standard practice to minimize environmental impacts and incorporates a comprehensive approach to off-site resource conservation. The streamlined notification process has been preliminarily approved by the resource agencies and will be finalized during the permitting process in collaboration with federal and state agencies that have regulatory oversight over flood control facilities maintained by the County of San Bernardino (County).

As described in the California Environmental Quality Act (CEQA) and the CEQA Guidelines, public agencies are charged with the duty of avoiding or substantially lessening significant environmental effects, with consideration of other conditions, including economic, social, technological, legal, and other factors. As required by CEQA, this Final EIR assesses the significant direct and indirect environmental effects of the proposed program, as well as the significant cumulative impacts that could occur from implementation of the proposed program.

This Final EIR is an informational document, the purpose of which is to identify the significant effects of the proposed program on the environment and to indicate the manner in which those significant effects can be avoided or significantly lessened, including feasible mitigation measures; to identify any significant and unavoidable adverse impacts that cannot be mitigated to a less than significant level; and to identify reasonable and feasible alternatives to the proposed program that would avoid or substantially lessen any significant adverse environmental effects associated with the proposed program while still achieving the fundamental objectives of the proposed program.

An EIR does not in itself control the way in which a program can be developed; rather, a governmental agency must respond to the information contained in the EIR by one or more of the seven methods outlined in Section 15002(h) of the CEQA Guidelines, which include the following:

1. Changing a proposed project.
2. Imposing conditions on the approval of the project.
3. Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes.
4. Choosing an alternative way to meet the same need.
5. Disapproving the project.
6. Finding that changing or altering the project is not feasible.
7. Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.

This Final EIR will be used by the District as an informational document for consideration of the proposed program. The Final EIR, in compliance with Section 15132 of the CEQA Guidelines, is organized as follows:

- **Chapter 1, Introduction.** This chapter provides general information on, and the procedural compliance of, the proposed program and the Final EIR.
- **Chapter 2, Responses to Comments Received.** This chapter includes a list of those who provided comments on the Draft EIR during the public review period. The chapter also includes the comments received on environmental issues raised during the public review process for the Draft EIR, as well as the District's responses to these comments. Each comment letter is assigned an alphabetical designation (e.g., Comment Letter A), and each comment in the letter is assigned a comment number (e.g., A-1). Responses are provided by comment letter (e.g., Response to Comment Letter A) and comment number (e.g., A-1). Some comments refer to common themes that require a more detailed response; for these comments, the District has prepared two thematic responses that are presented in Section 2.2 of the chapter, assigned numbers, and then referred to by number (e.g., Thematic Response TH-1) in the responses in Section 2.3.
- **Chapter 3, Changes to the Draft EIR.** This chapter contains a summary of changes made to the document as a result of comments received since publication of the Draft EIR. Revisions were made to clarify information presented in the Draft EIR, and only minor technical changes or additions have been made. These changes and additions to the EIR do not raise important new issues related to significant effects on the environment. Such changes are insignificant, as defined in Section 15088.5(b) of the CEQA Guidelines. This chapter

describes changes that were made and presents textual changes made since public review signified by ~~strikeout~~ (i.e., ~~strikeout~~) where text is removed, and by underline (i.e., underline) where text is added for clarification.

- **Chapter 4, Mitigation Monitoring and Reporting Program.** This chapter of the Final EIR provides the mitigation monitoring and reporting program (MMRP) for the proposed program. The MMRP is presented in table format and identifies mitigation measures for the proposed program, the party responsible for ensuring implementation of the mitigation measures and monitoring and reporting activities; the timing for implementation of the mitigation measures; and the party responsible for implementing for each mitigation measure.

Each chapter of the Final EIR also contains a References section that lists the documents cited in the chapter. Appendices to the Final EIR, which provide more detailed technical information, are listed below:

- A Maintenance Plan
- B Integrated Pest Management Plan
- C Biological Technical Report
- D Rare Plant Surveys
- E Additional Hydrological Analysis Memo
- F Attachments from Comment Letter U

## 1.2 PUBLIC OUTREACH

Pursuant to Section 15082 of the CEQA Guidelines, a Notice of Preparation (NOP) dated October 6, 2010, was circulated to interested agencies, organizations, and individuals. Subsequently, an NOP was issued in June 30, 2014, which was also circulated to interested agencies, organizations, and individuals. The NOPs were also sent to the State Clearinghouse at the California Governor’s Office of Planning and Research. The State Clearinghouse assigned a state identification number (SCH No. 2014061100) to this EIR. All comments received during the NOP public notice periods were considered during the preparation of this EIR. Copies of the comment letters are included in Appendices B and C of the Draft EIR and are summarized in Table 2-1 of the Draft EIR.

The Draft EIR was made available to the public for review and comment for a 45-day period. The review and comment period began on June 14, 2018, and concluded on July 30, 2018. A copy of the Draft EIR was available for public review at the District offices at 825 East Third Street, San Bernardino, California 92415 and at 23 libraries throughout the County. The Draft EIR was also available for review on the District website at <http://sbcounty.mswwp.com>. All

comment letters received in response to the Draft EIR were reviewed and are included in Chapter 3 of this Final EIR, along with written responses to each of the comments.

Lastly, Chapter 2, Responses to Comments Received, of this Final EIR will be mailed out to public agencies that commented 10 days prior to the District’s Board of Supervisors hearing on the proposed program, per CEQA Guidelines, Section 15088.

### **1.3 REFERENCES**

14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.

California Public Resources Code, Sections 21000–21177. California Environmental Quality Act (CEQA), as amended.

## CHAPTER 2 RESPONSES TO COMMENTS RECEIVED

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### 2.1 COMMENTS RECEIVED

This chapter of the final environmental impact report (EIR) for the proposed Master Storm Water System Maintenance Program (proposed program) includes copies of all comment letters that were submitted during the 45-day public review period for the Draft EIR, along with responses to comments by the San Bernardino County Flood Control District (District) in accordance with the California Environmental Quality Act (CEQA) Guidelines (14 CCR 15000 et seq.). Under Section 15088 of the CEQA Guidelines, the District is required to evaluate and provide written responses to comments received on the Draft EIR.

**Table 2.1-1  
Comments Received on the Draft EIR**

Comment Letter Designation	Commenter	Date
A	Native American Heritage Commission	June 22, 2018
B	City of Redlands	June 25, 2018
C	California Native Plant Society	June 28, 2018
D	Center for Biological Diversity	July 2, 2018
E	Department of Toxic Substances Control	July 9, 2018
F	San Bernardino Valley Water Conservation District	July 25, 2018
G	Lahontan Regional Water Quality Control Board	July 26, 2018
H	The Metropolitan Water District of Southern California	July 26, 2018
I	Center for Biological Diversity	July 30, 2018
J	City of Rancho Cucamonga	July 30, 2018
K	Defenders of Wildlife	July 30, 2018
L	Desert Tortoise Council	July 30, 2018
M	State Water Resources Control Board, Division of Water Quality	July 30, 2018
N	U.S. Fish and Wildlife Service	July 30, 2018
O	Vulcan Materials Company	July 30, 2018
P	Santa Ana Regional Water Quality Control Board	July 31, 2018
Q	California Department of Fish and Wildlife	August 6, 2018
R	San Bernardino Valley Municipal Water District	July 19, 2018
S	Defenders of Wildlife	July 3, 2018
T	Audubon California	July 3, 2018
U	Downey Brand LLP (on Behalf of San Bernardino Valley Municipal Water District)	October 17, 2018

## 2.2 THEMATIC RESPONSES

Several comment letters included common themes regarding overall program goals and program implementation. The District has chosen to highlight these responses in this section and refer back to these numbered thematic responses in Section 2.3, Responses to Comments.

**TH-1 Program Scope and Goals.** The District provides flood protection throughout the County and routinely maintains approximately 500 flood control facilities within the County. The majority of District facilities convey or contain some natural resource, whether it is water, vegetation, or wildlife. As a result, the majority of facilities fall under the jurisdiction of federal and/or state resource agencies. Resource agencies with oversight include the California Department of Fish and Wildlife; the State Water Resources Control Board, including three of its Regional Water Quality Control Boards; the U.S. Army Corps of Engineers; and in some cases, the U.S. Fish and Wildlife Service.

The purpose of the proposed program is to provide a comprehensive approach to maintenance of flood control facilities so that the District can meet its principal functions of flood protection and water conservation in a timely and cost-effective manner for the benefit of residents, businesses, and other stakeholders. The goal of the proposed program is to receive permits from the applicable resource agencies that would cover 20 years of maintenance activities (referred to as “long-term permits” in this document).

The District has been maintaining its facilities in a routine manner for more than 40 years with various permits from the applicable resource agencies. Currently, the District maintains its facilities as needed and as authorized under regulatory approvals on a case-by-case basis. The District receives authorization in two ways: through the approval of 5-year routine maintenance permits, agreements, or certifications (all referred to as “routine maintenance permits” in this document), or through the receipt of emergency permits. Emergency permits are obtained as needed prior to or following storm events to address imminent threats to life and property. Depending on District and agency staff availability, the District has routine maintenance permits for approximately 10% to 25% of its facilities in a given year.

The proposed program would provide for the maintenance of an average of 30% of the facilities each year over the life of the long-term permits. The long-term permits for the program would provide the District with the flexibility to maintain facilities as needed; however, based on operations staff and equipment constraints, budget constraints, and historic maintenance requirements based on storm events, the District

does not anticipate having the capability or need to maintain more than an average of 30% of its facilities each year, which is the assumption applied in the EIR.

The District currently maintains the facilities identified in the EIR in the manner described in the EIR, including maintenance activity types and methods; therefore, the existing conditions include these ongoing maintenance activities. The proposed program is the formalization and consolidation of currently ongoing maintenance activities to facilitate receipt of long-term permits that would allow the District to meet its flood control responsibility more efficiently, minimizing the need for emergency permits and reducing staff workload for both the District and the resource agencies.

**TH-2 Maintenance Plan.** The program includes a Maintenance Plan, which is intended to serve as a comprehensive guide to the maintenance of the District’s existing flood control facilities. The Maintenance Plan includes a complete description of maintenance activities, the District’s standard operating procedures (SOPs) implemented during maintenance, the frequency with which activities are conducted, seasonal restrictions, and methods for environmental compliance and reporting. The SOPs are based on procedures that the District has developed and implemented over many years to protect resources and prevent impacts to resources during maintenance activities.

The Maintenance Plan includes a compliance and reporting component. As part of the Maintenance Plan, the District would implement a Maintenance Compliance Tracker (MCT). The MCT will include for each facility a list of SOPs, mitigation measures, and permit conditions relevant to each facility; seasonal timing restrictions; frequency limitations; and notification requirements. As described on page 29 of the Maintenance Plan (see Appendix A to the Draft EIR (also included in this Final EIR as Appendix A)), prior to each maintenance activity, the activity will be reviewed by the District to confirm whether it complies with the program’s Maintenance Plan and whether any pre-activity measures are required. Figure 2-1 depicts the evaluation process described in the Maintenance Plan for implementation of pre-activity measures and responsible parties. For each activity, permanent and temporary impacts will be mapped and recorded, and all pre-activity measures implemented will be documented. An annual report will be submitted to the resource agencies that will include a summary of permanent and temporary impacts, an account of measures implemented, pre- and post-activity photographs, and a description of mitigation obligations.

The compliance and reporting component of the Maintenance Plan provides the basis for ensuring that maintenance activities are implemented in compliance with all applicable SOPs and mitigation measures as assessed in the EIR.

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## **2.3 RESPONSES TO COMMENTS**

To finalize the Draft EIR for the proposed program, the following responses have been prepared for comments that were received during the public review period. In accordance with the requirements of the CEQA Guidelines, Section 15088(b), the District will provide the written responses to comments submitted by these public agencies to each respective agency at least 10 days prior to certifying the Final EIR.

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Comment Letter A

STATE OF CALIFORNIA  
NATIVE AMERICAN HERITAGE COMMISSION  
Environmental and Cultural Department  
1650 Harbor Blvd., Suite 100  
West Sacramento, CA 95691  
Phone (916) 373-3710  
Fax (916) 373-6471

Edmund G. Brown, Jr., Governor



June 22, 2018

Michael Perry  
San Bernardino County Flood Control District  
825 East Third Street  
San Bernardino, CA 92415

Also sent via e-mail: Michael.perry@dpw.sbcounty.gov  
Cc: MSWSMPComments@dpw.sbcounty.gov

Re: SCH# 2018061035, San Bernardino Master Storm Water System Maintenance Program Project; San Bernardino County, California

Dear Mr. Perry:

The Native American Heritage Commission (NAHC) has reviewed the Draft Environmental Impact Report (DEIR) prepared for the project referenced above. The review included the Executive Summary; the Introduction and Project Description; and the Environmental Impact Analysis, section 4.4 Cultural Resources prepared by Dudek for the San Bernardino County Flood Control District. We have the following concerns:

- 1. There is no Tribal Cultural Resources section or subsection in the Executive Summary or Environmental Checklist as per California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form," <http://resources.ca.gov/ceqa/docs/ab52/Clean-final-AB-52-App-G-text-Submitted.pdf>
- 2. The thresholds of significance for Tribal Cultural Resources (per Appendix G referenced above) are not analyzed in Cultural Resources section 4.4.3 nor in the explanation of potential impacts.
- 3. There is no documentation of **government-to-government consultation by the lead agency** under AB-52 with Native American tribes traditionally and culturally affiliated to the project area as required by statute, or that mitigation measures were developed in consultation with the tribes. Discussions under AB-52 may include the type of document prepared; avoidance, minimization of damage to resources; and proposed mitigation. Contact by consultants does not comply with requirements for government-to-government consultation.
- 4. There are no mitigation measures specifically addressing Tribal Cultural Resources separately and distinctly from Archaeological Resources. Mitigation measures must take Tribal Cultural Resources into consideration as required under AB-52, **with or without consultation** occurring. Mitigation language for archaeological resources is not always appropriate for or similar to measures specifically for handling Tribal Cultural Resources. Sample mitigation measures for Tribal Cultural Resources can be found in the CEQA guidelines at [http://opr.ca.gov/docs/Revised\\_AB\\_52\\_Technical\\_Advisory\\_March\\_2017.pdf](http://opr.ca.gov/docs/Revised_AB_52_Technical_Advisory_March_2017.pdf)

A-1  
A-2  
A-3  
A-4

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

Please contact me at [gayle.totton@nahc.ca.gov](mailto:gayle.totton@nahc.ca.gov) or call (916) 373-3714 if you have any questions.

Sincerely,

*Gayle Totton*  
Gayle Totton, B.S., M.A., Ph.D  
Associate Governmental Project Analyst

Attachment

cc: State Clearinghouse

**ADDITIONAL INFORMATION:**

The California Environmental Quality Act (CEQA)<sup>1</sup>, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.<sup>2</sup> If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.<sup>3</sup> In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52. (AB 52).<sup>4</sup> **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** AB 52 created a separate category for "tribal cultural resources"<sup>5</sup>, that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."<sup>6</sup> Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.<sup>7</sup> Your project may also be subject to **Senate Bill 18 (SB 18)** (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. **Both SB 18 and AB 52 have tribal consultation requirements.** Additionally, if your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966<sup>8</sup> may also apply.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online at [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf), entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

**Pertinent Statutory Information:**

**Under AB 52:**

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice.

A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.<sup>9</sup> and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18)."<sup>10</sup>

The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects.<sup>11</sup>

1. The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.<sup>12</sup>

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native

<sup>1</sup> Pub. Resources Code § 21000 et seq.  
<sup>2</sup> Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)  
<sup>3</sup> Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)  
<sup>4</sup> Government Code 65352.3  
<sup>5</sup> Pub. Resources Code § 21074  
<sup>6</sup> Pub. Resources Code § 21084.2  
<sup>7</sup> Pub. Resources Code § 21084.3 (a)  
<sup>8</sup> 154 U.S.C. 300101, 36 C.F.R. § 800 et seq.  
<sup>9</sup> Pub. Resources Code § 21080.3.1, subds. (d) and (e)  
<sup>10</sup> Pub. Resources Code § 21080.3.1 (b)  
<sup>11</sup> Pub. Resources Code § 21080.3.2 (a)  
<sup>12</sup> Pub. Resources Code § 21080.3.2 (a)

A-5

American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.<sup>13</sup>

If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.<sup>14</sup>

Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.<sup>15</sup>

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.<sup>16</sup>

If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b).<sup>17</sup>

An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.<sup>18</sup>

***This process should be documented in the Tribal Cultural Resources section of your environmental document.***

**Under SB 18:**

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of "preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county's jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to local governments and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf)
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**<sup>19</sup>
- **There is no Statutory Time Limit on Tribal Consultation under the law.**
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,<sup>20</sup> the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction.<sup>21</sup>
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
  - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or

<sup>13</sup> Pub. Resources Code § 21082.3 (c)(1)

<sup>14</sup> Pub. Resources Code § 21082.3 (b)

<sup>15</sup> Pub. Resources Code § 21080.3.2 (b)

<sup>16</sup> Pub. Resources Code § 21082.3 (a)

<sup>17</sup> Pub. Resources Code § 21082.3 (e)

<sup>18</sup> Pub. Resources Code § 21082.3 (d)

<sup>19</sup> (Gov. Code § 65352.3 (a)(2)).

<sup>20</sup> pursuant to Gov. Code section 65040.2,

<sup>21</sup> (Gov. Code § 65352.3 (b)).



A-5  
Cont.

- o Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.<sup>22</sup>

**NAHC Recommendations for Cultural Resources Assessments:**

- Contact the NAHC for:
  - o A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - o A Native American Tribal Contact List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
    - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - o If part or the entire APE has been previously surveyed for cultural resources.
  - o If any known cultural resources have been already been recorded on or adjacent to the APE.
  - o If the probability is low, moderate, or high that cultural resources are located in the APE.
  - o If a survey is required to determine whether previously unrecorded cultural resources are present.
- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - o The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - o The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

**Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**

- o Avoidance and preservation of the resources in place, including, but not limited to:
  - Planning and construction to avoid the resources and protect the cultural and natural context.
  - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- o Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
  - Protecting the cultural character and integrity of the resource.
  - Protecting the traditional use of the resource.
  - Protecting the confidentiality of the resource.
- o Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- o Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed.<sup>23</sup>
- o Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.<sup>24</sup>

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- o Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.<sup>25</sup> In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- o Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- o Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subs. (d) and (e)) address the processes to be



A-5  
Cont.

<sup>22</sup> (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

<sup>23</sup> (Civ. Code § 815.3 (c)).

<sup>24</sup> (Pub. Resources Code § 5097.991).

<sup>25</sup> per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

↑ A-5  
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## **Response to Comment Letter A**

### **Native American Heritage Commission Environmental and Cultural Department**

**Gayle Totton, BS, MA, PhD, Associate Governmental Project Analyst  
June 22, 2018**

**A-1** Thank you for your letter pursuant to the proposed program. As stated in the comment, the Draft EIR did not include a tribal cultural resources section or analysis. The review period for the 2010 Initial Study and Notice of Preparation (NOP) was October 6, 2010, to November 10, 2010. The review period for the 2014 Initial Study and NOP was from June 30, 2014, to July 29, 2014. Assembly Bill (AB) 52, which requires an analysis of tribal cultural resources, was adopted on September 25, 2014, and applies only to projects that have an NOP or a notice of negative declaration or mitigated negative declaration filed on or after July 1, 2015 (California Legislative Information 2014). Because the NOP for the proposed program was issued in 2010 and 2014, the provisions of AB 52 do not apply, and the Draft EIR is not required to include a tribal cultural resources analysis.

Similarly, the thresholds of significance for tribal cultural resources per Appendix G of the California Environmental Quality Act (CEQA) Guidelines (14 CCR 15000 et seq.) do not apply to projects where an NOP has been filed on or before July 1, 2015. Therefore, the Draft EIR for the proposed program did not include the Appendix G tribal cultural resources thresholds of significance.

**A-2** Please see Response A-1. Because the proposed program is not subject to AB 52, government-to-government consultation with Native American tribes did not occur.

**A-3** Please see Response A-1. Because the proposed program is not subject to AB 52, mitigation measures for tribal cultural resources were not provided in the Draft EIR.

**A-4** Please see Response A-1.

**A-5** This comment provides a description of AB 52 and Senate Bill 18. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

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Comment Letter B

**Rachel Struglia**

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**From:** Linda Archer  
**Sent:** Tuesday, June 26, 2018 8:06 AM  
**To:** Rachel Struglia  
**Subject:** Fwd: Draft EIR comments - Sch No. 2014011063

Traffic comment

Veronika (Linda) Archer  
909.677.3775  
Sent from my iPhone

Begin forwarded message:

**From:** MSWSMPcomments - DPW <[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)>  
**Date:** June 26, 2018 at 7:12:34 AM PDT  
**To:** "Linda Archer ([larcher@dudek.com](mailto:larcher@dudek.com))" <[larcher@dudek.com](mailto:larcher@dudek.com)>  
**Subject:** FW: Draft EIR comments - Sch No. 2014011063

Hi Linda,

Public comment received on my county email, for your files.

**Michael Perry**  
Supervising Planner  
Department of Public Works  
Environmental Management Division  
Office – (909) 387-1864  
Cell – (909) 557-7700

---

**From:** Don Young <[dyoung@cityofredlands.org](mailto:dyoung@cityofredlands.org)>  
**Sent:** Monday, June 25, 2018 6:08 PM  
**To:** Perry, Michael - DPW <[Michael.Perry@dpw.sbcounty.gov](mailto:Michael.Perry@dpw.sbcounty.gov)>  
**Cc:** Brian Foote <[bfoote@cityofredlands.org](mailto:bfoote@cityofredlands.org)>  
**Subject:** Draft EIR comments - Sch No. 2014011063

San Bernardino County Master Storm Water System Maintenance Program

Draft EIR comments

Michael Perry, Supervising Planner  
San Bernardino County Flood Control District  
Environmental Management Division  
825 East Third Street, Room 123  
San Bernardino, California 92415-0835

Email: [Michael.Perry@dpw.sbcounty.gov](mailto:Michael.Perry@dpw.sbcounty.gov)

Mr. Perry

Construction traffic – Appropriate mitigation measures should be required that will address the impact the issues that construction traffic will have on existing street infrastructure. These include both operational characteristics and structural integrity of the roadway.

B-1

The quantity and timing of construction traffic from a project site can significantly impact the functionality of local streets. A metric often used is no more than one truck every 90 seconds so as to not impact existing signalization timing.

The type and quantity of the construction traffic can have significant implications on the long-term viability of an existing roadway. Remediation for wear and tear of the roadway surface should obviously be considered. Similarly, the long term impact on using up the "life" of the road as measured by ESALs vs the design TI of the roadway should be individually evaluated as an impact for each major maintenance project. The idea is that a road with a TI of 8 could have it's useful life taken up almost entirely by maintenance of debris basins if the maintenance has to occur on a regular basis. An example would be the San Timoteo Creek basin cleaning operations with debris hauled out on San Timoteo Canyon Road. The local agency responsible for the actual roadway could end up bearing the burden of repairing/replacing a road due, at least partially, to maintenance activities.

B-2

Some environmental documents for flood facilities already call for maintenance activities to be included in analysis of environmental impacts such as the evaluation of existing roadways and then remediation due to the wear and tear on those roadways caused during construction AND as a result of maintenance (i.e., 30,000 truckloads of rock/debris would cause significant damage to those roads and thereby shortening the life of those roads).

B-3

Will the preexisting environmental mitigation measures for existing facilities be eliminated? If so, does this EIR adequately state how and why those previously approved mitigation measures can be removed?

Donald Young  
Manager - One Stop Permit Center  
City of Redlands  
909-798-7585 x6  
[dyoung@cityofredlands.org](mailto:dyoung@cityofredlands.org)

## Response to Comment Letter B

**City of Redlands**  
**Donald Young, Manager of One Stop Permit Center**  
**June 25, 2018**

**B-1** Thank you for your letter pursuant to the proposed program. Appropriate measures to address the proposed program's traffic impacts are provided through Standard Operating Procedure (SOP) TR-1, District Coordination and Traffic Control Plan (on page 4.13-7 of the Draft EIR). Per SOP-TR-1, the District will coordinate with the City of Redlands (City) to address the potential impacts of program construction and maintenance traffic issues specific to the City's transportation facilities. If, through this coordination process, a traffic control plan is required, the District will prepare a plan for City approval. SOP-TR-1 is written as follows:

The District coordinates with local jurisdictions, emergency service providers, or transit providers, as appropriate, when maintenance activities affect emergency access or bicycle, pedestrian, or transit facilities. Coordination is also required if maintenance activities cause interference with roadway operations, such as lane closures during peak hour or detours. If required by the affected jurisdiction, a traffic control plan is prepared.

As noted on page 4.13-8 of the Draft EIR, the highest trip-generating program phase is associated with levee maintenance activities. This phase would generate traffic related to 13 workers, 2 vendor trucks, and 4 haul trucks per day for a 25-day period. This equates to a trip generation estimate of 73 passenger-car equivalent (PCE) daily trips, with 19 AM PCE trips, and 19 PM PCE trips per day, for 25 days. Based on this maximum vehicular operational schedule, truck traffic would be spaced out much further than every 90 seconds (or every average signal cycle). With 6 trucks per day (2 vendor trucks and 4 haul trucks), or 12 truck trips per day (1 inbound trip and 1 outbound trip per truck), over an 8-hour workday, truck trips would occur an average of every 40 minutes ( $8 \text{ hours} \div 12 \text{ trucks} = 0.67 \text{ hours}$ ;  $0.67 \times 60 \text{ minutes} = 40 \text{ minutes}$ ). Therefore, based on the relatively low (temporary) trip-generation estimates, the highest trip-generating activity (levee maintenance) would not significantly impact traffic operations on the City's roadways and intersections.

**B-2** Based on the relatively low trip-generation estimates and their temporary nature, the proposed program would not significantly impact the long-term viability of an existing roadway. As discussed in Response B-1, the highest trip-generating program phase

(levee maintenance) would generate traffic related to 13 workers, 2 vendor trucks, and 4 haul trucks per day, temporarily, for a 25-day period. This equates to a trip-generation estimate of 73 PCE daily trips, with 19 AM PCE trips and 19 PM PCE trips per day (for 25 days). Based on the relatively low trip-generation estimates, over a 25-day temporary period, the proposed program would not significantly impact the long-term viability of an existing roadway. It is also recognized that there are maintenance activities, such as sand and gravel operations in basins, that can take up to 2 years (522 days). This type of longer activity, such as sand and gravel operations, would contribute 12 workers, 2 vendor trucks, and 4 haul trucks per day (see Table 4.6-14 of the Draft EIR). However, these trips are also temporary in nature since after this activity is completed, it will be several years until it will need to be done again.

Furthermore, appropriate measures to address the proposed program's impacts to the City's roads are provided through SOP-TR-1 (on page 4.13-7 of the Draft EIR). Per SOP-TR-1, the District will coordinate with the City to address the potential impacts of program construction and maintenance traffic issues specific to the City's transportation facilities.

- B-3** Any previously approved mitigation measures would continue to apply to their respective projects. The District will implement SOPs as described in the Draft EIR and the Maintenance Plan for maintenance activities covered under the proposed program (Appendix A to the Draft EIR; also included in this Final EIR as Appendix A).

Comment Letter C



June 28, 2018

San Bernardino County Flood Control District  
Environmental Management Division  
Attn: Michael Perry, Supervising Planner  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835  
MSWSMPcomments@dpw.sbcounty.gov

**Request for a 60-Day Extension of the Comment Period on the Draft Environmental Impact Report for the San Bernardino County Master Storm Water System Maintenance Program (MSWSMP)**

Dear Mr. Perry,

I am writing on behalf of the California Native Plant Society (CNPS) to request a 60-day extension to the comment period for the draft environmental impact report (DEIR) of San Bernardino County Master Storm Water System Maintenance Program (MSWSMP). CNPS seeks a 60-day extension of the current public review period for the DEIR, which currently is 45 days and will end on July 30, 2018.

C-1

The California Native Plant Society (“CNPS”) is a non-profit environmental organization with nearly 10,000 members in 35 local chapters. CNPS’ mission is to protect California’s native plant heritage and to preserve it for future generations through the application of science, research, education, and conservation. CNPS works closely with decision-makers, scientists, and local planners to advocate for well-informed and environmentally friendly policies, regulations, and land management practices.

C-2

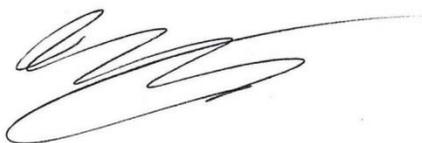
In line with our mission, CNPS requests that the San Bernardino County Flood Control District grants additional time to comprehensively review the DEIR and evaluate concerns about the project’s environmental impacts. The DEIR is more than 800 pages and, associated appendices cover more than 2,000 additional pages. Additionally, the DEIR and appendices contain complex and technical information that will require substantial time to review. An extension of the comment period will ensure full public participation in the evaluation of the DEIR and the project’s impacts.

C-3

The current 45-day comment period is the minimum required under CEQA, but the scale of this project and the associated DEIR dictates the need for a longer comment period. Consequently, CNPS respectfully requests an extension to the public review period of the DEIR of 60 days, until September 28, 2018. Thank you very much for your time and the consideration of this request. Please feel free to contact me if you have any questions.

↑  
C-3  
Cont.

Sincerely,



Nicholas Jensen, PhD  
Southern California Conservation Analyst  
California Native Plant Society  
1500 North College Ave  
Claremont, CA 91711  
(530) 368-7839  
njensen@cnps.org

## **Response to Comment Letter C**

### **California Native Plant Society**

**Nicholas Jensen, PhD, Southern California Conservation Analyst**

**June 28, 2018**

- C-1** Thank you for your letter pursuant to the proposed program. The District received requests to extend the 45-day review period of the Draft EIR. Although the District understands that the document is lengthy, the District is also committed to completing the EIR in a timely manner so the proposed Maintenance Plan can be implemented in a reasonable time frame. The District sent a letter to the California Native Plant Society on July 10, 2018, to inform them that an extension of the 45-day review period had not been granted. The District received an additional comment letter from the California Native Plant Society and other organizations, including the Center for Biological Diversity, the Sierra Club, and the San Bernardino Valley Audubon Society, on July 30, 2018. Please see the Response to Comment Letter I for responses to those comments.
- C-2** This comment provides a description of the California Native Plant Society. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- C-3** Please see Response C-1.

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Comment Letter D



CENTER for BIOLOGICAL DIVERSITY

Because life is good.

July 2, 2018

San Bernardino County Flood Control District  
Environmental Management Division  
Attn: Michael Perry, Supervising Planner  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835  
[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)

**RE: Request a 120 day Comment Deadline Extension on The San Bernardino County Master Storm Water System Maintenance Program Draft Environmental Impact Report SCH NO. 2014011063 - June 2018**

Dear Supervising Planner Perry,

The Center for Biological Diversity respectfully requests an extension of the comment period for comments on the San Bernardino County Master Storm Water System Maintenance Program Draft Environmental Impact Report SCH NO. 2014011063 - June 2018. The current 45 day comment period creates a deadline of July 30, 2018 and is inadequate to allow full review of the DEIR which covers complex issues in its 832 pages plus eight appendices and four attachments to Appendix G alone. Attachment B to Appendix G alone is over 18,000 pages. We believe the current 45 day comment period is inadequate to fully review the document, appendices and attachments and to provide meaningful comment to the CEQA review. Due to the size of the materials presented in the DEIR, we believe an additional 120 days is required. Extending the deadline to October 30, 2018 would allow for a more comprehensive review and more useful comments. Therefore we respectfully request that you consider extending the comment period an additional 120 days. Please respond to us at your earliest convenience.

D-1

Sincerely,

Aruna Prabhala  
Urban Wildlands Program Director  
Staff Attorney  
Center for Biological Diversity  
1212 Broadway, Suite 800  
Oakland, CA 94612  
Ph: 510-844-7100, ext. 322  
[aprabhala@biologicaldiversity.org](mailto:aprabhala@biologicaldiversity.org)

Arizona · California · Colorado · Florida · N. Carolina · Nevada · New Mexico · New York · Oregon · Washington, D.C. · La Paz, Mexico

[BiologicalDiversity.org](http://BiologicalDiversity.org)

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## **Response to Comment Letter D**

**Center for Biological Diversity  
Aruna Prabhala, Urban Wildlands Program Director  
July 2, 2018**

- D-1** Thank you for your letter pursuant to the proposed program. The District received requests to extend the 45-day review period of the Draft EIR. Although the District understands that the document is lengthy, the District is also committed to completing the EIR in a timely manner so the proposed Maintenance Plan can be implemented in a reasonable time frame. The District sent a letter to the Center for Biological Diversity on July 10, 2018, stating that an extension of the 45-day review period had not been granted. The District received an additional comment letter from the Center for Biological Diversity and other organizations, including the California Native Plant Society, the Sierra Club, and the San Bernardino Valley Audubon Society, on July 30, 2018. Please see the Response to Comment Letter I for responses to those comments.

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Comment Letter E



Matthew Rodriguez  
Secretary for  
Environmental Protection



Department of Toxic Substances Control

Barbara A. Lee, Director  
5796 Corporate Avenue  
Cypress, California 90630



Edmund G. Brown Jr.  
Governor

July 9, 2018

Mr. Michael Perry  
Supervising Planner  
San Bernardino County Flood Control District  
Environmental Management Division  
825 East Third Street, Room 123  
San Bernardino, California 92415-0835  
[Michael.Perry@dpw.sbcounty.gov](mailto:Michael.Perry@dpw.sbcounty.gov)  
[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)

ENVIRONMENTAL IMPACT REPORT (EIR) FOR SAN BERNARDINO COUNTY  
MASTER STORM WATER SYSTEM MAINTENANCE PROGRAM PROJECT,  
SAN BERNARDINO COUNTY (SCH# 2018061035)

Dear Mr. Perry:

The Department of Toxic Substances Control (DTSC) has reviewed the subject EIR. The following project description is stated in the EIR: "The San Bernardino County Flood Control District (District) is proposing the implementation of a San Bernardino County Master Storm Water System Maintenance Program (proposed program). The proposed program includes the preparation and implementation of a Maintenance Plan (see Appendix A to this environmental impact report (EIR)), which provides guidance for the implementation of maintenance activities within the District's maintained flood control facilities in the County of San Bernardino (County). As described in the Maintenance Plan, it is intended to be a comprehensive guide to the maintenance of the District's existing flood control facilities. The Maintenance Plan includes a complete description of maintenance activities, standard operating procedures (SOPs), the frequency with which activities are conducted, seasonal restrictions, and methods for environmental compliance and reporting that would be updated to reflect changing regulatory environment, improved SOPs, and/or the addition of maintenance of new facilities. Individual future projects that may not be analyzed in this EIR would undergo environmental review to determine if there would be new impacts as a result of their inclusion in the program. The proposed program does not include the construction of new flood control facilities."

E-1

Mr. Michael Perry  
July 9, 2018  
Page 2

Based on the review of the submitted document, DTSC has the following comments:

1. The EIR should identify and determine whether current or historic uses at the project site may have resulted in any release of hazardous wastes/substances. If there are any recognized environmental conditions in the project area, then proper investigation, sampling and remedial actions overseen by the appropriate regulatory agencies should be conducted prior to the new development or any construction.
2. The EIR further states, "Based on the methodology described in Appendix G to this EIR, a total of 364 sites within or near the proposed program area were identified as having releases or potential releases of hazardous materials or contaminants. Some of the sites are listed in several of the databases searched; thus, duplicate entries were consolidated." The EIR further states, "There are hazardous materials sites located within the proposed program area, as discussed in Section 4.7.4.1, Hazardous Materials Overview. There are impacts from these sites to soil and groundwater. For ground-disturbing activities near sites where releases have occurred, mitigation measures will reduce or avoid adverse environmental impacts resulting from proposed program activities. Mitigation measures would include preparation of a health and safety plan for the protection of workers and a hazardous materials contingency plan (see Mitigation Measure (MM) HAZ-1 (Hazardous Materials Contingency Plan) in Section 4.7.7, Mitigation Measures) prior to the start of maintenance activities. DTSC is unable to evaluate whether vapor sampling and/or potential vapor intrusion risk was adequately addressed due to lack of relevant detailed information in the EIR. DTSC recommends soil gas sampling and vapor intrusion risk evaluation on sites with releases of volatile organic compounds (VOCs) or total petroleum hydrocarbons (TPH). DTSC recommends soil gas sampling to confirm no residual VOC/TPH contamination remain onsite and/or risk is acceptable based on applicable and relevant state guidelines.
3. If the project development involves soil export/import, proper evaluation is required. If soil contamination is suspected or observed in the project area, then excavated soil should be sampled prior to export/disposal. If the soil is contaminated, it should be disposed of properly in accordance with all applicable and relevant laws and regulations. In addition, if imported soil was used as backfill onsite and/or backfill soil will be imported, DTSC recommends proper evaluation/sampling as necessary to ensure the backfill material is free of contamination.
4. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR should identify how any required investigation and/or remediation will be conducted and the appropriate government agency to provide regulatory oversight.

E-2

E-3

E-4

E-5

Mr. Michael Perry  
July 9, 2018  
Page 3

If you have any questions regarding this letter, please contact me at (714) 484-5380 or by email at [Johnson.Abraham@dtsc.ca.gov](mailto:Johnson.Abraham@dtsc.ca.gov).

Sincerely,



Johnson P. Abraham  
Project Manager  
Brownfields Restoration and School Evaluation Branch  
Site Mitigation and Restoration Program – Cypress

kl/sh/ja

cc: Governor's Office of Planning and Research (via e-mail)  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[State.clearinghouse@opr.ca.gov](mailto:State.clearinghouse@opr.ca.gov)

Mr. Dave Kereazis (via e-mail)  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

Mr. Shahir Haddad, Chief (via e-mail)  
Schools Evaluation and Brownfields Cleanup  
Brownfields and Environmental Restoration Program - Cypress  
[Shahir.Haddad@dtsc.ca.gov](mailto:Shahir.Haddad@dtsc.ca.gov)

CEQA# 2018061035

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## Response to Comment Letter E

### Department of Toxic Substances Control

#### Johnson P. Abraham, Project Manager, Brownfields Restoration and School Evaluation Branch Site Mitigation and Restoration Program – Cypress July 9, 2018

- E-1** Thank you for your letter pursuant to the proposed program. This comment quotes a portion of the program description from the Draft EIR. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- E-2** Federal, state, local, and tribal regulatory databases were searched to determine whether there were impacts from hazardous wastes/substances to the proposed program area. These databases include information on current and historical releases of hazardous wastes/substances. The findings of the database search are included in the EIR. The District did not discuss findings in terms of recognized environmental conditions because this is a term that is specific to Phase I Environmental Site Assessments. A Phase I Environmental Site Assessment was neither performed nor required for the EIR.
- E-3** Sites of concern are being monitored and remediated under the oversight of a regulatory agency. Thus, it is expected that any potential impacts to off-site receptors would have been evaluated and mitigated. In addition, proposed program activities are limited to disturbance of shallow subsurface soils and a commercial exposure scenario. However, in the unlikely event that there are potential issues from vapor encroachment, air monitoring was included as part of Mitigation Measure (MM) HAZ-1, on page 4.7-24 of the Draft EIR. Specifically, MM-HAZ-1 states, “Air monitoring shall be performed to limit worker exposure to potential hazardous chemicals in the subsurface.”
- E-4** The comment is noted. Proposed program activities do not include use of imported fill. MM-HAZ-1 includes stipulations for management of hazardous materials/wastes if discovered during proposed program activities. This would include sampling of contaminated soil prior to export/disposal as required by the receiving facility, and disposal in accordance with applicable and relevant laws and regulations.
- E-5** The comment is noted. MM-HAZ-1 includes stipulations for management and reporting of hazardous materials/wastes if discovered during proposed program activities, and implementation of a health and safety plan. Specifics regarding how an investigation would be conducted and what remedial actions would be implemented cannot be determined until the type of contamination is known.

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Comment Letter F



July 25, 2018

San Bernardino County Flood Control District  
 Environmental Management Division  
 Attn: Michael Perry, Supervising Planner  
 825 East Third Street, Room 123  
 San Bernardino, CA 92415-0835

RE: San Bernardino County Master Storm Water System Maintenance Program – Draft EIR

Mr. Perry:

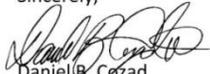
The Water Conservation District has reviewed elements of the San Bernardino County Master Storm Water System Maintenance Program – Draft EIR. We appreciate the opportunity to provide comments.

The Wash Plan Task Force including the SB County Flood Control District developed the Wash Plan HCP over the past ten years. The EIR incorporates activities of your District which are covered activities in the Wash Plan HCP as a Local Overlapping Permitting Process in Section 3.3.3. The County is implementing the Wash Plan HCP under its own Implementing Agreement with the USFWS.

However, other Covered Activities in the Wash Plan HCP specifically Greenspot Levee Removal (CD.04) are not referenced and could affect your maintenance activities in the future. The removal or modification may reduce the maintenance and compensatory mitigation needed for the maintenance activities. Because the construction of Seven Oaks Dam mostly negated the need for this levee, the Wash Plan included removal or notching the levee to restore flows to the habitat south of the Levee. We recommend EIR reference Wash Plan HCP implementation and specifically this levee modification for completeness. The text of the covered activity is attached to this letter.

Because the District is not a Responsible Agency or Trustee Agency under CEQA, we have not reviewed and are not providing comments on other sections or completeness of the Draft EIR.

Sincerely,



Daniel B. Cozad  
General Manager

F-1

F-2

1630 W. Redlands Blvd, Suite A  
 Redlands, CA 92373  
 Phone: 909.793.2503  
 Fax: 909.793.0188  
 www.sbvwc.org Email: info@sbvwcd.org

<b>BOARD OF DIRECTORS</b>	Division 3: T. Milford Harrison	<b>GENERAL MANAGER</b> Daniel B. Cozad
Division 1: Richard Corneille	Division 4: John Longville	
Division 2: David E. Raley	Division 5: Melody McDonald	

SBVWCD Comment Letter SBC MSWSMP Draft EIR

July 24, 2018

**Text from the Wash Plan HCP related to the Levee**

***Greenspot Levee Removal (CD.04)***

*The Conservation District intends to remove or notch the levee near the eastern boundary (Greenspot Road) of the Plan Area to restore historic flooding and scour to a significant portion of the HCP Preserve. This project is intended to restore natural fluvial processes on approximately 30 acres. The project may require the temporary placement of boulders or other obstructions to route flows onto habitat areas. Implementation of this project is dependent on favorable hydrologic studies and additional permitting, including by Flood Control. The Conservation District will complete a feasibility study within five years and work with the Wildlife Agencies, Flood Control, and others toward implementation of this project within the HCP permit duration. It will also obtain the necessary permits if the project is determined to be feasible. Removal of sufficient material to provide a 200-foot-wide notch in the levee to restore flows would require the removal of approximately 33,000 cubic yards of rock and other materials. The work area during the duration of the project would cover 1.5 acres near the closest road based on the results of the feasibility study. The work would be completed by a Conservation District contractor through either the sale of rock or removal of the rock and hauling to the borrow pit. Should the project not be feasible, the estimated removal and hauling cost of \$137,000 (in 2016 dollars)<sup>[1]</sup> would be applied to habitat restoration activities south of the existing levee. Work would be directed by the Preserve Management Committee and would be completed prior to permit expiration. This work may be funded by proceeds from rock removal, outside grants and funding sources, or by a cost share by COI participants. The Greenspot levee removal is expected to result in up to 1.0 acre of temporary impacts.*

F-3

<sup>[1]</sup> If a determination is made that the project is infeasible, the Consumer Price Index for All Urban Users (CPI-U) for the Los Angeles area will be used to adjust the \$137,000 to current dollars. The current dollar amount would be applied to restoration.

## Response to Comment Letter F

**San Bernardino Valley Water Conservation District**  
**Daniel B. Cozad, General Manager**  
**July 25, 2018**

- F-1** Thank you for your letter pursuant to the proposed program. This comment provides a description of the Upper Santa Ana Wash Land Management and Habitat Conservation Plan (Wash Plan). The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- F-2** The Draft EIR references implementation of the Wash Plan in Section 3.3.3, Local Overlapping Permitting Processes. Thank you for providing additional information regarding the covered activities in the Wash Plan—specifically, Greenspot Levee Removal (CD.04). The District understands that this covered activity may reduce the District’s maintenance requirements on this levee and potentially reduce mitigation obligations, and recognizes that permitting and mitigation for District maintenance activities within the Wash Plan area would likely be covered through the environmental clearance process for the Wash Plan. However, because the Wash Plan has not yet been approved, the EIR has included all maintenance activities that are necessary under existing conditions. These activities have been included out of an abundance of caution in order to capture all potential impacts from maintenance activities. As described in Thematic Response TH-2 (see Section 2.2, Thematic Responses, in this chapter), actual impacts would be recorded each year the proposed program is implemented and corresponding mitigation would be implemented. This allows for adjustment to overall impacts and mitigation requirements as the LOPPs are implemented or maintenance needs are adjusted based on current conditions. The Draft EIR is intended to capture the maximum impact and mitigation obligation.
- F-3** This comment provides a description of Greenspot Levee Removal from the Wash Plan. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

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Comment Letter G



Lahontan Regional Water Quality Control Board

July 26, 2018

File: Environmental Doc Review  
San Bernardino County

Michael Perry  
San Bernardino County Flood Control District  
825 East Third Street  
San Bernardino, CA 92415  
Michael.Perry@dpw.sbcounty.gov

**Comments on the San Bernardino Master Storm Water System Maintenance Program for Waterways in San Bernardino County, San Bernardino County Flood Control District, State Clearinghouse Number 2014011063**

California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the Draft Environmental Impact Report (DEIR) for the above-referenced project (Project) on June 18, 2018. The DEIR, prepared by the San Bernardino County Flood Control District (District), was submitted in compliance with provisions of the California Environmental Quality Act (CEQA) in order to solicit input on the potential impacts on the environment and ways in which those significant effects are proposed to be avoided or mitigated. Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations (CCR), title 14, section 15096. Based on our review of the DEIR, we recommend: (1) the District reexamine the potential water quality and hydrology impacts for each maintenance activity identified, and sufficient mitigation provided in the DEIR to reduce potential impacts to a less than significant level; and (2) the DEIR acknowledge that maintenance activities included in the Project description have the potential to significantly impact water quality by exceeding Water Quality Objectives (WQOs). Our comments are outlined below.

G-1

**Water Board's Authority**

All groundwater and surface waters are waters of the State, and all waters of the State are protected under California law. The responsibility for protection of water quality in the Lahontan Region is assigned to the Lahontan Water Board. The Water Quality Control Plan for the Lahontan Region (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State in the Region. The Basin Plan can be accessed via the Water Board's web site at [http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/basin\\_plan/references.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml).

G-2

PETER C. PUMPHREY, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

2501 Lake Tahoe Blvd., So. Lake Tahoe, CA 96150 | 15095 Amargosa Road, Bldg 2, Ste 210, Victorville CA 92384  
e-mail Lahontan@waterboards.ca.gov | website www.waterboards.ca.gov/lahontan



Mr. Perry

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July 26, 2018

Some waters of the State are also waters of the U.S. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the U.S.

↑ G-2  
Cont.

**SPECIFIC COMMENTS**

1. **Potentially Significant Hydrology and Water Quality Impacts** – Chapter 1 of the DEIR, specifically Impact HYD-3 on Table 1-1, states that all impacts to hydrology and water quality are “less than significant.” We disagree and argue that the analysis presented in the DEIR does not support this finding. For example, Table 3 in Appendix A lists the typical flood control maintenance activities. Mechanized land clearing does have the potential to significantly impact water quality through increased turbidity, changes in water temperature, and changes in dissolved oxygen. Over time, this type of activity can significantly alter drainage courses, which could lead to increased erosion and downstream sedimentation. Without adequate mitigation many routine maintenance activities could result in a net loss of wetlands or other waters of the State and eventual loss in beneficial uses. We request that the District reexamine the potential water quality and hydrology impacts for each maintenance activity identified, and sufficient mitigation provided in the DEIR to reduce potential impacts to a less than significant level.
2. **Water Quality Objectives** – The maintenance activities included in the Project description have the potential to significantly impact water quality by exceeding WQOs for one or more parameters. The applicable water quality parameters include, but are not limited to: chemical constituents, dissolved oxygen, oil and grease, pH, sediment, temperature, and turbidity. Implementation of the long-term maintenance activities must comply with WQOs listed in the Basin Plan.
3. **Water Quality Monitoring** – To ensure that WQOs are being met throughout the life of the Project, the DEIR should identify a mitigation measure for water quality monitoring that includes the following details: (1) who will be conducting the monitoring and when; (2) criteria for establishing water quality monitoring locations; (3) the water quality parameters to be monitored and methods for monitoring; (4) WQOs and thresholds for the specified parameters which will be used to determine whether adverse water quality impacts are occurring or are likely to occur near the work site; and (5) what criteria will be used to determine whether additional actions are necessary to protect water quality in or near the work site. District staff will need to be properly trained in how to interpret monitoring data collected at the work site and how to determine if water quality impacts are occurring or are likely to occur at the work site.
4. **Best Management Practices** – Table 3 in Appendix A covers the best management practices (BMPs) that will be used to prevent environmental impacts for the various activities and diverse locations where waterway maintenance will occur. The table should be accompanied by a matrix that describes how decisions will be made regarding which BMPs to use in any given

↑ G-3

↑ G-4

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↓ G-6

Mr. Perry

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July 26, 2018

circumstance. The final DEIR should identify the resources available to District staff (1) to aid them in selecting the appropriate BMP for any activity or location and (2) to properly install and maintain any given BMP.

G-6  
Cont.

5. **Waterway Maintenance Activities** – The Project description covers the types of activities typically associated with waterway maintenance and describes primarily physical solutions to reducing vegetation in the District’s waterways. However, the use of herbicides for the control of invasive vegetation in and along waterways is also discussed. The Water Board does not recommend the use of sprayers to apply herbicides near waterways to avoid the potential for overspray.

G-7

6. **Hazards and Hazardous Materials** – The DEIR states that a Hazard Mitigation Plan will be provided by the District. This plan should address the use of herbicides for the removal of invasive vegetation and the proposed use of heavy machinery in or near waterways, potentially significant impacts to the environment could occur due to accidental release of hazardous substances. It should also include the measures the District will take to prevent discharges of hazardous substances to the environment from occurring, such as: limiting the quantity of herbicides transported to the field; routine vehicle inspections and removing equipment from service when maintenance is needed; staff training on spill response procedures; and requirements for spill containment and cleanup supplies at the work sites.

G-8

**PERMITTING REQUIREMENTS FOR INDIVIDUAL PROJECTS**

A number of activities implemented by Project have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Resources Control Board (State Water Board) or Lahontan Water Board. The required permits may include the following.

G-9

7. Alteration of, dredging, and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill WDRs for impacts to non-federal waters, both issued by the Lahontan Water Board.
8. Water diversion and/or dewatering activities may be subject to discharge and monitoring requirements under either NPDES General Permit, Limited Threat Discharges to Surface Waters, Board Order R6T-2014-0049, or General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality, WQO 2003-0003-DWQ, both issued by the Lahontan Water Board
9. Land disturbance of more than 1 acre may require a CWA, section 402(p) storm water permits, including a NPDES General Construction Storm Water Permit, WQO 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.

G-10

G-11

Mr. Perry

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July 26, 2018

Thank you for the opportunity to comment on the DEIR. If you have any questions regarding this letter, please contact me at (760) 241-7404 ([tiffany.steinert@waterboards.ca.gov](mailto:tiffany.steinert@waterboards.ca.gov)) or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7376 ([jan.zimmerman@waterboards.ca.gov](mailto:jan.zimmerman@waterboards.ca.gov)). Please send all future correspondence regarding this Project to the Water Board's email address at [Lahontan@waterboards.ca.gov](mailto:Lahontan@waterboards.ca.gov) and be sure to include the State Clearinghouse No. and Project name in the subject line.

G-12



Tiffany Steinert  
Engineering Geologist

cc: State Clearinghouse (SCH 2014011063) ([state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov))  
Ali Aghili, CA Dept. of Fish and Wildlife ([Ali.Aghili@wildlife.ca.gov](mailto:Ali.Aghili@wildlife.ca.gov))  
Shannon Pankratz, USACE ([shannon.l.pankratz@usace.army.mil](mailto:shannon.l.pankratz@usace.army.mil))  
Beth Payne, State Water Board ([Elizabeth.Payne@waterboards.ca.gov](mailto:Elizabeth.Payne@waterboards.ca.gov))

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## Response to Comment Letter G

Lahontan Regional Water Quality Control Board

Tiffany Steinert, Engineering Geologist

July 26, 2018

- G-1** Thank you for your letter pursuant to the proposed program. This comment summarizes the comments provided in the letter. Please see Response G-3 regarding water quality and hydrology impacts and corresponding mitigation and Response G-4 regarding water quality objectives.
- G-2** The comment presents a legal summary regarding regulatory authority over the waters of the state and waters of the United States, and provides a link to the Water Quality Control Plan for the Lahontan Region. The comment is noted. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- G-3** The potential for water quality and hydrology impacts for each maintenance activity is described in the EIR. As described in Chapter 4, Environmental Analysis, Introduction, (page 4-3 of the Draft EIR), the impacts are grouped into ground-disturbing, non-ground-disturbing vegetation management, and non-ground-disturbing activities. Mechanized land clearing consists of sediment removal and potential impacts from this activity are described under Impact HYD-3, Ground-Disturbing Activities, beginning on page 4.8-59 of the Draft EIR. The District has been undertaking maintenance activities since 1939, as described in the Draft EIR. The goal of routine maintenance activities is to maintain facilities to their current/designed capacity. Under the Maintenance Plan, the District implements standard operating procedures (SOPs) to minimize potential effects from maintenance activities, including erosion control and sediment control best management practices (BMPs). The SOPs are based on procedures that the District has developed and implemented over many years to protect resources and prevent impacts to resources during maintenance activities. As described in SOP-HYD-1, Scheduling, on pages 4.8-29 and 4.8-30 of the Draft EIR, the District schedules work only after the wetted portions of a channel or basin are dry enough to safely operate equipment and implements a water diversion plan if activities occur when water is present. As described in SOP-HYD-3, Minimization of Controllable Discharge of Sediment, on pages 4.8-30 through 4.8-33 of the Draft EIR, the District uses BMPs to minimize controllable discharges of sediment to other waters.

With regard to the potential loss of wetlands or other waters or their beneficial uses, an objective of the proposed program is to maintain facilities in such a way as to allow

- existing facilities or structures to function at their current/designed capacity and to maintain structural integrity in a manner that is environmentally sensitive. As described in Appendix A, Maintenance Plan, of the Draft EIR (also included in this Final EIR as Appendix A), the District would report impacts to regulated resources, including waters of the United States and waters of the state, each year to confirm that impacts do not exceed the limits described in the EIR.
- G-4** Please see Impact HYD-1 in the Draft EIR, pages 4.8-38 through 4.8-58, which presents a detailed discussion of compliance with water quality objectives (WQOs).
- G-5** Impact HYD-1 discusses in detail the proposed program’s compliance with WQOs. The Draft EIR does not identify potential significant impacts to WQOs; therefore, mitigation is not required. Additionally, the District currently completes water quality monitoring as part of compliance with the National Pollutant Discharge Elimination System (NPDES) program.
- G-6** The comment refers to Table 3 in Appendix A addressing BMPs that will be used to prevent environmental impacts; however, Table 3 in Appendix A of the Draft EIR identifies typical maintenance activities covered by the proposed program. Nevertheless, with respect to the comment that a matrix should be provided describing how decisions will be made and resources available to District staff, please see Thematic Response TH-2 (see Section 2.2, Thematic Responses, in this chapter). Figure 2-1 of Thematic Response TH-2 depicts the evaluation process and the responsible party for implementing SOPs and mitigation measures.
- G-7** The commenter’s recommendation to not use sprayers to apply herbicides near waterways to avoid the potential for overspray is noted. As described in SOP-BIO-19, Herbicide Application (page 4.3-36 of the Draft EIR), the District complies with the Statewide General NPDES Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications, General Permit No. CAG990005, Order No. 2013-0002-DWQ (Permit), dated 2013, and the District Weed Control Aquatic Pesticide Application Plan, dated 2014. The District’s Vegetation Management Plan (provided in Appendix A of the Draft EIR; also included in this Final EIR as Appendix A) seeks to reduce the amount of herbicides used by using selective herbicides and application techniques, timing applications for maximum effect, avoiding fixed application schedules, using mechanical control techniques where appropriate, and encouraging natural controls.
- G-8** Please see Response G-7 regarding the District’s measures for ensuring the proper application of herbicide. Potential impacts from accidental release of hazardous

- substances and measures to prevent discharges of hazardous substances are addressed in SOP-HYD-4.
- G-9** The comment provides a legal summary regarding potential permitting requirements of the proposed program. The comment is noted. The obtainment of a water quality certification pursuant to Section 401 of the Clean Water Act or a Waste Discharge Requirement is disclosed in Table 3-5 of the Draft EIR. Additional text has been added with respect to compliance with Section 401 of the Clean Water Act in Section 4.8.2, Regulatory Framework; see Chapter 3, Changes to the Draft EIR, in this Final EIR for these changes.
- G-10** Additional text has been added to Section 4.8.2 with respect to water diversion activities; see Chapter 3 in this Final EIR.
- G-11** As discussed in Section 4.8.2, Regulatory Framework, of the Draft EIR, the NPDES-related Construction General Permit specifically exempts routine maintenance activities conducted by utility service providers as long as the original line and grade, hydraulic capacity, or original purpose of the facility is maintained (Water Quality Order 2009-0009-DWQ). The proposed program would thus be exempt from requiring coverage under the Construction General Permit, and preparation and implementation of a stormwater pollution prevention plan (SWPPP) would not be required by law, provided that such activities remain within the District’s existing facilities and right-of-way.
- G-12** The comment is noted. No further response is required.

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Comment Letter H



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Office of the General Manager

July 26, 2018

VIA EMAIL AND USPS

San Bernardino County Flood Control District  
Environmental Management Division  
Att: Michael Perry, Supervising Planner  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835

Dear Mr. Perry:

San Bernardino County Flood Control District  
California Environmental Quality Act (CEQA)  
Draft Environmental Impact Report (DEIR), SCH #2014011063

The Metropolitan Water District of Southern California (Metropolitan) reviewed the Draft Environmental Impact Report (DEIR) for the San Bernardino Master Storm Water System Maintenance Program (Proposed Project). The Proposed Project would provide a comprehensive approach to maintaining San Bernardino County Flood Control District (District) facilities and minimizing delays while ensuring compliance with regulatory requirements and applicable maintenance manuals.

As part of the Maintenance Plan, the District will develop a streamlined maintenance process which would allow District facilities to operate at their current/designed capacity; maintenance would include activities such as, but not limited to, sediment removal, vegetation management, and repair of structures. Proposed maintenance activities would not include new construction or alteration of facilities for the purpose of expanding facility capacity. District facilities are located both in unincorporated lands in San Bernardino County and in portions of 24 incorporated cities and towns in San Bernardino County.

Metropolitan is a public agency and regional water wholesaler. It is comprised of 26 member public agencies, serving approximately 19 million people in portions of six counties in Southern California, including San Bernardino County. Metropolitan's mission is to provide its 5,200 square mile service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way.

Metropolitan owns and operates a number of large diameter pipelines within and adjacent to the District's management zones. To avoid potential conflicts with these and other Metropolitan facilities, Metropolitan requests that the District coordinate with Metropolitan's Substructures Team. Detailed prints of drawings of Metropolitan's pipelines, facilities, and rights-of-way may



700 N. Alameda Street, Los Angeles, California 90012 • Mailing Address: Box 54153, Los Angeles, California 90054-0153 • Telephone (213) 217-6000

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Mr. Perry  
Page 2  
July 26, 2018

be obtained by calling the Substructures Team at (213) 217-6564. To assist the District in preparing plans which are compatible with Metropolitan's facilities and rights-of-way, a copy of the "Guidelines for Developments in the Area of Facilities, Fee Properties, and/or Easement of The Metropolitan Water District of Southern California" is enclosed.

We appreciate the opportunity to provide input to your planning process and we look forward to receiving future documentation and plans for this project. For further assistance, please contact Ms. Vikki Dee Bradshaw at (213) 217-6028.

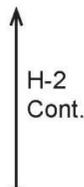
Very truly yours,



Vikki Dee Bradshaw  
Team Manager, Environmental Planning

VDB:vdb  
SharePoint/San Bernardino Master Storm Water System Maintenance Program – SCH#2014011063

Enclosures: Planning Guidelines



H-2  
Cont.

Guidelines for Developments in the  
Area of Facilities, Fee Properties, and/or Easements  
of The Metropolitan Water District of Southern California

1. Introduction

a. The following general guidelines should be followed for the design of proposed facilities and developments in the area of Metropolitan's facilities, fee properties, and/or easements.

b. We require that 3 copies of your tentative and final record maps, grading, paving, street improvement, landscape, storm drain, and utility plans be submitted for our review and written approval as they pertain to Metropolitan's facilities, fee properties and/or easements, prior to the commencement of any construction work.

2. Plans, Parcel and Tract Maps

The following are Metropolitan's requirements for the identification of its facilities, fee properties, and/or easements on your plans, parcel maps and tract maps:

a. Metropolitan's fee properties and/or easements and its pipelines and other facilities must be fully shown and identified as Metropolitan's on all applicable plans.

b. Metropolitan's fee properties and/or easements must be shown and identified as Metropolitan's with the official recording data on all applicable parcel and tract maps.

c. Metropolitan's fee properties and/or easements and existing survey monuments must be dimensionally tied to the parcel or tract boundaries.

d. Metropolitan's records of surveys must be referenced on the parcel and tract maps.

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3. Maintenance of Access Along Metropolitan's Rights-of-Way

a. Proposed cut or fill slopes exceeding 10 percent are normally not allowed within Metropolitan's fee properties or easements. This is required to facilitate the use of construction and maintenance equipment, and provide access to its aboveground and belowground facilities.

b. We require that 16-foot-wide commercial-type driveway approaches be constructed on both sides of all streets crossing Metropolitan's rights-of-way. Openings are required in any median island. Access ramps, if necessary, must be at least 16-foot-wide. Grades of ramps are normally not allowed to exceed 10 percent. If the slope of an access ramp must exceed 10 percent due to the topography, the ramp must be paved. We require a 40-foot-long level area on the driveway approach to access ramps where the ramp meets the street. At Metropolitan's fee properties, we may require fences and gates.

c. The terms of Metropolitan's permanent easement deeds normally preclude the building or maintenance of structures of any nature or kind within its easements, to ensure safety and avoid interference with operation and maintenance of Metropolitan's pipelines or other facilities. Metropolitan must have vehicular access along the easements at all times for inspection, patrolling, and for maintenance of the pipelines and other facilities on a routine basis. We require a 20-foot-wide clear zone around all above-ground facilities for this routine access. This clear zone should slope away from our facility on a grade not to exceed 2 percent. We must also have access along the easements with construction equipment. An example of this is shown on Figure 1.

d. The footings of any proposed buildings adjacent to Metropolitan's fee properties and/or easements must not encroach into the fee property or easement or impose additional loading on Metropolitan's pipelines or other facilities therein. A typical situation is shown on Figure 2. Prints of the detail plans of the footings for any building or structure adjacent to the fee property or easement must be submitted for our review and written approval as they pertain to the pipeline or other facilities therein. Also, roof eaves of buildings adjacent to the easement or fee property must not overhang into the fee property or easement area.

H-3  
Cont.

e. Metropolitan's pipelines and other facilities, e.g. structures, manholes, equipment, survey monuments, etc. within its fee properties and/or easements must be protected from damage by the easement holder on Metropolitan's property or the property owner where Metropolitan has an easement, at no expense to Metropolitan. If the facility is a cathodic protection station it shall be located prior to any grading or excavation. The exact location, description and way of protection shall be shown on the related plans for the easement area.

4. Easements on Metropolitan's Property

a. We encourage the use of Metropolitan's fee rights-of-way by governmental agencies for public street and utility purposes, provided that such use does not interfere with Metropolitan's use of the property, the entire width of the property is accepted into the agency's public street system and fair market value is paid for such use of the right-of-way.

b. Please contact the Director of Metropolitan's Right of Way and Land Division, telephone (213) 250-6302, concerning easements for landscaping, street, storm drain, sewer, water or other public facilities proposed within Metropolitan's fee properties. A map and legal description of the requested easements must be submitted. Also, written evidence must be submitted that shows the city or county will accept the easement for the specific purposes into its public system. The grant of the easement will be subject to Metropolitan's rights to use its land for water pipelines and related purposes to the same extent as if such grant had not been made. There will be a charge for the easement. Please note that, if entry is required on the property prior to issuance of the easement, an entry permit must be obtained. There will also be a charge for the entry permit.

5. Landscaping

Metropolitan's landscape guidelines for its fee properties and/or easements are as follows:

a. A green belt may be allowed within Metropolitan's fee property or easement.

b. All landscape plans shall show the location and size of Metropolitan's fee property and/or easement and the location and size of Metropolitan's pipeline or other facilities therein.



H-3  
Cont.

c. Absolutely no trees will be allowed within 15 feet of the centerline of Metropolitan's existing or future pipelines and facilities.

d. Deep-rooted trees are prohibited within Metropolitan's fee properties and/or easements. Shallow-rooted trees are the only trees allowed. The shallow-rooted trees will not be permitted any closer than 15 feet from the centerline of the pipeline, and such trees shall not be taller than 25 feet with a root spread no greater than 20 feet in diameter at maturity. Shrubs, bushes, vines, and ground cover are permitted, but larger shrubs and bushes should not be planted directly over our pipeline. Turf is acceptable. We require submittal of landscape plans for Metropolitan's prior review and written approval. (See Figure 3).

e. The landscape plans must contain provisions for Metropolitan's vehicular access at all times along its rights-of-way to its pipelines or facilities therein. Gates capable of accepting Metropolitan's locks are required in any fences across its rights-of-way. Also, any walks or drainage facilities across its access route must be constructed to AASHTO H-20 loading standards.

f. Rights to landscape any of Metropolitan's fee properties must be acquired from its Right of Way and Land Division. Appropriate entry permits must be obtained prior to any entry on its property. There will be a charge for any entry permit or easements required.

6. Fencing

Metropolitan requires that perimeter fencing of its fee properties and facilities be constructed of universal chain link, 6 feet in height and topped with 3 strands of barbed wire angled upward and outward at a 45 degree angle or an approved equal for a total fence height of 7 feet. Suitable substitute fencing may be considered by Metropolitan. (Please see Figure 5 for details).

7. Utilities in Metropolitan's Fee Properties and/or Easements or Adjacent to Its Pipeline in Public Streets

Metropolitan's policy for the alinement of utilities permitted within its fee properties and/or easements and street rights-of-way is as follows:

H-3  
Cont.

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a. Permanent structures, including catch basins, manholes, power poles, telephone riser boxes, etc., shall not be located within its fee properties and/or easements.

b. We request that permanent utility structures within public streets, in which Metropolitan's facilities are constructed under the Metropolitan Water District Act, be placed as far from our pipeline as possible, but not closer than 5 feet from the outside of our pipeline.

c. The installation of utilities over or under Metropolitan's pipeline(s) must be in accordance with the requirements shown on the enclosed prints of Drawings Nos. C-11632 and C-9547. Whenever possible we request a minimum of one foot clearance between Metropolitan's pipe and your facility. Temporary support of Metropolitan's pipe may also be required at undercrossings of its pipe in an open trench. The temporary support plans must be reviewed and approved by Metropolitan.

d. Lateral utility crossings of Metropolitan's pipelines must be as perpendicular to its pipeline alignment as practical. Prior to any excavation our pipeline shall be located manually and any excavation within two feet of our pipeline must be done by hand. This shall be noted on the appropriate drawings.

e. Utilities constructed longitudinally within Metropolitan's rights-of-way must be located outside the theoretical trench prism for uncovering its pipeline and must be located parallel to and as close to its rights-of-way lines as practical.

f. When piping is jacked or installed in jacked casing or tunnel under Metropolitan's pipe, there must be at least two feet of vertical clearance between the bottom of Metropolitan's pipe and the top of the jacked pipe, jacked casing or tunnel. We also require that detail drawings of the shoring for the jacking or tunneling pits be submitted for our review and approval. Provisions must be made to grout any voids around the exterior of the jacked pipe, jacked casing or tunnel. If the piping is installed in a jacked casing or tunnel the annular space between the piping and the jacked casing or tunnel must be filled with grout.

H-3  
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g. Overhead electrical and telephone line requirements:

- 1) Conductor clearances are to conform to the California State Public Utilities Commission, General Order 95, for Overhead Electrical Line Construction or at a greater clearance if required by Metropolitan. Under no circumstances shall clearance be less than 35 feet.
  - 2) A marker must be attached to the power pole showing the ground clearance and line voltage, to help prevent damage to your facilities during maintenance or other work being done in the area.
  - 3) Line clearance over Metropolitan's fee properties and/or easements shall be shown on the drawing to indicate the lowest point of the line under the most adverse conditions including consideration of sag, wind load, temperature change, and support type. We require that overhead lines be located at least 30 feet laterally away from all above-ground structures on the pipelines.
  - 4) When underground electrical conduits, 120 volts or greater, are installed within Metropolitan's fee property and/or easement, the conduits must be incased in a minimum of three inches of red concrete. Where possible, above ground warning signs must also be placed at the right-of-way lines where the conduits enter and exit the right-of-way.
- h. The construction of sewerlines in Metropolitan's fee properties and/or easements must conform to the California Department of Health Services Criteria for the Separation of Water Mains and Sanitary Services and the local City or County Health Code Ordinance as it relates to installation of sewers in the vicinity of pressure waterlines. The construction of sewerlines should also conform to these standards in street rights-of-way.
- i. Cross sections shall be provided for all pipeline crossings showing Metropolitan's fee property and/or easement limits and the location of our pipeline(s). The exact locations of the crossing pipelines and their elevations shall be marked on as-built drawings for our information.

H-3  
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j. Potholing of Metropolitan's pipeline is required if the vertical clearance between a utility and Metropolitan's pipeline is indicated on the plan to be one foot or less. If the indicated clearance is between one and two feet, potholing is suggested. Metropolitan will provide a representative to assist others in locating and identifying its pipeline. Two-working days notice is requested.

k. Adequate shoring and bracing is required for the full depth of the trench when the excavation encroaches within the zone shown on Figure 4.

l. The location of utilities within Metropolitan's fee property and/or easement shall be plainly marked to help prevent damage during maintenance or other work done in the area. Detectable tape over buried utilities should be placed a minimum of 12 inches above the utility and shall conform to the following requirements:

1) Water pipeline: A two-inch blue warning tape shall be imprinted with:

"CAUTION BURIED WATER PIPELINE"

2) Gas, oil, or chemical pipeline: A two-inch yellow warning tape shall be imprinted with:

"CAUTION BURIED \_\_\_\_\_ PIPELINE"

3) Sewer or storm drain pipeline: A two-inch green warning tape shall be imprinted with:

"CAUTION BURIED \_\_\_\_\_ PIPELINE"

4) Electric, street lighting, or traffic signals conduit: A two-inch red warning tape shall be imprinted with:

"CAUTION BURIED \_\_\_\_\_ CONDUIT"

5) Telephone, or television conduit: A two-inch orange warning tape shall be imprinted with:

"CAUTION BURIED \_\_\_\_\_ CONDUIT"

H-3  
Cont.

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m. Cathodic Protection requirements:

1) If there is a cathodic protection station for Metropolitan's pipeline in the area of the proposed work, it shall be located prior to any grading or excavation. The exact location, description and manner of protection shall be shown on all applicable plans. Please contact Metropolitan's Corrosion Engineering Section, located at Metropolitan's F. E. Weymouth Softening and Filtration Plant, 700 North Moreno Avenue, La Verne, California 91750, telephone (714) 593-7474, for the locations of Metropolitan's cathodic protection stations.

2) If an induced-current cathodic protection system is to be installed on any pipeline crossing Metropolitan's pipeline, please contact Mr. Wayne E. Risner at (714) 593-7474 or (213) 250-5085. He will review the proposed system and determine if any conflicts will arise with the existing cathodic protection systems installed by Metropolitan.

3) Within Metropolitan's rights-of-way, pipelines and carrier pipes (casings) shall be coated with an approved protective coating to conform to Metropolitan's requirements, and shall be maintained in a neat and orderly condition as directed by Metropolitan. The application and monitoring of cathodic protection on the pipeline and casing shall conform to Title 49 of the Code of Federal Regulations, Part 195.

4) If a steel carrier pipe (casing) is used:

(a) Cathodic protection shall be provided by use of a sacrificial magnesium anode (a sketch showing the cathodic protection details can be provided for the designers information).

(b) The steel carrier pipe shall be protected with a coal tar enamel coating inside and out in accordance with AWWA C203 specification.

n. All trenches shall be excavated to comply with the CAL/OSHA Construction Safety Orders, Article 6, beginning with Sections 1539 through 1547. Trench backfill shall be placed in 8-inch lifts and shall be compacted to 95 percent relative compaction (ASTM D698) across roadways and through protective dikes. Trench backfill elsewhere will be compacted to 90 percent relative compaction (ASTM D698).

H-3  
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o. Control cables connected with the operation of Metropolitan's system are buried within streets, its fee properties and/or easements. The locations and elevations of these cables shall be shown on the drawings. The drawings shall note that prior to any excavation in the area, the control cables shall be located and measures shall be taken by the contractor to protect the cables in place.

p. Metropolitan is a member of Underground Service Alert (USA). The contractor (excavator) shall contact USA at 1-800-422-4133 (Southern California) at least 48 hours prior to starting any excavation work. The contractor will be liable for any damage to Metropolitan's facilities as a result of the construction.

8. Paramount Right

Facilities constructed within Metropolitan's fee properties and/or easements shall be subject to the paramount right of Metropolitan to use its fee properties and/or easements for the purpose for which they were acquired. If at any time Metropolitan or its assigns should, in the exercise of their rights, find it necessary to remove any of the facilities from the fee properties and/or easements, such removal and replacement shall be at the expense of the owner of the facility.

9. Modification of Metropolitan's Facilities

When a manhole or other of Metropolitan's facilities must be modified to accommodate your construction or reconstruction, Metropolitan will modify the facilities with its forces. This should be noted on the construction plans. The estimated cost to perform this modification will be given to you and we will require a deposit for this amount before the work is performed. Once the deposit is received, we will schedule the work. Our forces will coordinate the work with your contractor. Our final billing will be based on actual cost incurred, and will include materials, construction, engineering plan review, inspection, and administrative overhead charges calculated in accordance with Metropolitan's standard accounting practices. If the cost is less than the deposit, a refund will be made; however, if the cost exceeds the deposit, an invoice will be forwarded for payment of the additional amount.



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10. Drainage

a. Residential or commercial development typically increases and concentrates the peak storm water runoff as well as the total yearly storm runoff from an area, thereby increasing the requirements for storm drain facilities downstream of the development. Also, throughout the year water from landscape irrigation, car washing, and other outdoor domestic water uses flows into the storm drainage system resulting in weed abatement, insect infestation, obstructed access and other problems. Therefore, it is Metropolitan's usual practice not to approve plans that show discharge of drainage from developments onto its fee properties and/or easements.

b. If water must be carried across or discharged onto Metropolitan's fee properties and/or easements, Metropolitan will insist that plans for development provide that it be carried by closed conduit or lined open channel approved in writing by Metropolitan. Also the drainage facilities must be maintained by others, e.g., city, county, homeowners association, etc. If the development proposes changes to existing drainage features, then the developer shall make provisions to provide for replacement and these changes must be approved by Metropolitan in writing.

11. Construction Coordination

During construction, Metropolitan's field representative will make periodic inspections. We request that a stipulation be added to the plans or specifications for notification of Mr. \_\_\_\_\_ of Metropolitan's Operations Services Branch, telephone (213) 250-\_\_\_\_\_, at least two working days prior to any work in the vicinity of our facilities.

12. Pipeline Loading Restrictions

a. Metropolitan's pipelines and conduits vary in structural strength, and some are not adequate for AASHTO H-20 loading. Therefore, specific loads over the specific sections of pipe or conduit must be reviewed and approved by Metropolitan. However, Metropolitan's pipelines are typically adequate for AASHTO H-20 loading provided that the cover over the pipeline is not less than four feet or the cover is not substantially increased. If the temporary cover over the pipeline during construction is between three and four feet, equipment must be restricted to that which

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imposes loads no greater than AASHTO H-10. If the cover is between two and three feet, equipment must be restricted to that of a Caterpillar D-4 tract-type tractor. If the cover is less than two feet, only hand equipment may be used. Also, if the contractor plans to use any equipment over Metropolitan's pipeline which will impose loads greater than AASHTO H-20, it will be necessary to submit the specifications of such equipment for our review and approval at least one week prior to its use. More restrictive requirements may apply to the loading guideline over the San Diego Pipelines 1 and 2, portions of the Orange County Feeder, and the Colorado River Aqueduct. Please contact us for loading restrictions on all of Metropolitan's pipelines and conduits.

b. The existing cover over the pipeline shall be maintained unless Metropolitan determines that proposed changes do not pose a hazard to the integrity of the pipeline or an impediment to its maintenance.

13. Blasting

a. At least 20 days prior to the start of any drilling for rock excavation blasting, or any blasting, in the vicinity of Metropolitan's facilities, a two-part preliminary conceptual plan shall be submitted to Metropolitan as follows:

b. Part 1 of the conceptual plan shall include a complete summary of proposed transportation, handling, storage, and use of explosions.

c. Part 2 shall include the proposed general concept for blasting, including controlled blasting techniques and controls of noise, fly rock, airblast, and ground vibration.

14. CEQA Requirements

a. When Environmental Documents Have Not Been Prepared

1) Regulations implementing the California Environmental Quality Act (CEQA) require that Metropolitan have an opportunity to consult with the agency or consultants preparing any environmental documentation. We are required to review and consider the environmental effects of the project as shown in the Negative Declaration or Environmental Impact Report (EIR) prepared for your project before committing Metropolitan to approve your request.

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2) In order to ensure compliance with the regulations implementing CEQA where Metropolitan is not the Lead Agency, the following minimum procedures to ensure compliance with the Act have been established:

a) Metropolitan shall be timely advised of any determination that a Categorical Exemption applies to the project. The Lead Agency is to advise Metropolitan that it and other agencies participating in the project have complied with the requirements of CEQA prior to Metropolitan's participation.

b) Metropolitan is to be consulted during the preparation of the Negative Declaration or EIR.

c) Metropolitan is to review and submit any necessary comments on the Negative Declaration or draft EIR.

d) Metropolitan is to be indemnified for any costs or liability arising out of any violation of any laws or regulations including but not limited to the California Environmental Quality Act and its implementing regulations.

b. When Environmental Documents Have Been Prepared

If environmental documents have been prepared for your project, please furnish us a copy for our review and files in a timely manner so that we may have sufficient time to review and comment. The following steps must also be accomplished:

1) The Lead Agency is to advise Metropolitan that it and other agencies participating in the project have complied with the requirements of CEQA prior to Metropolitan's participation.

2) You must agree to indemnify Metropolitan, its officers, engineers, and agents for any costs or liability arising out of any violation of any laws or regulations including but not limited to the California Environmental Quality Act and its implementing regulations.

15. Metropolitan's Plan-Review Cost

a. An engineering review of your proposed facilities and developments and the preparation of a letter response

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Cont.

giving Metropolitan's comments, requirements and/or approval that will require 8 man-hours or less of effort is typically performed at no cost to the developer, unless a facility must be modified where Metropolitan has superior rights. If an engineering review and letter response requires more than 8 man-hours of effort by Metropolitan to determine if the proposed facility or development is compatible with its facilities, or if modifications to Metropolitan's manhole(s) or other facilities will be required, then all of Metropolitan's costs associated with the project must be paid by the developer, unless the developer has superior rights.

b. A deposit of funds will be required from the developer before Metropolitan can begin its detailed engineering plan review that will exceed 8 hours. The amount of the required deposit will be determined after a cursory review of the plans for the proposed development.

c. Metropolitan's final billing will be based on actual cost incurred, and will include engineering plan review, inspection, materials, construction, and administrative overhead charges calculated in accordance with Metropolitan's standard accounting practices. If the cost is less than the deposit, a refund will be made; however, if the cost exceeds the deposit, an invoice will be forwarded for payment of the additional amount. Additional deposits may be required if the cost of Metropolitan's review exceeds the amount of the initial deposit.

16. Caution

We advise you that Metropolitan's plan reviews and responses are based upon information available to Metropolitan which was prepared by or on behalf of Metropolitan for general record purposes only. Such information may not be sufficiently detailed or accurate for your purposes. No warranty of any kind, either express or implied, is attached to the information therein conveyed as to its accuracy, and no inference should be drawn from Metropolitan's failure to comment on any aspect of your project. You are therefore cautioned to make such surveys and other field investigations as you may deem prudent to assure yourself that any plans for your project are correct.

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17. Additional Information

Should you require additional information, please contact:

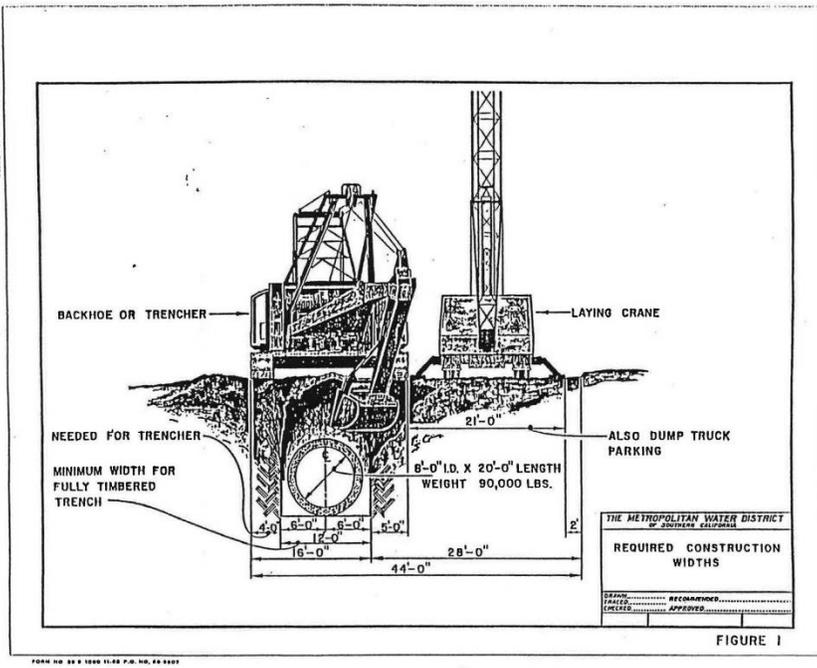
Civil Engineering Substructures Section  
Metropolitan Water District  
of Southern California  
P.O. Box 54153  
Los Angeles, California 90054-0153  
(213) 217-6000

JEH/MRW/lk

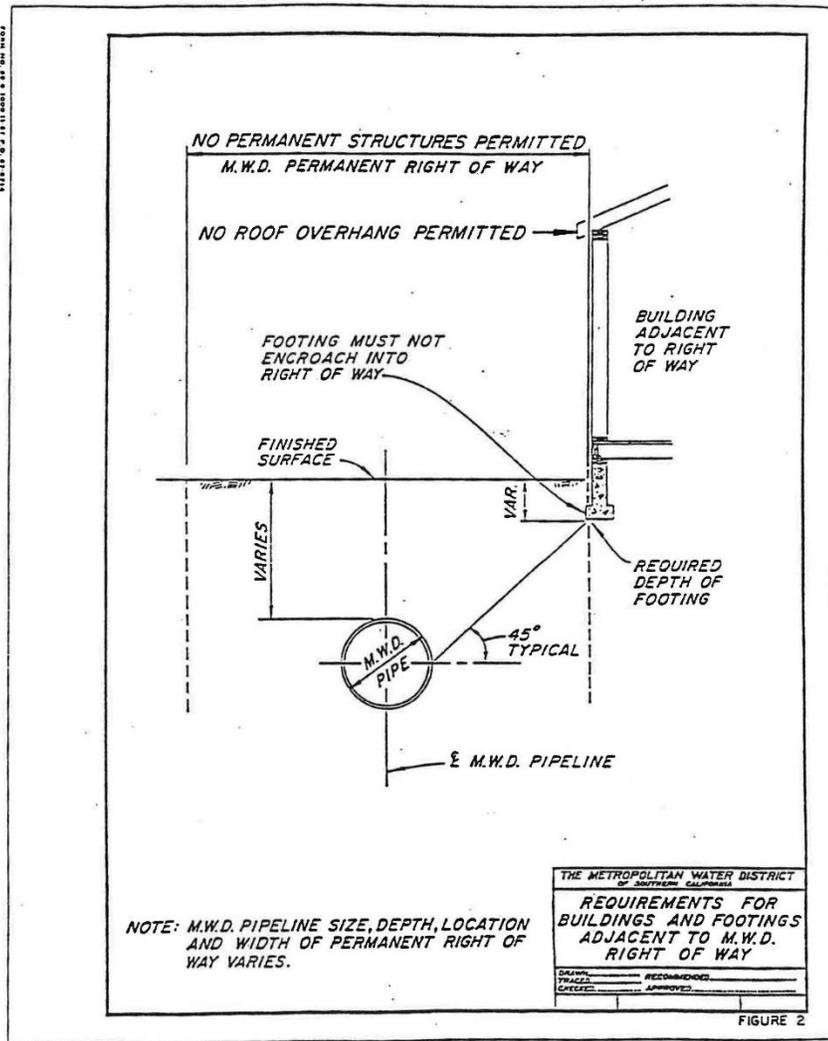
Rev. January 22, 1989

Encl.

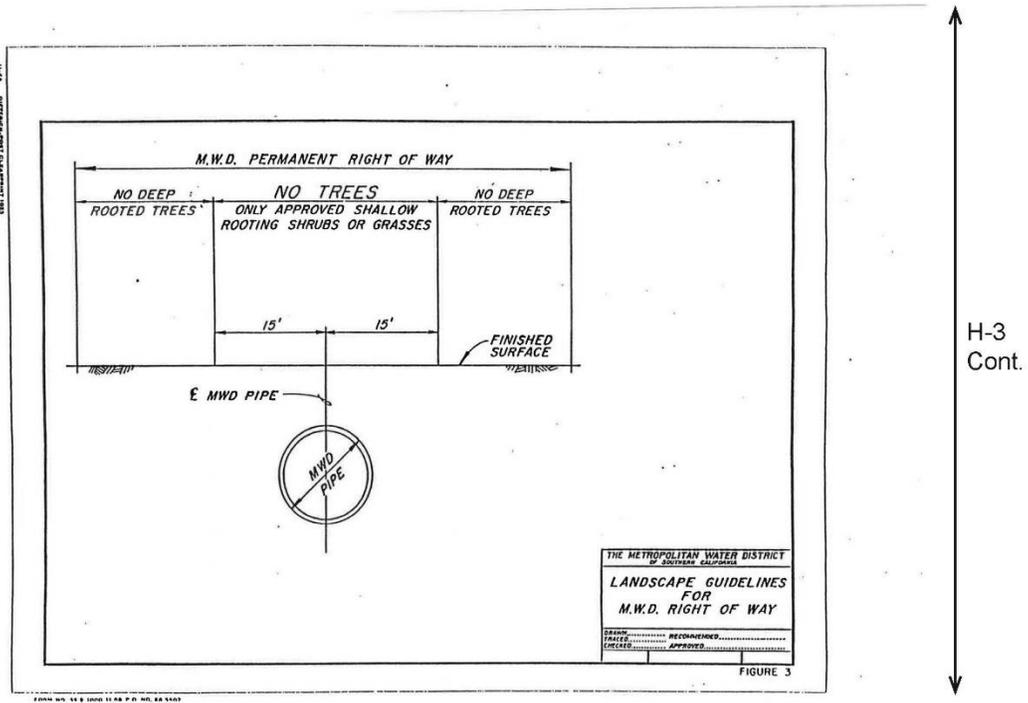
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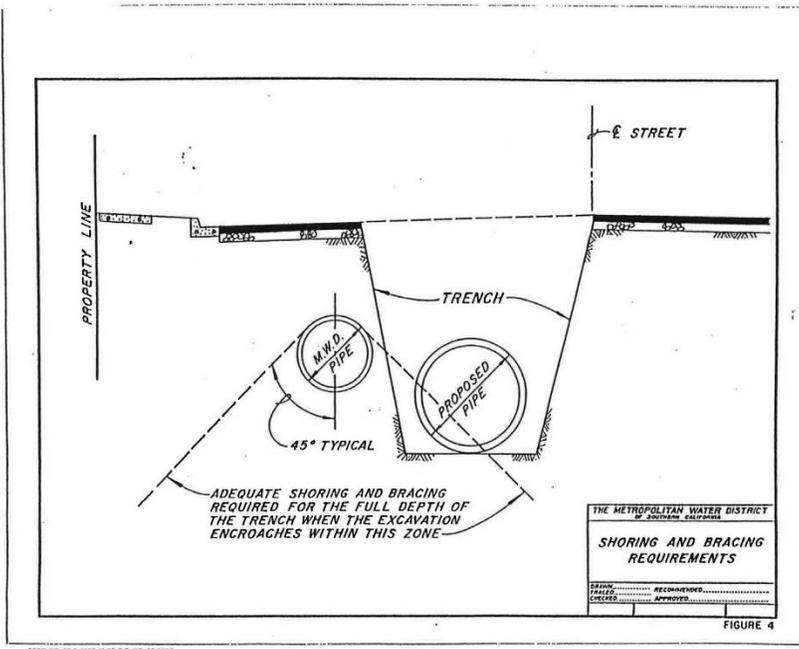


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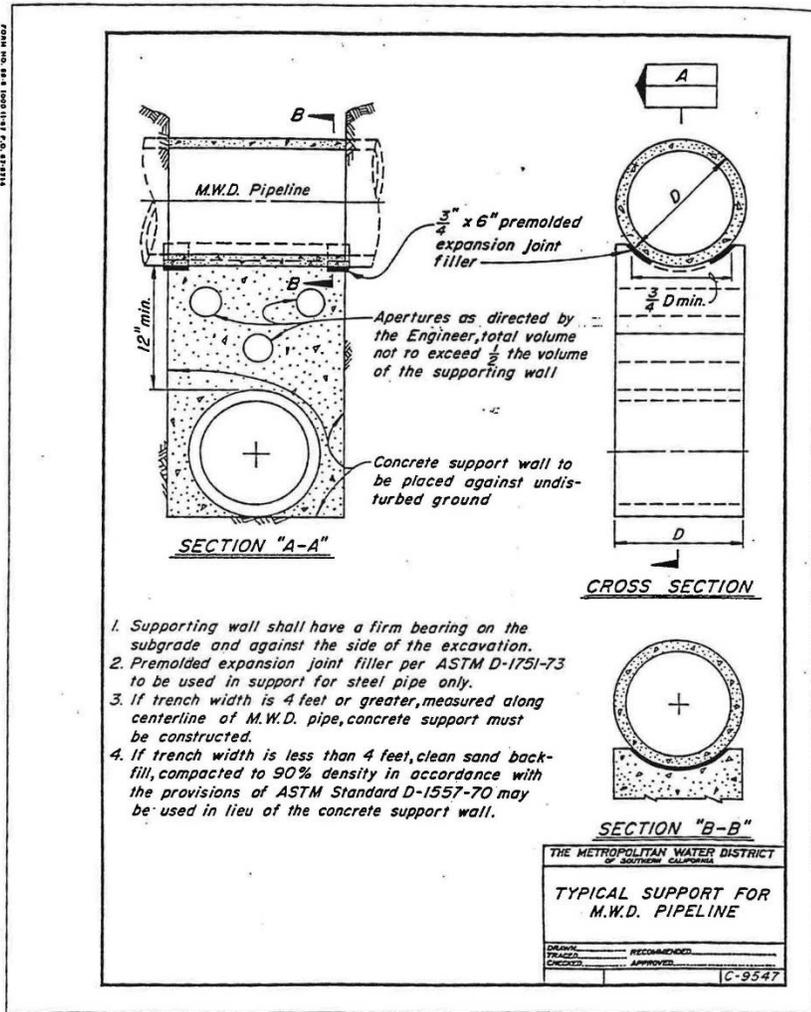
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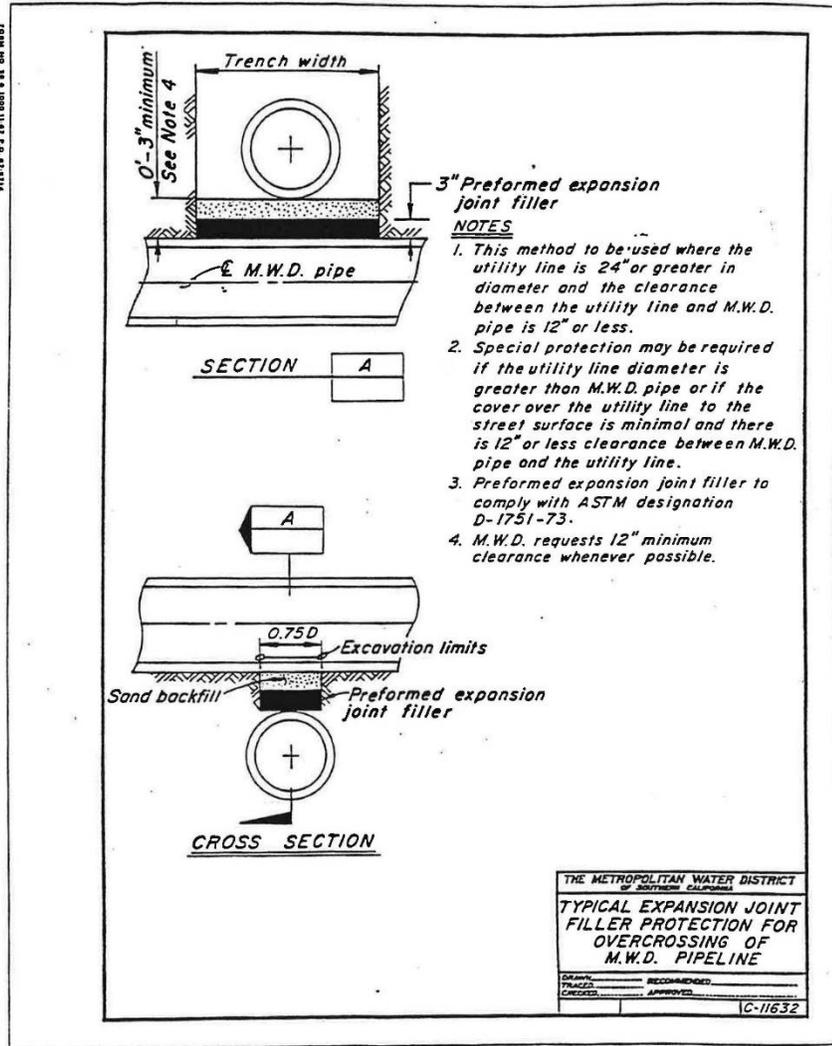


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## **Response to Comment Letter H**

**The Metropolitan Water District of Southern California  
Vikki Dee Bradshaw, Team Manager, Environmental Planning  
July 26, 2018**

- H-1** Thank you for your letter pursuant to the proposed program. This comment provides a summary of the proposed program and information regarding The Metropolitan Water District of Southern California (Metropolitan). Because this comment serves as an introduction, no further response is required.
- H-2** The proposed program would not involve new construction or capital improvement projects. Rather, the proposed program would involve maintenance of existing facilities. Therefore, the proposed program would not involve the design or preparation of plans that would create incompatibilities with Metropolitan’s facilities or right-of-way. However, the District will coordinate with Metropolitan prior to initiation of proposed program activities that would occur within Metropolitan’s right-of-way.
- H-3** The comment provides guidelines for development in the area of Metropolitan’s facilities, fee properties, and/or easements. Please see Response H-2.

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Comment Letter I

San Bernardino  
Valley Audubon  
Society



SIERRA  
CLUB  
FOUNDED 1892



CALIFORNIA  
NATIVE PLANT SOCIETY



July 30, 2018

*Via Electronic Mail and Hand Delivery (with references)*

San Bernardino County Flood Control District  
Environmental Management Division  
Attn: Michael Perry, Supervising Planner  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835  
[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)

**Re: Comments on the San Bernardino County Master Storm Water System Maintenance Program SCH NO. 2014011063 Draft Environmental Impact Review June 2018**

Dear Mr. Perry:

These comments are submitted on behalf of the Center for Biological Diversity, San Bernardino Valley Audubon Society, San Geronimo Chapter of the Sierra Club, and the California Native Plant Society (Conservation Organizations) regarding the proposed San Bernardino County Master Plan Storm Water System Maintenance Program (Program) Draft Environmental Impact Report (DEIR) SCH NO. 2014011063. The Conservation Organizations understand the San Bernardino County Flood Control District's (District) need to increase efficiency by improving procedures for the operation and routine maintenance of >500 existing flood control facilities; however, the need for streamlined maintenance of these facilities does not eliminate the need for a transparent regulatory process in which the District discloses adequate information for the public and decisionmakers to understand the Program, its potential impacts on the environment, and whether or not the District is implementing the best available scientific information to mitigate those impacts.

As detailed below, the DEIR repeatedly fails to meet the requirements of the California Environmental Quality Act (CEQA). In particular, the DEIR fails to disclose information and adequately analyze potential impacts of the Program on biological resources, including designated critical habitat, special-status vegetation cover, special-status plants and wildlife, and wildlife corridors/habitat linkages. Additionally, the DEIR fails to adequately analyze hydrologic and climate change impacts of the Program. Without these data, the DEIR fails to provide sufficient information that would allow the public to evaluate significant adverse impacts the Program would have on the environment. (CEQA Guidelines § 15125(a); *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.App.4th 310, 315[.]) Therefore, in order to comply with CEQA, the District must provide adequate information on existing conditions and the proposed avoidance, minimization, and mitigation measures so

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Comments on the San Bernardino County  
Master Storm Water System Maintenance Program DEIR

Page 1

that the public and decisionmakers are able to appropriately evaluate the effectiveness of the Program and whether or not adverse impacts due to Program activities will truly be minimized.

The Center for Biological Diversity (Center) is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.6 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life in San Bernardino County.

The California Native Plant Society (“CNPS”) is a non-profit environmental organization with 10,000 members in 35 Chapters across California and Baja California, Mexico. CNPS’ mission is to protect California’s native plant heritage and preserve it for future generations through application of science, research, education, and conservation. CNPS works closely with decision-makers, scientists, and local planners to advocate for well-informed policies, regulations, and land management practices.

The San Bernardino Valley Audubon Society (“SBVAS”) is a local chapter of the National Audubon Society, a 501(c)3 corporation. The SBVAS chapter area covers almost all of Riverside and San Bernardino Counties and includes the project area. SBVAS has about 2,000 members. Part of the chapter’s mission is to preserve habitat in the area, not just for birds, but for other wildlife, and to maintain the quality of life in and around San Bernardino County.

The Sierra Club is a national nonprofit organization of over 732,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth’s ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. Over 193,500 Sierra Club members reside in California. The San Geronio Chapter of the Sierra Club focuses on issues within the inland empire, including San Bernardino County.

**I. The DEIR fails to adequately describe and analyze existing biological resources in the Program area and potential impacts from Program activities on these resources.**

As noted in the comments provided by the Center on the Notice of Preparation (dated 11/8/2010), the DEIR should provide meaningful information regarding potential impacts of the Program on endemic, rare, threatened, and endangered species as well as federally designated critical habitat in San Bernardino County. (See Comments RE: Notice of Preparation for the Long-Term Maintenance of Flood Control and Transportation Facilities Located Throughout San Bernardino County, pages 2 and 4). Nonetheless, the current DEIR lacks transparency in presenting existing environmental conditions and lacks a scientific basis for its conclusions and assumptions of special-status vegetation communities, critical habitat, special-status plant and wildlife species, and wildlife corridors/habitat linkages that occur or potentially occur in the Program area. The DEIR also lacks adequate analysis of potential impacts to these biological resources. This approach violates CEQA, which requires an agency to use its “best efforts to find out and disclose all that it reasonably can.” (CEQA Guidelines § 15144; see also *City of Richmond, supra*, 184 Cal.App.4th at 96; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 428 [hereinafter “*Vineyard*”].)



**A. Rare vegetation communities and landcover types are downplayed with inadequate analyses.**

As a general matter, the DEIR identifies vegetation alliances in the three regions – Valley, Mountains and Desert. The DEIR only provides an analysis of impacts to the sensitive vegetation alliances, but provides no information on the impacts to the remaining vegetation alliances.

Of the 32 vegetation alliances in the Valley area identified in the DEIR (at Table 4.3-1), thirteen are noted as being special status plant alliances. The total impact to the special status plant alliances is then spread out through Table 4.3-26 to 4.3-28 based on if it is included in LOPPs or not or if it has ground disturbance or not. As discussed in the Local Overlapping Permitting Process (LOPPs) section, the DEIR is unclear on the status of the LOPPs and why areas are separated into LOPPs and non-LOPPs areas. The implications of the separation of the analyses are unclear. The same approach is used for the Mountain Areas (Tables 4.3-29 to 4.3-31) and the Desert (Tables 4.3-32 to 4.3-34)

Shockingly, the DEIR admits impacts associated with non-ground-disturbing activities that are not quantified (at pg. 4.3-98) and are considered temporary impacts. Yet some of the non-ground-disturbing activities, including pruning, have the potential for significant impacts to the vegetation alliances particularly over the long-term. Particular concerns include the timing of pruning, which could affect the reproductive capacity of the vegetation alliances if ill-timed (and also affect animal reproductive success due to habitat impacts). The DEIR is wrong to ignore the potential permanent impacts from ongoing pruning.

The DEIR’s proposed Compensation for Special-Status Vegetation Communities, MM-BIO-10 (Valley Region), MM-BIO-11 (Mountains Region) and MM-BIO-17 (Desert Region) is staggeringly inadequate. In every case, except for perhaps Riversidean Alluvial Fan Sage Scrub (see next paragraph for discussion), the DEIR proposes a 1:1 mitigation ratio for impacts. The 1:1 mitigation ratio to offset impact to these recognized sensitive plant alliances is inadequate to mitigate for the destruction and should be far higher<sup>1, 2</sup>. Mitigation presumes that acquisition and permanent conservation will be the same vegetation alliance which currently exists to off-set the elimination of the proposed project activities. However, this strategy is still *a net loss of the sensitive plant alliance* because currently the sensitive plant alliance is present on both the mitigation site and the proposed project activity site. Therefore, to prevent further declines of these sensitive plant alliances a minimum a 3:1 mitigation ratio should be required as mitigation for the elimination of each sensitive plant alliance on the proposed project site.

Regarding the Riversidean Alluvial Fan Sage Scrub, MM-BIO-10’s Proposed Mitigation Ratios for Special-Status Vegetation Communities in the Valley Region indicates that

<sup>1</sup> Moilanen, A., et al., (2009). *How much compensation is enough? A framework for incorporating uncertainty and time discounting when calculating offset ratios for impacted habitat.* Restoration Ecology, 17(4), 470-478, doi:10.1111/j.1526-100X.2008.00382.x

<sup>2</sup> Norton, D. A. (2009). *Biodiversity offsets: two New Zealand case studies and an assessment framework.* Environmental Management, 43(4), 698-706, doi: 10.1007/s00267-008-9192-5.



scalebroom alliance, which is the only Riversidean alluvial fan sage scrub alliance address in the table will only be mitigated at a 1:1 ratio, but that the total Riversidean alluvial fan sage scrub will be mitigated at a 2:1 ratio. While this is ultimately confusing and needs clarification, the DEIR’s proposal to mitigate Riversidean alluvial fan sage scrub at a 2:1 ratio is laughable. Riversidean alluvial fan sage scrub is one of the most highly endangered plant communities in San Bernardino County’s valley area. Because of its rarity and endangerment, a 5:1 mitigation ratio is standard. The DEIR needs to adopt this standard mitigation ratio for Riversidean alluvial fan sage scrub.

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The DEIR’s proposed Compensation for Jurisdictional Waters MM-BIO-18 is also inadequate to mitigate for the destruction of Waters of the U.S. and other Jurisdictional water for the same reasons identified in the rare plant alliance resulting in a *net loss of wetlands and jurisdictional waters* – a violation of the no net loss of wetlands requirements. At a minimum the mitigation ratio should be 3:1 in order to offset the impacts to these important water resources.

Several of the sensitive plant communities have been drastically reduced on the landscape, and they are all associated with southern California wetlands and waterways. As of 1989 (almost 30 years ago), Southern California had already lost over 97% of our historic riparian systems<sup>3</sup>. Today, with climate change affecting California’s water supply, there is renewed interest in protecting and maximizing our local water supplies in southern California<sup>4</sup>. While we recognize that County Flood Control focuses on public safety, this DEIR fails to explore alternatives to achieve public safety goals while supporting the retention of our local water supplies through the use of riparian systems and all of the benefits that they provide both as amenities for public human use as well as for wildlife. For example, natural riparian systems slow water and allow for infiltration into the ground water, while providing habitat for rare plants and animals. Instead the DEIR focuses on outdated methodologies that instead destroy natural riparian and wash plant communities along with the wildlife they support. These maintenance activities destroy the functioning ecosystems that protect our local water supplies and eliminate human use and enjoyment of our local creeks and rivers. We strongly urge the DEIR to incorporate alternatives that protect our local water supplies and riparian/wash communities.

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These areas are critically important resources, yet the DEIR downplays their importance and relies instead on mitigation ratios for conservation. The problem, particularly in the Valley, is that some of these sensitive plant alliances are now so rare that mitigation may simply not be available. The DEIR fails to analyze this situation and we request that a full analysis for riparian alliances, coastal sage scrub alliances and Riversidean alluvial fan sage scrub be fully analyzed for the potential for having adequate availability to mitigate impacts.

**B. Critical habitat is inadequately addressed.**

The DEIR fails to adequately describe federally designated critical habitat within the Program area. In the main text of the DEIR, it simply presents tables for the Valley Region

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<sup>3</sup> Bowler, P. A. (1989, October). *Riparian woodland: an endangered habitat in southern California*. Endangered Plant Communities of Southern California-Proceedings of the 15th annual symposium. Special Publication (No. 3, pp. 80-97).

<sup>4</sup> Forse, E., Mika, et al., (2017). *Systems analysis and optimization of local water supplies in Los Angeles*. Journal of Water Resources Planning and Management, 143(9), 04017049, doi: 10.1061/(ASCE)WR.1943-5452.0000803.

(DEIR at 4.3-15; Table 4.3-2), Mountain Region (DEIR at 4.3-22; Table 4.3-4), and Desert Region (DEIR at 4.3-28; Table 4.3-6). Due to the broad scope of the Program and the multitude of sites that must be assessed, more information is required to understand the full scope of the project. After some digging, one can find more information in the Biological Technical Report (DEIR, Appendix E), but it is as if this information is being hidden from the public and decisionmakers. The lack of these data and analyses (or references citing the exact location of them) in the main body of the DEIR makes it challenging for the public and decisionmakers to understand the existing conditions and how Program activities could impact designated critical habitat in or near the Program area. The DEIR needs to provide the data about impacts from the Program to federally designated critical habitat in the text of the DEIR, not bury it in an appendix.

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Cont.

The DEIR fails to appropriately depict the amount and type of federally designated critical habitat within or near the Program area. For example, Table 4.3-2 of the DEIR does not accurately reflect the amount of designated critical habitat in the Valley Region. Although Figure 4-3 (DEIR Appendix A of Appendix E) denotes designated critical habitat in the Valley Region for Arroyo toad, Coastal California gnatcatcher, Least Bell’s vireo, Santa Ana sucker, San Bernardino kangaroo rat, southwestern willow flycatcher, and the western yellow-billed cuckoo, Table 4.3-2 of the DEIR excludes the presence of arroyo toad and the western yellow-billed cuckoo critical habitat in the region. Even if the critical habitat is not located within the Program area, the presence of designated critical habitat nearby could influence the species in or near the Program area. For example, if western yellow-billed cuckoo critical habitat is in the vicinity of the Program area, it is possible that the species may utilize habitat within the Program area for foraging or nesting, and adverse impacts to foraging and nesting areas could impact the species.

I-9

The DEIR fails to explain why habitat assessments were not conducted for the Coastal California gnatcatcher and Santa Ana sucker, as both species have designated critical habitat in and near the proposed Program area (DEIR Figure 4-3 Critical Habitat in the Valley Region from Appendix A of Appendix E). These species have been in decline for decades due to habitat loss and degradation. Appropriate measures that include habitat assessments and focused surveys following the most current US Fish and Wildlife Service (USFWS) or California Department of Fish and Wildlife (CDFW) guidelines should be taken to assess the potential presence of designated critical habitat for these species.

I-10

The DEIR fails to acknowledge that although it neglected to conduct habitat assessments for these species, a majority of the Santa Ana sucker critical habitat and several portions of the coastal California gnatcatcher critical habitat in the Valley Region are within or adjacent to the Program area (DEIR Figure 4-3 Critical Habitat in the Valley Region from Appendix A of Appendix E). Table 4.3-2 is misleading because it only shows “N/A” for these species, which gives no information regarding the existing conditions of the Program area. The DEIR needs to conduct and include habitat assessments that include a mix of desktop research and on-the-ground surveys for these species.

The DEIR also fails to adequately analyze potential impacts to designated critical habitat and species from Program activities. For example, the DEIR states that in the Valley Region:

I-11  
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“There is no suitable habitat for Santa Ana sucker within the maintenance footprint; therefore, direct impacts to Santa Ana sucker critical habitat would not result in adverse effects to this species.” (DEIR at 4.3-40)

This statement ignores the fact that Santa Ana suckers are reliant on gravels and cobble substrates for successful reproduction<sup>5</sup> and upstream Program activities may affect downstream substrates and change them to be unsuitable for sucker reproduction – a direct impact to critical habitat.

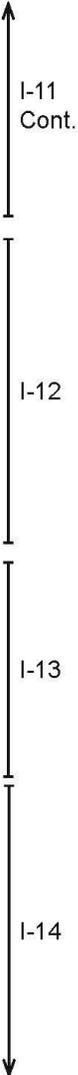
Similarly, the DEIR concludes that almost no suitable habitat for the coastal California gnatcatcher within the designated critical habitat within the maintenance footprint in the Valley Region will be adversely impacted (DEIR at 4.3-40). However, these statements are unfounded. As mentioned previously, no habitat assessments were conducted to determine whether suitable habitat for these species is present in the Program area despite the occurrence of 392.9 acres of critical habitat for the Santa Ana sucker and 2.7 acres of critical habitat for the coastal California gnatcatcher within the Program area/maintenance footprint in the Valley Region (DEIR Table 4.3-8). Activities such as bank repair, mechanized land clearing, and vegetation management could have adverse impacts on these critical habitats and special-status species; the DEIR presents no scientific information supporting the District’s assertion that no adverse impacts would occur to these species or their habitat. How can the District conclude that no suitable habitat will be impacted if, in fact, they do not know if it is present in the first place?

We present just a few examples of many instances in the DEIR where critical habitat in or near the Program area is not adequately described and potential impacts to critical habitat are not adequately analyzed. Without accurately describing and portraying the existing or potentially existing biological resources within or near the Program area (Valley, Mountain, and Desert Regions) that could be impacted by Program activities, the DEIR does not provide sufficient information that the public and decisionmakers need to adequately determine the potential adverse impacts on species and critical habitat from the Program and appropriate mitigation measures to minimize those impacts.

**C. Sensitive plants are inadequately addressed.**

The DEIR analysis of sensitive plants is flawed in a number of ways, as described below. Each of these issues must be addressed comprehensively in order for the public and decision makers to understand the potential impacts of the proposed project activities and to be able to evaluate if the proposed avoidance, minimization and mitigation is adequate.

As an initial matter, the DEIR does a poor job of clearly identifying the sensitive plant species that have potential to be impacted by the proposed activities. The DEIR at 4.3-15 identifies 28 special-status plant species documented in the Valley Region, and that 6 either are confirmed present within the proposed Program area or have a moderate to high potential to



<sup>5</sup> USFWS (U.S. Fish and Wildlife Service), (2011). *Santa Ana Sucker (Catostomus santaanae) 5-Year Review: Summary and Evaluation*. U.S. Fish and Wildlife Service Carlsbad Fish and Wildlife Office, Carlsbad, CA March 10, 2011. Pgs. 74.

occur. The remaining 22 are dismissed as having “a low potential to occur within the proposed program area” (at 4.3-15). The DEIR never identifies which 22 species these are, or how it determined that they have a low potential to occur in the Program area. There were 89 special-status plant species documented within the Mountain Region, 30 of which have a moderate potential to occur within the proposed Program area in the Mountain Region (DEIR at 4.3-22). The analysis fails here to identify the other 59 sensitive plants species or how it determined that they have a low potential to occur in the program area. For the desert region, the DEIR approaches the rare plants in a similar manner, not addressing all of the sensitive species.

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The DEIR does not indicate that sensitive plant surveys have actually ever been done in the proposed project activity areas, despite the fact that these areas have had ongoing maintenance activities for years. This is mysterious because prior impacts to federally/state listed plant species may have been in violation of law. Have any sensitive plant surveys ever been done? If yes, these data need to be included in the baseline data analysis.

I-15

The DEIR relies on a series of measures that purportedly reduce impacts to sensitive plant species to “less than significant” levels. These measures include SOP-BIO-14 through 16, SOP-BIO-19 and MM-Bio-3.

While we support surveys for sensitive plants in SOP-BIO-14, the proposal is to only monitor the sites every three years. However, some of the sensitive plant species are annual plants that spend most of their lifecycle as seeds in the ground (seedbank). Their life strategy is to only initiate germination when environmental conditions are appropriate in order for the plants to complete their lifecycle (*i.e.* only when there is adequate precipitation, soil moisture, temperature to help assure successful reproduction). Due to the unique environmental conditions that arise each year, sometimes above ground expression of the annual plant may not occur, while other years with excellent conditions, the plants will germinate and complete their lifecycle in vast numbers. Particularly in the desert, but also in the valley and mountains, a single survey in the year of the proposed disturbance will not adequately document these types of sensitive plant species. Instead, surveys need to be done annually in order to evaluate species presence/absence, and, if present, the extent of their populations.

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In addition, for non-listed special-status plants, SOP-BIO-14 states “Non-listed special-status plants are avoided during maintenance activities as practicable.” (DEIR at 1-10). As written, this SOP provides no assurances that these sensitive plants will be avoided. It also does not provide an analysis of the impacts from the proposed activities, leaving the public and decision makers in the dark about the actual impacts that these already sensitive species will sustain. Will it push them closer to the edge extinction and create a need for listing them?

MM-Bio-3 (DEIR at 1-7) falls woefully short of insuring that impacts are avoided, minimized and if necessary mitigated. As with SOP-BIO-14, it only requires that mitigation and monitoring plan be developed and approved by the wildlife agencies for listed species. For non-listed sensitive plant species, the District would make the determination of significance of the impact. This determination would be made out of public and decision makers’ view. If a significant impact was determined, it appears that the only proposal is to translocate the species.

I-17

Data on translocation of sensitive plant species indicates very poor success<sup>6</sup>. In review of mitigation-related sensitive plant transplantation, relocations and reintroductions, Fiedler (1991) found that “Only 15% (8) of the 53 transplantation, relocation, or reintroduction attempts reviewed should be considered fully successful (13% of the 46 projects).” This is an abysmal record for minimizing and mitigating impacts to sensitive plant species. Therefore, we strongly request that the DEIR actually analyze the impacts from the proposed activities on the sensitive plant populations and focus on ways to avoid impacts. In addition, other options, including but not limited to collection of seed and propagules and storage in a reputable seed bank, in conjunction with onsite conservation needs to be incorporated at a minimum.

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SOP-BIO-15 and 16 are typical construction Worker Environmental Awareness Program and Best Management Practices which we generally support in the hopes that they do provide some benefit to sensitive plants as well as sensitive plant communities; however they do not specifically require addressing these sensitive vegetation resources. The measures could be improved by doing so.

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SOP-BIO-19 is problematic in that it relies on the “District’s Vegetation Management Plan” (DEIR at I-11). While the mitigation measure generally describes how the herbicides are used, the DEIR does not provide a link that we could find to the “District’s Vegetation Management Plan”, nor was it readily available on-line. In order to comprehensively evaluate the use of herbicides in areas that may affect sensitive plant species, the DEIR needs to include this plan and provide an analysis of how it may affect sensitive plants and plant communities.

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**D. Special-status wildlife species are inadequately addressed.**

The CDFW defines special-status wildlife species as those officially listed or proposed for listing under the Federal or State Endangered Species Act; species of special concern (as considered by CDFW); species that meet criteria for listing even if they are not currently included on any list (as described in Section 15380 of the California Environmental Quality Act Guidelines); species that are biologically rare, very restricted in distribution, or declining throughout their range but not currently threatened with extirpation; populations in California that may be peripheral to the major portion of the species’ range but are threatened with extirpation in California; species associated with habitat that is declining in California at a significant rate); and species designated as special-status, sensitive, or declining by other state or federal agencies or non-governmental organizations and determined by CNDDDB to be rare, restricted, declining, or threatened across their range in California<sup>7</sup>.

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The DEIR fails to adequately describe and analyze the potential occurrence of special-status wildlife species in the proposed Program area. The information provided in the DEIR is insufficient. There is no discussion or synthesis of information reported in the main text of the DEIR; the reader must navigate through Appendix E of the DEIR to find relevant information, and even that is a challenge. For example, in Appendix E of the DEIR (at 212) it states:

<sup>6</sup> Fiedler, P. L. (1991). *Mitigation-related Transplantation, Relocation and Reintroduction Projects involving endangered and threatened and rare plant species in California*. Final Report for Ann Howald, California Department of Fish & Game, Endangered Plant Program. June 14, 1991. Contract No. FG-8611.

<sup>7</sup> California Department of Fish and Wildlife, California Natural Diversity Database (CNDDDB), *Special Animals List*, 2018.

“Appendix G provides a summary of the special-status species that have been documented in the Desert Region of San Bernardino County, and includes information on status, distribution, habitat associations, and likelihood of occurrence within the study area.”

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Yet there is no Appendix G within Appendix E. Again, instead of providing the reader with the information forthright, the reader must search the entire 650-page appendix to find that Appendix E (not Appendix G) within Appendix E has a table that provides some information regarding special-status species in the Desert Region (Table 3-6). And once found, the information is insufficient to determine the different species’ potential to occur in or near the Program area.

The DEIR lacks scientific basis for their findings regarding special status species having high, moderate, low, or no potential to occur in or near the Program area. Maps visualizing occurrence data of special status species from CNDDB were not provided in the DEIR, which is a standard practice that allows members of the public and decisionmakers to see where special-status species have been recorded in and near the Program area. While habitat surveys were conducted for a select few species, focused surveys were not conducted to determine species presence. More information is needed to determine the potential presence of special-status species in and near the Program area.

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Similar to what was done for special status plant species, the DEIR simply provides a total number of special-status animal species documented in each region (Valley, Mountain, Desert) and then states which species have high, moderate, or low potential to occur in the Program area, without any explanation regarding how they determined this. For example, the DEIR states that 42 special-status animal species were documented in the Mountain Region, of which they list 15 species with low or moderate potential to occur in the Program area (DEIR at 4.3-23). Without providing any other information, the DEIR dismisses the remaining species because they have low potential to occur in the Program area. This information is insufficient for the public and decisionmakers to understand the existing conditions of the Program area, which special-status species may occur there and may therefore be potentially adversely impacted by Program activities, and what mitigation measures would be effective at minimizing potential adverse impacts to those species.

**E. Wildlife corridors and habitat linkages are inadequately addressed.**

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The DEIR provides insufficient information and analysis regarding existing conditions and potential adverse impacts due to the Program on wildlife corridors and habitat linkages. Many portions of the Program area, particularly in the Valley Region but also in the Mountain and Desert Regions, overlap with habitat linkages and corridors identified by CDFW, Caltrans, and/or the South Coast Wildlands. These corridors and linkages are important for allowing movement between the San Gabriel Mountains, San Bernardino Mountains, and San Jacinto Mountains. However, it is unclear to what extent the Program activities could impact these corridors and linkages. Limiting species movement can affect the ability of some species, including mountain lions and bears, to find food, shelter, and mates. Populations can become isolated, sensitive species can become locally extinct, and important ecological processes like plant pollination and nutrient cycling can be lost. Therefore, it is imperative that thorough analyses are conducted to determine if Program activities will affect species movement,

particularly while the effects of climate change advance, including our ongoing drought. The DEIR fails to adequately describe and analyze the potential impacts to wildlife corridors and habitat linkages in and near the Program area.

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**II. The local overlapping permitting process (LOPPs) is unclear.**

The DEIR analyzes impacts to numerous species and plant alliances based on the presence of LOPPs. The DEIR indicates that LOPPs include:

- El Niño Maintenance Area
- First Line of Defense
- The Wash Plan

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However, the DEIR does not provide information on what is currently required in these LOPPs. It is unclear if the impacts proposed in this DEIR are covered by these other permitting processes already or if the County will be seeking new permits. In order to evaluate how the impacts will actually be avoided, minimized and mitigated, the DEIR must provide information on the existing conditions and currently required avoidance, minimization and mitigation requirements that are already in place in order for the public and decision makers to be able to evaluate the effectiveness of the current strategy.

**III. The DEIR fails to clearly identify compliance with state and federal Endangered Species Acts and regional habitat conservation plans.**

The DEIR proposes to rely upon numerous mechanisms in order to achieve compliance with State and federal Endangered Species Acts. Some parts of the project will be covered under the existing Western Riverside County Multiple Species Habitat Conservation Plan (WR MSHCP). Other parts of the project would rely on Habitat Conservation Plans that are not yet in place. Other parts of the project would rely on Incidental Take Permits from State and federal wildlife agencies. For the purposes of this DEIR however, it remains very unclear how the variety of approaches would achieve the necessary compliance with the State and federal Endangered Species Acts.

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*The Upper Santa Ana Wash Land Management and Habitat Conservation Plan (Wash Plan)*

The Upper Santa Ana Wash Land Management and Habitat Conservation Plan (Wash Plan) is still a draft Habitat Conservation Plan (DEIR at 3-17), with a timeline for finalization in 2018. While we recognize that strides have been made in trying to finalize the Wash Plan, the Wash Plan has been an ongoing project for over two decades and while it may be close to finalization, it is, in fact, not finalized. While we are supportive of the HCP approach in concept, it remains to be seen if indeed the Wash Plan will actually be finalized and implemented. Still, the DEIR fails to analyze its proposed obligations under this HCP.

*Upper Santa Ana River Habitat Conservation Plan (USARHCP)*

Regarding the Upper Santa Ana River Habitat Conservation Plan (USARHCP) where the County is a proposed permittee (DEIR at 4.3-17), this HCP is in early stages of development and

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a draft NEPA/CEQA document is not yet available for public review. So it is unclear if 1) the County will ultimately be a permittee under that proposed HCP and 2) what conservation obligations will be required of the County under the HCP. Because the DEIR does not provide these data, it makes it impossible for the public and decision makers to evaluate the efficacy of proposal.

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*Apple Valley Multiple Species Habitat Conservation Plan/Natural Communities Conservation Plan*

It is curious for both the Wash Plan and the Upper Santa Ana River HCP that the DEIR takes a position that there will be no conflict with either of these unfinished plans, yet for the unfinished Apple Valley Multiple Species Habitat Conservation Plan/Natural Communities Conservation Plan, the DEIR states “it is not possible to identify any conflicts with the plan at this time” (DEIR at 4.3-133). The DEIR must clearly clarify how the proposed activities will comply with the obligations of the Wash Plan and the Upper Santa Ana River HCP.

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*Western Riverside County Multiple Species Habitat Conservation Plan (WR MSHCP)*

Three facilities fall under the adopted Western Riverside County Multiple Species Habitat Conservation Plan (WR MSHCP) (DEIR at 4.3-17), with one of the facilities (Declez Basin (Facility No.1-814-3A)) falling in a criteria cell where conservation is necessary in order to reach the conservation reserve assembly envisioned by the plan. The DEIR notes that the goal of the criteria cell that the Declez basin is located in - Criteria Cell 10 of Cell Group B - is the conservation of coastal sage scrub and grassland habitat (DEIR at 4.3-132). While the DEIR acknowledges that the Declez basin has been maintained in the past, The DEIR indicates that the WR MSHCP conservation “will focus on coastal sage scrub and grassland habitat focusing in the northeastern portion of the Cell Group” and “Declez Basin is located in the northwestern portion of the Cell Group” but then somehow draws the conclusion that “therefore, the proposed program would not be in conflict with the conservation goals of this Criteria Cell.” While we agree that the Cell Group is focused on conservation of coastal sage scrub and grassland habitat, the DEIR does not actually analyze the conservation goals for Criteria Cell #10 where the Declez Basin is located (Figure 1).

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Figure 1. Criteria Cell 10 with Declez Basin in the northeast portion of the Criteria Cell.

All of the Program areas under the WR MSHCP fall within the required survey areas for burrowing owls. The DEIR does not identify if required surveys for burrowing owls have been implemented to date and relies on SOP-Bio-6, which would require consultation with CDFW, and if burrowing owls were present, additional plans would need to be developed to address potential eviction, artificial burrows installation etc. The DEIR is unclear how this approach complies with the WR MSHCP. The DEIR then concludes without any supporting data that “the proposed program would not result in impacts to burrowing owl and would not be in conflict with the goals of this survey area” (DEIR at 4.9-11). It is unclear that SOP-Bio-6 complies with the WR MSHCP and would not result in impacts to burrowing owls. Further clarification on how SOP-Bio-6 complies with the WR MSHCP is needed.

Two of the project areas fall within the Narrow Endemic Plants survey area (DEIR at 4.9-11). However, surveys for rare plants were not done in support of the DEIR but instead deferred until just prior to Program activities. The lack of information or even an assessment of rare plant habitat fails to inform the public and decision makers about the on-site resources. While SOP-BIO-14 assures that rare plant surveys will be done prior to “pre-activity”, even when coupled with MM-BIO-3, these 2 measures do not appear to provide all the compliance needed under the WR MSHCP. Specifically, the narrow endemic plants required to be surveyed for are unlisted species but covered species. Therefore, it appears that MM-BIO-3, with its reliance on the “District Ecological Resource Specialists shall determine if potential impacts would be significant to the long term viability of the local population of that plant species” (DEIR at 1-7) may not be in compliance with the requirements of the MSHCP. Further clarification of how MM-BIO-3 complies with the WR MSHCP is needed.

The Declez project site requires a habitat assessment for San Bernardino kangaroo rat and Los Angeles pocket mouse (DEIR at 4.3-132), yet we could find no such habitat assessment in the DEIR or in Appendix E. Instead the DEIR uses an unsubstantiated statement of “the proposed program would not be in conflict with the goals of this survey area” relying solely on MM-BIO-4 which is exclusively for the San Bernardino kangaroo rat and does not address the

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Los Angeles pocket mouse. The DEIR needs to provide the actual habitat assessment for these species under the WR MSHCP survey requirements.

The DEIR is mistaken in its description of the Desert Renewable Energy Conservation Plan (DRECP). The DRECP’s conservation management actions actually apply to all projects on public lands managed by the Bureau of Land Management (BLM). The DEIR is unclear if any of the County’s projects include activities on public lands managed by the BLM.

Because the DEIR proposes to use potentially four different mechanisms to achieve compliance with the Endangered Species Act including two HCP’s that are not finalized and one that is, but the proposed measures do not appear to be in compliance with the requirements of the HCP, please clarify in a supplemental DEIR how the state and federal permitting for Endangered Species Act compliance would actually work.

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**IV. The DEIR fails to adequately describe and analyze the Program’s Standard Operating Procedures and their potential impacts on biological resources.**

The SOPs provided in the DEIR are vague, insufficient, and lack the application of the best scientific information available to minimize adverse impacts to special status wildlife from facility maintenance. In addition, the SOPs do not appear to be mandatory requirements and there are no mechanisms in place that ensure their full implementation. With insufficient SOPs, impacts due to facility maintenance could result in significant impacts to biological resources. The potential impacts are further enhanced with the SOPs not being mandatory; there is a chance that they will not always be implemented, which could lead to greater adverse impacts to sensitive species. Thus, the DEIR fails to provide adequate information regarding Program SOPs, and it fails to adequately analyze potential impacts to biological resources.

The SOPs lack appropriate detail that would ensure that species and habitat are being impacted as little as possible by Program activities. For example, SOP-BIO-1 to SOP-BIO-3 are insufficient at minimizing impacts to the targeted special status species, the federally and state endangered Least Bell’s Vireo, the federally threatened Coastal California Gnatcatcher, and the federally and state endangered Southwestern Willow Flycatcher (DEIR at 4.3-31-32). While the DEIR states that Program activities will generally be conducted outside of nesting seasons, the DEIR does not specify that should activities occur during nesting seasons, that a qualified or permitted biologist shall conduct focused surveys that follow the most recent USFWS or CDFW guidelines. Nor do they ensure that focused surveys shall be conducted by a biologist familiar with songs, calls, and plumage characteristics of adults and juveniles in the early morning (one hour before sunrise to 10am or noon, depending on the species) while avoiding inclement weather (e.g., excessive or abnormal heat, wind, rain, or fog) to increase chances of detection. Including these mandatory requirements in the SOPs would minimize impacts to these species. All records of detected species should be reported to the USFWS and CDFW. In addition, if brown-headed cowbirds are detected, these observations should be reported to USFWS and CDFW immediately, as they are parasitic and have played a role in the decline of these species.

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The SOPs fail to give authority to biological monitors to ensure the protection of special-status species, including SOP-BIO-1 to 14. In any instance when a special-status species has

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been detected in or near the Program area where maintenance activities are to take place, a biological monitor should be present during maintenance activities to ensure that the focal species is not being impacted. And if the biological monitor finds that the species is being impacted, then they should have the authority to stop work at any time until impacts can be avoided or until consultation with USFWS or CDFW is completed. Simply having a biologist present during maintenance activities does not minimize any impacts unless they are able to prevent or stop any adverse impacts that they observe.

Several SOPs do not ensure that focused surveys for special status species in their respective suitable habitat will be conducted by a qualified biologist familiar with the natural history and behavior of the focal species prior to maintenance activities, including SOP-BIO-7, 8, 9, 12, and 13. Without pre-activity surveys in suitable habitats, biologists and maintenance workers would be unaware of a species’ potential presence, and the appropriate steps may not be taken to avoid or minimize adverse impacts. These practices are insufficient for minimizing adverse impacts from the Program on special-status species.

We describe just a few examples of how the SOPs are inadequate in scope and analysis. The DEIR must provide a more thorough description and analysis that fully discloses information regarding standard practices and how they are minimizing potential impacts to special status species based on the best scientific information available. The DEIR asserts that the SOPs, in conjunction with mitigation measures, would reduce impacts to less than significant.

“In addition to incorporation of District standard practices SOP-BIO-1 through SOP-BIO-20 (see Section 4.3.5) and SOP-HYD-1 through SOP-HYD-4 (see Section 4.8.5), implementation of MM-BIO-1 through MM-BIO-18 (see Section 4.3.7) would reduce impacts from the proposed program to less than significant levels.” (DEIR at 4.3-145; Table 4.3-49)

However, as currently written, the SOPs are insufficient and lack the incorporation of the best available scientific information. The SOPs are not mandatory or enforceable under CEQA, as the DEIR simply states that “District standard practices SOP-BIO-1 through SOP-BIO-20 would be incorporated in the proposed program” (DEIR at 4.3-134). Thus, the SOPs must be improved and required to truly minimize impacts on biological resources due to Program activities.

**V. The DEIR fails to provide appropriate and adequate mitigation measures to minimize adverse impacts to biological resources due to Program activities to less than significant.**

CEQA requires that environmental review must analyze any proposed mitigation measures, their impacts, and their likely efficacy. CEQA Guidelines § 15126.4(a)(1)(D) (“If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measures shall be discussed . . .” emphasis added); *Save Our Peninsula Comm. v. Monterey Board of Supervisors* (2001) 87 Cal.App.4th 99, 130 (“An EIR is required to discuss the impacts of mitigation measures.”).



Here however, many of the mitigation measures in the DEIR are improperly deferred mitigation. For example, MM-BIO-16 states that “Prior to implementation of maintenance activities in suitable Mojave River vole habitat upstream and downstream of I-15, a Mojave River vole management plan shall be prepared, submitted, and approved by CDFW” (DEIR at 4.3-143). MM-BIO-18 of the DEIR is another example, as it states that a “Habitat Mitigation and Monitoring Plan shall be prepared” as mitigation for adverse impacts to jurisdictional waters, including riparian areas and streambeds (DEIR at 4.3-145). A third example is SOP-BIO-4, which is meant to reduce impacts to native fish, including the Santa Ana sucker. It states that if maintenance activities occur when water is present “a water diversion plan is developed that includes measures to avoid impacts to native fish” (DEIR at 4.3-32) without providing further details. However, as mentioned in the Center’s comments on the Notice of Preparation, mitigation measures for the Program must be considered in the DEIR in order for the proper environmental analysis to take place. (See *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1396 [it is improper for the EIR to “require the applicant to comply with any recommendations of a report that had yet to be performed”]; *Sundstrom v. Co. of Mendocino* (1988) 202 Cal.App.3d 296.). Therefore, finalized management plans, habitat mitigation and monitoring plans, and water diversion plans need to be included in the DEIR to enable the public and decisionmakers to evaluate the effectiveness of the plans in avoiding, minimizing and mitigating the impacts from the Program.

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In the limited circumstances in which deferred mitigation is appropriate, the agency must meet all of the following elements: (1) practical considerations prevented the formulation of mitigation measures during the planning process; (2) the agency committed itself to developing mitigation measures in the future; (3) the agency adopted specific performance criteria prior to project approval; and (4) the EIR lists the mitigation measures to be considered, analyzed, and possibly incorporated into the mitigation plan. (See *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 736-37 [review denied].) Here, the DEIR fails to establish that mitigation measures to protect biological resources could not have been developed *prior* to project approval. The lack of management plans being readily provided for the special status species, habitat, and vegetation communities does not allow the public and decisionmakers to evaluate the mitigation measures being taken and effectively removes them from the required CEQA process.

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Another example of inadequate mitigation in the DEIR is that many of the mitigation measures state that the District shall provide compensatory mitigation through habitat preservation, enhancement, or creation at given mitigation ratios depending on the species and the habitat quality to be permanently impacted, but they do not provide information regarding potential sites that are appropriate for the targeted species or habitats, nor do they explain how the sites shall be acquired, monitored, or managed in perpetuity. Long-term monitoring and adaptive management is needed for these sites, especially for habitats that are restored or created, as it can take many years before established mitigation sites become as ecologically functional as

the lost habitat<sup>8,9,10</sup>. The success of mitigation sites relies on the appropriate assessment of measurable performance standards based on habitat functions and adaptive management strategies<sup>11</sup>. The DEIR needs to provide more information and assessments regarding potential mitigation sites that are suitable and contiguous with other high-quality habitats, and the Program’s mitigation measures should implement acquisition in perpetuity, long-term monitoring, and adaptive management strategies to minimize adverse impacts to biological resources.

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The DEIR’s mitigation ratios are inadequate for the various species and habitats that this Program will adversely impact, and they do not differentiate between habitat preservation, enhancement, or creation. If compensatory mitigation includes enhanced or created habitats, higher mitigation ratios coupled with extended years of effective monitoring and adaptive management strategies are needed to improve chances of establishing equivalent ecological function as the lost habitat and achieving no net loss of habitats<sup>12</sup>. Given the goal of no net loss of habitat, MM-BIO-13 is exceptionally deficient, as it provides mitigation ratios of 0.5:1 for permanent direct impacts to moderate desert tortoise habitat and 1:1 for permanent direct impacts to high quality desert tortoise habitat. Mitigation ratios for this state and federally threatened should be, at a minimum, 3:1. With one third of America’s plant and animal species vulnerable to impacts from human activity and one fifth at risk of extinction<sup>13</sup>, it is crucial that strategies to prevent further degradation and loss of biodiversity are explicit and scientifically sound.

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The DEIR’s mitigation measures do not guarantee no net loss of habitat quantity or quality, nor do they ensure that displaced special-status species will thrive (whether sites are acquired or restored/created). Special status species and habitats are garnered special attention and protection with the intent of improving their chances of survival and to preclude future listing by avoiding take and further degradation due to impacts from actions such as those described in this project. The DEIR’s finding that significant impacts to biological resources will be mitigated to less than significant is not supported by the facts and fails to meet CEQA’s requirements.

<sup>8</sup> Bronner, C. E., et al., (2013). *An assessment of US stream compensatory mitigation policy: necessary changes to protect ecosystem functions and services*. Journal of the American Water Resources Association, 49(2), 449-462, doi:10.1111/jawr.12034.

<sup>9</sup> Ambrose, R. F., Callaway, J. C., & Lee, S. F. (2006). *An Evaluation of Compensatory Mitigation Projects Permitted Under Clean Water Act Section 401 by the California State Water Quality Control Board, 1991-2002 (Final Report)*. California Environmental Protection Agency, California State Water Resources Control Board Los Angeles Region (Region 4). Los Angeles, CA.

<sup>10</sup> Sudol, M. F., & Ambrose, R. F. (2002). *The US Clean Water Act and habitat replacement: evaluation of mitigation sites in Orange County, California, USA*. Environmental Management, 30(5), 0727-0734, doi:10.1007/s00267-002-2787-3.

<sup>11</sup> Matthews, J. W., & Endress, A. G. (2008). *Performance criteria, compliance success, and vegetation development in compensatory mitigation wetlands*. Environmental Management, 41(1), 130-141, doi:10.1007/s00267-007-9002-5. See *supra*. 8, 9, 10

<sup>12</sup> See *supra*. 1, 9, 10

<sup>13</sup> Stein, B. A., et al., (2018). *Reversing America’s Wildlife Crisis: Securing the Future of Our Fish and Wildlife*. Washington, DC: National Wildlife Federation.

**VI. The DEIR fails to adequately assess and mitigate the impacts of rodenticides on special-status wildlife.**

The DEIR does not disclose the types of rodenticides the District will use during maintenance, nor do they explain how the SOPs or MMs will minimize impacts from rodenticides on special-status wildlife. The DEIR states the following:

“Rodenticide used in areas containing protected rodents such as the threatened Mohave ground squirrel (*S. mohavensis*) or the endangered San Bernardino kangaroo rat (*Dipodomys merriami parvus*) is applied using special traps, and in accordance with applicable federal and state laws, regulations, and policies and the County’s agency-approved Integrated Pest Management Plan.” (DEIR Appendix E, Table 1-3).

It is unclear how the “special traps” work to minimize impacts on non-target species. Most baited traps allow for the entrance and exit of small mammals and will likely attract many other non-target small mammal species including the San Bernardino kangaroo rat (SBKR) and the Mohave ground squirrel (MGS). This would be a direct adverse impact on these special-status species. In addition, rodenticides do not have an immediate impact. According to the USEPA, deaths from consuming rodenticides can occur between two days to two weeks after feeding on rodenticide bait<sup>14</sup>. Poisoned animals will leave the traps, and there is no way to know the number of individuals and which species consumed the poison. Sick and dying animals will be likely targets for predators like raptors (including burrowing owls, which feed on small mammals, among other things), bobcats, and mountain lions, and dead animals will be eaten by scavengers. Because the rodenticides remain in the tissue of dead or dying animals, this can lead to bioaccumulation in predators and cause secondary poisoning<sup>15</sup>. First and second generation anticoagulant rodenticides as well as non-anticoagulant rodenticides have been shown to have lethal and sublethal effects on birds and mammals<sup>16</sup>. Thus, the District’s conclusion that impacts from rodenticides will be less than significant for SBKR (DEIR at 4.3-57) and MGS (DEIR at 4.3-91) are not founded in the most current scientific understanding of rodenticide. The District also fails to adequately analyze the impacts (primary and secondary) of rodenticides on other rare and special status species or species that are not listed but have been afforded special consideration by CDFW that may occur in the Program area, such as white-tailed kites, burrowing owls, southern rubber boas, golden eagles, bobcats, and mountain lions.

In addition, the DEIR does not provide the Integrated Pest Management Plan that the District plans to use. This is insufficient information to assess the potential impacts of applying rodenticides on special-status species that occur in or near the program area. It also makes it difficult to discern the effectiveness of the SOPs that are to minimize impacts. The Integrated Pest Management Plan should be provided in the Appendices.

I-35

<sup>14</sup> U.S. Environmental Protection Agency (USEPA), Office of Prevention, Pesticides, and Toxic Substances, (2004). *Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals: a Comparative Approach*.

<sup>15</sup> California Department of Fish and Game, *Letter to Christopher Reardon re: redesignation of rodenticides brodifacoum et al. as State Restricted Materials*, Jul. 11, 2011.

<sup>16</sup> Department of Pesticide Regulation, *Memo to Ann Prichard re: Second Generation Anticoagulant Rodenticides*, Sep. 19, 2012. *See supra*. 14.

The District should consider alternatives to the use of harmful rodenticides, such as promoting the presence of natural predators. A 2017 study conducted in the Ventura County Watershed Protection District found that attracting raptors to flood control facilities by installing raptor perches and nesting facilities (e.g., barn owl boxes, hawk nesting platforms) nearby was 50% more effective at preventing new rodent burrows compared to rodenticides<sup>17</sup>. The authors estimated that this technique could result in savings of about \$7,500 annually. (*Id.*) Not only is this method cost-effective, but it would also avoid exposing a multitude of non-target species to harmful rodenticides.

I-36

**VII. The DEIR’s analysis is insufficiently specific regarding hydrologic impacts.**

The DEIR makes it clear that the San Bernardino County Master Storm Water System Maintenance Program (Program) will have broad implications throughout the County. As stated in the DEIR’s Project Description, the Program will cover approximately 500 facilities. (DEIR at 3-5.) These facilities cannot be characterized as equivalent in scope and impact; rather, they comprise eight vastly different categories ranging from dams to storm drains. (DEIR at 3-5.) The components of the Program are further distinguished by location. The environmental analysis breaks down the 20,105 square-mile project location into three areas: Valley, Mountain, and Desert. (DEIR at 3-1.)

I-37

Unfortunately, the analysis provided in Section 4.8 of the DEIR, Hydrology and Water Quality, fails to reflect the incredible diversity of project activities. Although many of the facilities are facially similar, the inherent specificity of hydrologic conditions and project components requires proportionately detailed scrutiny. The courts have determined that a EIR should contain a sufficient degree of analysis, with respect to what is reasonably feasible, to provide decision-makers with enough information to enable them to make a decision that intelligently takes account of environmental consequences. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 664.) Generally speaking, the required level of specificity is determined by the nature of the project and the rule of reason. (*Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214, 233.)

Given that the rule of reason necessitates project-by-project analysis, it is helpful to compare the present Program to the two cases cited above. In *North Coast*, the court determined that it was insufficient to neglect to discuss site-specific impacts merely because the EIR identified some sites which were likely to be subject to program activities. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 679.) The Center does not accuse the DEIR of a strictly identical issue. Nonetheless, the *North Coast* court’s focus on the importance of site-by-site analysis does pertain to the Program. Section 4.8 breaks each impact analysis down into discussion of three regions for Impact HYD-1 and HYD-3. (DEIR at 4.8-40 – 62.) These impact sections are further broken down into ground-disturbing and non-ground-disturbing activities and vegetation management. Impact HYD-4 is not considered by region, although it is broken into similar activity types. (DEIR at 4.8-62 – 63.) Impact HYD-6, on the other hand, is not broken down at all. (DEIR at 4.8-63.) While the DEIR does call out a few specific sites for different regions, it is farcical to claim that out of the roughly 500 sites implicated by the Program, these sections provide meaningful analysis per CEQA.

I-38

<sup>17</sup>Ventura County Public Works Agency, Watershed Protection Dist., *Raptor Pilot Study for Levee Protection: Integrated Pest Management Program*, 2017.

Both the California judiciary and common sense require lengthy and in-depth discussion of hydrology and water quality impacts for so consequential a project as the Master Storm Water Maintenance Program. As discussed, the investigation provided by the DEIR clearly fails the rule of reason as applied to specificity of analysis.

I-38  
Cont.

**VIII. The DEIR fails to discuss the interplay of climate change with the project’s hydrologic impacts.**

As noted in the comments provided by the Center on the Notice of Preparation, climate change plays a significant and growing role in California’s hydrology (Comments RE: Notice of Preparation for the Long-Term Maintenance of Flood Control and Transportation Facilities Located Throughout San Bernardino County at 5). The Intergovernmental Panel on Climate Change (IPCC) specifically identified the American West as vulnerable to severe hydrology impacts, warning, “Projected warming in the western mountains by the mid-21<sup>st</sup> century is very likely to cause large decreases in snowpack, earlier snow melt, more winter rain events, increased peak winter flows and flooding, and reduced summer flows...” (IPCC 2007b.) Researchers have compared the results of several climate models to find that “warmer temperatures accompany” decreases in snow pack and precipitation and the timing of runoff, impacting river flow and water levels. (Barnett 2008.) This, the researchers wrote, is “not good news for those living in the western United States.” (Barnett 2008.)

I-39

Scientists also indicate that climate change will exacerbate the problem of flooding by increasing the frequency and magnitude of large storms, which in turn will cause an increase in the size and frequency of flood events (NRDC 2007.) This is obviously of particular importance for the Program, as the increasing cost of flood damages and potential loss of life put more pressure on water managers to provide greater flood protection. (NRDC 2007.) These changes in hazard risk must play an important role in environmental review.

In addition to water supply and timing, water quality will be heavily impacted by climate change. Changes in precipitation, flow, and temperature will likely exacerbate water quality problems. (NRDC 2007.) Shifting weather patterns are already jeopardizing water quality in many regions where groundwater systems are overdrawn. (Epstein 2005.) Decreased flows can magnify the effect of temperature increases, raise the concentration of pollutants, increase residence time of pollutants, and heighten salinity levels in arid regions. (Schindler 1997.) It is imperative that all projects concerning water supply and management reflect these severe implications. Unfortunately, the DEIR’s proffered analysis lacks meaningful consideration of how maintenance efforts will be affected by climate change.

I-40

**IX. The DEIR fails to adequately assess cumulative impacts of the proposed Program.**

The purpose of analyzing cumulative environmental impacts is to assess adverse environmental change “as a whole greater than the sum of its parts.” (*Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 625.) Absent meaningful cumulative analysis there would be no comprehensive assessment of environmental impacts within a region and “piecemeal development would inevitably cause havoc in virtually every aspect of the [] environment.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 721.)

I-41

Here however, the DEIR fails to provide a thorough analysis of cumulative impacts of the proposed Program. While it lightly touches on cumulative impacts in the Valley and Desert Regions (DEIR Section 4.3.9.1 and DEIR Section 4.3.9.2, respectively), the DEIR completely omits any discussion of cumulative impacts in the Mountain Region. In addition, the Valley Region section only discusses impacts to the Riversidean alluvial fan sage scrub habitat and San Bernardino Kangaroo Rat habitat, and the Desert Region section only discusses Mohave ground squirrel habitat, neglecting a suite of special-status species and habitats that occur or have the potential to occur in or near the Program area. Based on these minimal discussions on only two species that lack substantive scientific information, the DEIR concludes that “the proposed program would not have significant cumulative impacts on biological resources” (DEIR at 4.3-152). These analyses are wildly insufficient. More information and analyses (including science-based discussions and findings) on potential cumulative impacts on ALL biological resources in and near the Program area are needed to determine the extent of cumulative impacts on biological resources.

The DEIR concludes their analyses by stating the following:

“The proposed program impacts associated with biological resources were found to be less than significant with incorporation of the mitigation measures in Section 4.3.7 and the SOPs in Sections 4.3.5 and 4.8.5. In addition, the proposed program would be required to comply with all applicable federal, state, and local requirements related to special-status plants, animals, and habitats, as well as to jurisdictional waters. Therefore, the proposed program would not have a significant cumulative impact on biological resources.” (DEIR at 4.3-152).

However, as described throughout this comment letter, the SOPs and mitigation measures are insufficient and would not reduce impacts of Program activities on biological resources in and near the Program area. More analyses are needed to adequately address potential impacts from Program implementation.

**X. Conclusion.**

Thank you for the opportunity to submit comments on this proposed Program. We look forward to working to assure that the Program and environmental review conforms to the requirements of state law and to assure that all significant impacts to the environment are fully analyzed, mitigated, or avoided. In light of the severely inadequate analyses of existing conditions and potential impacts due of the Program on biological resources and hydrology, we urge the District to revise and re-circulate the DEIR. In the event that the District chooses not to revise the DEIR and provide adequate analyses, we strongly urge that the Program not be approved. Please do not hesitate to contact the Center with any questions at the email listed below. We look forward to reviewing the District’s responses to these comments in the Final EIR for this Program once it has been completed.

I-41  
Cont.

I-42

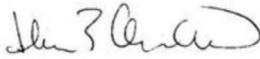
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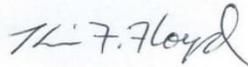
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SIERRA  
CLUB  
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CALIFORNIA  
NATIVE PLANT SOCIETY



San Bernardino  
Valley Audubon  
Society

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(Attached on CD)

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## Response to Comment Letter I

**Center for Biological Diversity (CBD), California Native Plant Society (CNPS), San Bernardino Valley Audubon Society (SBVAS), Sierra Club – San Geronio Chapter (SC)**

**Tiffany Yap, DEnv/PhD, Staff Scientist, Wildlife Corridor Advocate, CBD**

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**Kim Floyd, Conservation Chair, Sierra Club, San Geronio Chapter, SC**

**July 30, 2018**

**I-1** Thank you for your letter pursuant to the proposed program. The commenter states that the Draft EIR failed to disclose information and adequately analyze impacts on biological resources, hydrology, and climate change. However, the commenter does not specifically state what information was not disclosed and what was not adequately analyzed. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

The remainder of this comment provides a description of the CBD, CNPS, SBVAS, and SC. No further response is required.

**I-2** The commenter states that the Draft EIR failed to disclose information and adequately analyze impacts on biological resources. However, the comment does not specifically state what information was not disclosed and what was not adequately analyzed. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

**I-3** The commenter states that Draft EIR does not provide information on impacts to vegetation alliances. The Draft EIR analyzes potential impacts under each threshold as provided in Appendix G of the California Environmental Quality Act (CEQA) Guidelines, which includes a threshold for sensitive natural communities; therefore, impacts are provided for sensitive vegetation alliances.

The commenter further questions the distinction made in the Draft EIR between local overlapping permitting process (LOPP) and non-LOPP areas. Areas are separated into LOPP and non-LOPP areas because maintenance activities within LOPP areas are part of the respective LOPP project description and would be permitted and mitigated

through that LOPP area's environmental clearance process. The proposed program would not mitigate for permanent impacts that are already mitigated under the respective LOPP environmental clearance process; however, because each LOPP is still in process, anticipated impacts from maintenance activities within LOPP areas are disclosed in the Draft EIR. In the event a LOPP does not complete the necessary environmental clearance process, maintenance activities would be permitted and mitigated as described in the EIR, per Mitigation Measure (MM) BIO-1. Please also see Response I-23 regarding impacts within LOPP areas.

**I-4** The commenter states that the Draft EIR improperly treats impacts of non-ground-disturbing activities, such as pruning, as temporary impacts. Pruning would be conducted by field crews using hand tools and would be selective to improve vegetation health and minimize fire and safety risk. Maintenance activities, including pruning, would be subject to the program SOPs, which include timing restrictions to minimize potential impacts to special-status species. As discussed in Section 3.5.2 of the Draft EIR (page 3-21), an average of 30% of activities would be maintained each year. This would result in facilities being maintained on average every 3 years, allowing sufficient time for loss of vegetation from pruning to regenerate and making any impacts from loss of vegetation temporary. Further, as described in the Maintenance Plan, Appendix A of the Draft EIR (also included in this Final EIR as Appendix A), Section 4.3, Annual Reporting, the District will document all permanent and temporary impacts and submit the acreage of impacts as well as the mitigation obligation to the U.S. Army Corps of Engineers, State Water Resources Control Board, California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS) (resource agencies) each year. This review and reporting process will ensure that permanent impacts would be mitigated as described in the Draft EIR.

**I-5** Mitigation ratios described by the comment are commonly applied to new construction and other development projects, which are not part of the proposed program. The proposed program is the formalization and consolidation of current maintenance activities that have been ongoing since the inception of the District. The proposed program would not alter the capacity or function of the facilities, nor would it substantially change the manner in which the District maintains facilities currently. Unlike development projects, the proposed program does not include permanent development over existing natural communities. Habitat would remain within facilities following maintenance activities. Additionally, because facilities are maintained on average every 3 years, vegetation will be able to regenerate between maintenance events. Further, as part of the proposed program, the District would continue to conduct vegetation management in a manner that reduces the spread of invasive species. The District also removes homeless encampments for public health and safety and in

accordance with ordinance number FCD 12-02. The District would also continue to conduct enhancement activities as a good steward of the resources present within their facilities, including removing predatory species such as American bullfrog (*Lithobates catesbeianus*) and brown-headed cowbird (*Molothrus ater*). Because the proposed program would not permanently develop over habitat and the proposed program includes enhancement activities, the District concludes that the proposed mitigation ratios would reduce impacts to less than significant and are appropriate for the proposed program.

Please see Thematic Response TH-1 (see Section 2.2, Thematic Responses, in this chapter) for more information on the scope and goals of the proposed program.

**I-6** MM-BIO-10, Compensation for Special-Status Vegetation Communities in the Valley Region, indicates a mitigation ratio of 1:1 for Riversidean alluvial fan sage scrub (see page 4.3-139 in the Draft EIR). This community occurs within the floodplain and is regularly subjected to dynamic fluvial processes, including scouring and removal, as a result of large storm events. The comment states that a 5:1 mitigation ratio is standard for removal of this habitat. A uniformly applied standard for mitigation ratios does not currently exist in San Bernardino County; however, the mitigation ratios proposed by the commenter are sometimes applied when communities are removed by permanent development, which will not occur under the proposed program. The proposed program is the formalization and consolidation of current maintenance activities that have been ongoing since the inception of the District. The proposed program would not result in altering the capacity or function of the facilities nor would it result in a substantial change in the manner in which the District currently maintains facilities. The fluvial processes that occur under existing conditions would continue under the proposed program. Unlike development projects, the proposed program does not include permanent filling of floodplains or developing over existing natural communities; habitat would remain within facilities following maintenance activities. Because the proposed program would not involve permanent development over habitat, the District has included a 1:1 mitigation ratio for potentially permanent impacts, which is appropriate for the proposed program. Further, Riversidean alluvial fan sage scrub is the primary habitat for San Bernardino kangaroo rat (*Dipodomys merriami parvus*). As described in MM-BIO-4, Mitigation for San Bernardino Kangaroo Rat, higher mitigation ratios would be ascribed for impacts to moderate- and high-quality habitat for San Bernardino kangaroo rat (see page 4.3-136 in the Draft EIR); therefore, the overall mitigation for impacts to Riversidean alluvial fan sage scrub would be higher than the minimum 1:1 described in MM-BIO-10.

**I-7** The proposed program would not result in the permanent loss of waters of the United States; therefore, the proposed program is not in violation of the no net loss of wetlands

requirement. As described in Thematic Response TH-1, the proposed program involves the maintenance of existing facilities and would not result in the construction of new facilities or the expansion of current facilities. There would be no loss of jurisdictional waters; therefore, a 1:1 mitigation ratio for potential impacts to functions and values of jurisdictional waters was determined to be an adequate mitigation ratio.

Table 4.3-35 of the Draft EIR details permanent and temporary impacts to jurisdictional waters; the only activity identified in Table 4.3-35 that could result in permanent impacts to waters of the United States would be stockpiling. Permanent stockpiles have been situated outside waters of the United States. One stockpile was inadvertently mapped in the geographic information systems (GIS) maintenance layer as occurring within waters of the United States and this impact was captured in the impact discussion in the Draft EIR. This GIS mapping error has since been corrected and the corresponding impact tables updated as reflected in Chapter 3, Changes to the Draft EIR, in this Final EIR.

Additionally, the impact tables in the Draft EIR erroneously reflect permanent impacts from maintenance of access roads. Although the impact types are reflected correctly in Table 4.3-35, the impact acreages were incorrectly represented in Tables 4.3-38, 4.3-40, 4.3-46, and 4.3-47 as permanent rather than temporary. These tables have been updated (see Chapter 3 in this Final EIR).

With respect to incorporating alternatives to maintenance activities, the District undertook a significant avoidance and minimization process during development of the maintenance activities GIS layer. As discussed in Section 3.3 of the Draft EIR (page 3-14), the District conducted a comprehensive review of maintenance requirements, including interviews with operations staff and supervisors, hydraulic modeling of key waterways, and review of existing and historic permits and management plans (please see Response I-14 for more details). Facilities supporting sensitive vegetation communities and habitat for special-status species were reviewed to determine whether mechanized land clearing and vegetation management could be minimized or avoided, and native vegetation occurring on banks of basins and channels would be left in place where feasible. The resulting maintenance activities are those that are required to maintain life and property and would be implemented in a manner that would minimize impacts on natural communities.

The commenter further requests that the District analyze the availability of mitigation for impacts to riparian alliances, coastal sage scrub alliance, and Riversidean alluvial fan sage scrub. The District has completed an analysis of potential mitigation obligations

under the EIR and available mitigation within District lands. Please see Response Q-15 for additional details regarding potential mitigation obligation and opportunities.

**I-8** Clarification has been added to the EIR to refer the reader to relevant figures of the Biological Technical Report (BTR) depicting the extent of critical habitat within the program area (please see Chapter 3 in this Final EIR). With respect to the comment that the Draft EIR needs to provide data about impacts from the proposed program to federally designated critical habitat in the text of the Draft EIR and not in an appendix, the Draft EIR already provides this information. The locations in the Draft EIR of the impact analyses for critical habitat in each region are provided below.

Valley Region:

- Pages 4.3-39 and 4.3-40 of the Draft EIR describe direct impacts to critical habitat as a result of proposed program ground-disturbing activities in the Valley Region, including an assessment of significance and mitigation measures.
- Table 4.3-8 on pages 4.3-40 and 4.3-41 provides acreage of impacts to critical habitat from ground-disturbing activities in the Valley Region.
- Pages 4.3-41 and 4.3-42 describe long-term and short-term indirect impacts to critical habitat from ground-disturbing activities in the Valley Region and applicable standard operating procedures (SOPs).
- Pages 4.3-53 and 4.3-54 discuss direct and indirect impacts to critical habitat from non-ground-disturbing vegetation management in the Valley Region.
- Page 4.3-55 describes direct impacts to critical habitat from non-ground-disturbing activities in the Valley Region.
- Table 4.3-12 on page 4.3-56 provides acreage of impacts to critical habitat from non-ground-disturbing activities in the Valley Region.
- Page 4.3-56 describes long-term and short-term indirect impacts from non-ground-disturbing activities to critical habitat in the Valley Region and applicable SOPs.

Mountain Region:

- Pages 4.3-61 and 4.3-62 of the Draft EIR describe direct impacts to critical habitat as a result of proposed program ground-disturbing activities in the Mountain Region, including an assessment of significance and mitigation measures.
- Table 4.3-15 on page 4.3-62 provides acreage of impacts to critical habitat from ground-disturbing activities in the Mountain Region.

- Pages 4.3-62 and 4.3-63 describe long-term and short-term indirect impacts to critical habitat from ground-disturbing activities in the Mountain Region and applicable SOPs.
- Page 4.3-68 discusses direct and indirect impacts to critical habitat from non-ground-disturbing vegetation management in the Mountain Region.
- Page 4.3-70 describes direct impacts to critical habitat from non-ground-disturbing activities in the Mountain Region.
- Table 4.3-16 on page 4.3-70 provides acreage of impacts to critical habitat from non-ground-disturbing activities in the Mountain Region.
- Page 4.3-71 describes long-term and short-term indirect impacts from non-ground-disturbing activities in the Mountain Region to critical habitat and applicable SOPs.

Desert Region:

- Pages 4.3-73 and 4.3-74 of the Draft EIR describe direct impacts to critical habitat as a result of proposed program ground-disturbing activities in the Desert Region, including an assessment of significance and mitigation measures.
- Table 4.3-17 on page 4.3-74 provides acreage of impacts to critical habitat from ground-disturbing activities in the Desert Region.
- Pages 4.3-74 and 4.3-75 describe long-term and short-term indirect impacts to critical habitat from ground-disturbing activities in the Desert Region and applicable SOPs.
- Pages 4.3-88 discusses direct and indirect impacts to critical habitat from non-ground-disturbing vegetation management in the Desert Region.
- Page 4.3-89 describes direct impacts to critical habitat from non-ground-disturbing activities in the Mountain Region.
- Table 4.3-24 on pages 4.3-89 and 4.3-90 provides acreage of impacts to critical habitat from non-ground-disturbing activities in the Desert Region.
- Page 4.3-90 describes long-term and short-term indirect impacts from non-ground-disturbing activities in the Desert Region to critical habitat and applicable SOPs.

**I-9** The BTR (Appendix E of the Draft EIR) provides figures depicting critical habitat within the County. The Draft EIR analyzes those resources present within the study area of the proposed program, as defined in Section 3.4.1 on page 3-20 of the Draft

EIR. Table 4.3-2 of the Draft EIR, referenced by the commenter, does not include arroyo toad (*Anaxyrus californicus*) and yellow-billed cuckoo (*Coccyzus americanus*) critical habitat because no critical habitat for these species falls within the program study area. The nearest critical habitat for arroyo toad is approximately 0.75 miles north of the Upper Devore Levee (Facility No. 2-208-5A) program area. The nearest critical habitat for yellow-billed cuckoo is approximately 0.8 miles south of the Cypress Channel (Facility No. 1-901-1A) program area. However, potential direct and indirect effects of the program on arroyo toad and yellow-billed cuckoo are discussed on pages 4.3-85 and 4.3-93, respectively, of the Draft EIR.

**I-10** The District worked closely with CDFW and USFWS to identify species that require habitat assessments and to develop methodologies for conducting assessments for those species. In coordination with the resource agencies, it was determined that the proposed program would not result in direct impacts to Santa Ana sucker (*Catostomus santaanae*) or its habitat; therefore, the resource agencies did not require a habitat assessment. The distribution of coastal California gnatcatcher (*Poliophtila californica californica*) is limited and well documented within San Bernardino County; therefore, it was concluded in coordination with the resource agencies that an impact analysis could be conducted without additional habitat assessments for this species. The results of the coordination with the resource agencies and implementation of habitat assessment methodologies approved by the resource agencies are detailed in Appendix A, Results of Implementation of Take Methodologies in Support of the San Bernardino County Master Stormwater System Maintenance Program, of Appendix E, BTR, of the Draft EIR. Impacts to critical habitat for Santa Ana sucker and coastal California gnatcatcher are detailed in Table 4.3-8 on page 4.3-40 of the Draft EIR. Potential direct and indirect impacts to coastal California gnatcatcher from the proposed program are discussed on page 4.3-48 of the Draft EIR, and potential direct and indirect impacts to Santa Ana sucker are described on pages 4.3-49 and 4.3-50 of the Draft EIR. Clarification regarding habitat assessments for these species has been made to Table 4.3 of the Draft EIR (see Chapter 3 in this Final EIR).

**I-11** Direct impacts are those that result in the loss of individual species and/or their habitat through project-related activities. Because the proposed program-related activities would not occur within Santa Ana sucker critical habitat, there would be no direct impacts to critical habitat for this species. Indirect impacts are reasonably foreseeable effects caused by project implementation outside the direct area of impact. The potential for the proposed program activities to affect downstream substrates is addressed as a potential indirect effect in the Santa Ana sucker impacts analysis on page 4.3-51 of the Draft EIR. A clarification has been added to the critical habitat impacts analysis regarding indirect effects to Santa Ana sucker critical habitat (see

Chapter 3 in this Final EIR). Indirect effects as a result of maintenance activities would be less than significant.

- I-12** The Draft EIR discloses that 2.7 acres of critical habitat for the coastal California gnatcatcher would be impacted by the proposed program and goes on to state that “only 0.05 acres of this area is composed of coastal sage scrub [which is considered necessary for suitable habitat for the coastal California gnatcatcher] and approximately half of that is disturbed.” Therefore, approximately 0.03 acres of coastal California gnatcatcher habitat suitable for the species would be impacted, representing 0.3% of the critical habitat present within the program area. Based on this minimal disturbance, the Draft EIR concludes that this impact would be less than significant.

Please see Response I-11 regarding the EIR’s consideration of impacts to critical habitat for the Santa Ana sucker.

- I-13** Please see Responses I-8 through I-12.

- I-14** The Draft EIR identifies special-status plant species that have a potential to occur in the program area on pages 4.3-15, 4.3-22, and 4.3-29 of the Draft EIR. A summary of all the special-status plant species that have been documented within the Valley, Mountain, and Desert Regions, including the determination of potential to occur within the program area, is provided in Tables E-1, E-3, and E-5 of Appendix E of the Draft EIR. These tables include information on status, distribution, and habitat associations, which provides the basis for the determination of potential to occur within the program area. These tables include species that have a low potential to occur or that are not expected to occur in the program area. Additional text has been added to Section 4.3.4 of the Draft EIR referencing Tables E-1, E-3, and E-5 in Appendix E of the Draft EIR for clarity (see Chapter 3 in this Final EIR for these changes). As discussed in the Draft EIR, species with a low potential to occur are not further analyzed in the EIR because the proposed program would not cause direct, indirect, or cumulative impacts on them.

- I-15** As part of the literature review for the Draft EIR, the District compiled all surveys conducted within its facilities from 2000 to 2015 and used this data in the impact analysis. This is described on page 45 of Appendix E (BTR) of the Draft EIR:

The District’s internal biological resource geodatabase was reviewed and incorporated into the analysis as applicable. This geodatabase was created by the District by reviewing biological documents from 2000 to 2015 that were present in digital and hard copy at the District office. These documents included but were not limited to focused surveys, general biological surveys, biological opinions, streambed alteration agreements,

Natural Environment Studies, and emergency maintenance reports. Any files found to contain survey reports were scanned into an electronic document. Consultants who had provided biological documents to the District within the last 5 years (2010 to 2015) were requested to provide any GIS data available. For those reports where GIS data was not available, survey areas and species points were manually digitized onto an aerial map in ArcPad to create a GIS shapefile.

Additionally, the District conducted focused plant surveys within the program area in 2017. The results of these surveys are provided in this Final EIR as Appendix D. Three special-status plants, Santa Ana River woollystar (*Eriastrum densifolium* ssp. *sanctorum*), Parry's spineflower (*Chorizanthe parryi* var. *parryi*), and white-bracted spineflower (*Chorizanthe xanti* var. *leucotheca*) were observed in the Valley Region during the 2017 surveys. The potential for these species to occur is described on page 4.3-15 of the Draft EIR. One special-status plant species, Latimer's woodland-gilia (*Saltugilia latimeri*), was observed in the Desert Region during the 2017 surveys. The potential for this species to occur is described on page 4.3-29 of the Draft EIR.

**I-16** SOP-BIO-14, Special-Status Plants Pre-Activity Surveys and Avoidance (page 4.3-35 of the Draft EIR), states that surveys are conducted prior to maintenance activities, which would occur on average every 3 years under the proposed program. Surveys may be more or less frequent depending on the maintenance schedule for a particular facility. With respect to the concern raised that annual species may not germinate during years when conditions are not favorable, SOP-BIO-14 also states that surveys conform to the California Native Plant Society Botanical Survey Guidelines (CNPS 2001). These guidelines include observation of target species at nearby accessible occurrences (reference sites) to confirm whether the species are observable that year. Reference site population checks ensure the validity of the survey and whether species would have been identifiable that year based on environmental conditions. Additionally, as described in Response I-15, the District has a robust database of species occurrences within proposed program facilities, including results of focused plant surveys conducted for the proposed program in 2017. This database of historic occurrences, combined with ongoing surveys as described in SOP-BIO-14, provides sufficient information regarding the location of special-status plant populations; therefore, annual surveys for special-status plant species are not warranted.

With respect to impacts for non-listed special-status plants, please see Response I-17 for additional details.

- I-17** As described in SOP-BIO-14, non-listed sensitive plant species are avoided during maintenance activities as practicable. Installation of protective fencing and erosion and sediment control measures, as appropriate, is implemented to protect special-status plant populations found near maintenance sites. Because the District’s primary responsibility is to protect life and property, there may be circumstances where maintenance activities cannot avoid special-status plant species; in those cases, MM-BIO-3 (see pages 4.3-135 and 4.3-136 of the Draft EIR) would be implemented. The determination of avoidance can only be made on the ground at the time of implementation. As described in the Maintenance Plan (Appendix A of the Draft EIR (also included in this Final EIR as Appendix A)) and summarized in Thematic Response TH-2 (see Section 2.2 in this chapter), facility-specific impacts would be documented at the time maintenance activities occur and appropriate SOPs and mitigation measures implemented in accordance with the EIR. For non-listed special-status plant species, the lead agency (in this case the District) has responsibility for implementing avoidance, minimization, and mitigation measures; however, an annual report would be provided to the resource agencies summarizing all impacts (including those to non-listed plant species), SOPs and mitigation measures implemented, and confirmation that mitigation obligations have been met. The Draft EIR has been clarified to indicate that MM-BIO-3 would be implemented when more than 10% of a special-status plant population within or adjacent to District facilities would be impacted (see Chapter 3 in this Final EIR). With respect to the concern raised regarding translocation, the District acknowledges that success of translocation is dependent on the species; therefore, MM-BIO-3 has been updated to clarify that methods for relocation of special-status plant species will be dependent on the species impacted. Collection of seed and propagules and storage with a reputable seed bank has also been added to MM-BIO-3.
- I-18** The commenter incorrectly states that SOP-BIO-15 and SOP-BIO-16 omit consideration of sensitive plant species. SOP-BIO-15 states the following (**emphasis added**): “The biologist gives direction outlining actions to be taken should **any special-status species or community** be observed within or adjacent to maintenance areas.” “Any special-status species or community” includes sensitive plant species and vegetation communities. Thus, sensitive plants are included as special-status biological resources and special-status species as described by the SOP.
- I-19** The District’s Vegetation Management Plan is provided as Appendix B to Appendix A, Maintenance Plan, of the Draft EIR (also included in this Final EIR as Appendix A).
- I-20** The first part of this comment provides a summary of certain laws related to biological resources. The District is including the comment as part of this Final EIR for review

and consideration by the decision makers prior to a final decision on the proposed program. No further response is required to this part of the comment.

The commenter further states that the text of the Draft EIR does not describe and analyze the potential occurrence of special-status wildlife species and that this information is only provided in Appendix E (BTR). The Draft EIR summarizes technical information in order to make it accessible to the average reader. The BTR (Appendix E of the Draft EIR) and its associated appendices provide additional technical information for those readers interested in more details regarding biological resources. The cross-reference to the BTR in the Draft EIR has been corrected to Appendix E (instead of Appendix G).

**I-21** As described in Section 3.3 of the BTR (Appendix E of the Draft EIR, beginning on page 44), an extensive data and literature review of all special-status biological resources within the study area was conducted and included the following resources: California Natural Diversity Database RareFind (CDFW 2016), CNPS Inventory of Rare, Threatened, and Endangered Plants of California, 8th online edition (CNPS 2016); USFWS Carlsbad GIS species occurrence database (USFWS 2016); U.S. Department of Agriculture Web Soil Survey (USDA 2017); the District’s biological geodatabase (District 2015a); Upper Santa Ana River Habitat Conservation Plan (HCP) species occurrence database (District 2015b); tricolored blackbird data portal (UCD 2017); U.S. Geological Survey National Hydrography Dataset (USGS 2016); and Google Earth aerial imagery 2009–2016 (Google Earth 2000–2016). The necessity of conducting focused surveys and/or focused habitat assessments was determined in coordination with CDFW and USFWS over a 2-year period. Habitat assessments were conducted in accordance with methodologies approved by CDFW and USFWS and the final results are provided in Appendix A (Results of Implementation of Take Methodologies) of the BTR (Appendix E to the Draft EIR).

The Draft EIR identifies special-status wildlife species that have a potential to occur within the program area on pages 4.3-15, 4.3-23, and 4.3-29. Additionally, Tables E-2, E-4, and E-6 in Appendix E of the Draft EIR provide a summary of all of the special-status wildlife species that have been documented within the Valley, Mountain, and Desert Regions. These tables include information on status, distribution, habitat associations, and likelihood of occurrence. For clarity, additional text has been added to Section 4.3.4 of the Draft EIR referencing Tables E-2, E-4, and E-6 in Appendix E (see Chapter 3 in this Final EIR).

**I-22** As described in Thematic Response TH-1, the proposed program is the formalization of ongoing maintenance activities. The proposed program would not involve the

construction of new facilities or expansion of existing facilities; therefore, no new elements resulting from the proposed program would obstruct wildlife movement. As described on page 4.3-130 of the Draft EIR, maintenance activities are temporary and short term in nature and therefore would not result in impacts to wildlife movement.

**I-23** As described in Section 3.3.3 of the Draft EIR, the environmental clearance for the LOPPs are in progress; therefore, the Draft EIR analyzes potential impacts from program maintenance activities within LOPP areas (see pages 4.3-39, 4.3-44, 4.3-45, 4.3-61, 4.3-69, 4.3-76, 4.3-78, 4.3-94, 4.3-100, 4.3-106, 4.3-113, 4.3-120, and 4.3-124). As described in MM-BIO-1 (page 4.3-134 of the Draft EIR), should program activities need to be implemented within LOPP areas in advance of the LOPPs' completion of environmental clearance or should the environmental clearance not be completed for an unforeseen reason, mitigation measures for impacts within LOPP areas would be implemented in accordance with the EIR. Avoidance, minimization, and mitigation measures for respective LOPP areas will be available for public review during their respective environmental review processes.

**I-24** As detailed in Table 3-5 of the Draft EIR (page 3-27), the proposed program would achieve compliance with the federal Endangered Species Act (ESA) through completion of consultation in accordance with Section 7 of the ESA and/or receipt of an Incidental Take Permit (ITP) under Section 10 of the ESA, and would be in compliance with the California Endangered Species Act (CESA) through receipt of an ITP or a Consistency Determination in accordance with Section 2080.1 of CESA. The program would not rely on any existing or future HCPs for ESA and CESA compliance.

As described on page 3-18 of the Draft EIR, conditions of the Wash Plan and its permits relevant to the proposed program would be incorporated into the Maintenance Plan so that the proposed program will remain consistent with the Wash Plan; however, the proposed program is not dependent on the Wash Plan for environmental clearance. Impacts from proposed program activities within the Wash Plan area are disclosed in the EIR and, should the Wash Plan not obtain approval and permits, avoidance, minimization, and mitigation measures would be implemented for proposed program activities within the Wash Plan area, as described in the EIR.

**I-25** The commenter references page 4.3-17 of the Draft EIR, which briefly describes the proposed Upper Santa Ana River HCP in relation to proposed program activities. The Draft EIR does not provide conservation obligations because the Upper Santa Ana River HCP is in the early stages of development and this information is not yet available. The District agrees that there is not enough information available at this time

to evaluate the Upper Santa Ana River HCP; the reference to the Upper Santa Ana River HCP is for informational purposes only.

**I-26** The Draft EIR discusses the Wash Plan and the Upper Santa Ana River HCP as part of the existing conditions of the proposed program (Sections 4.3.4 and 4.9.4) for informational purposes; however, the Draft EIR does not assess the proposed program's compliance with these plans because they are unfinished plans and consistency cannot be determined. The Upper Santa Ana River HCP was inadvertently included in the impacts analysis for the Mountain Region in Section 4.3, Biological Resources. This has been corrected as reflected in Chapter 3, Changes to the Draft EIR, in this Final EIR. The Draft EIR similarly states that because the Apple Valley MSHCP/Natural Community Conservation Plan (NCCP) is still in development, it is not possible to identify conflicts. In order to maintain consistency in the document, the Apple Valley MSHCP/NCCP has also been removed from the impact analysis section in both Section 4.3, Biological Resources, and Section 4.9, Land Use and Planning, as reflected in Chapter 3 in this Final EIR.

**I-27** The commenter asserts that the Draft EIR did not analyze the conservation goals for Criteria Cell 10 in assessing impacts at the Declez Basin under the Western Riverside County MSHCP. The conservation goals of Criteria Cell 10 are described as part of Cell Group B in the Western Riverside County MSHCP (County of Riverside 2003, Vol. 1, page 3-186)). Therefore, for maintenance activities within Criteria Cell 10, the Draft EIR has analyzed and applied the conservation goals of Cell Group B for the Declez Basin (see pages 4.3-132, 4.9-7, and 4.9-11).

For burrowing owl (*Athene cunicularia*), Objective 5 (see Table 9-2, Species Conservation Summary, in Volume 1 of the MSHCP) relates to public and private lands for burrowing owl. This objective states that if fewer than three pairs of burrowing owl are present, then the owls will be passively or actively relocated. SOP-BIO-6, Burrowing Owl, clearly includes eviction and replacement of occupied burrows as part of the management approach to burrowing owl consistent with Objective 5 (see page 4.3-33 of the Draft EIR). Coordination is undertaken with CDFW, as described in SOP-BIO-6, to ensure that passive or active relocation is conducted in accordance with CDFW-approved guidelines. Objective 5 of the MSHCP also states that if three or more burrowing owl pairs are present and the site supports more than 35 acres of suitable habitat, at least 90% of the area with long-term conservation value will be conserved on site. Due to the size of facilities combined with the necessity for routine maintenance, three or more burrowing owl pairs generally do not occur within one facility. Additionally, conservation of an entire facility is not practicable. Therefore, the District implements passive or active relocation in accordance with CDFW-

approved standards, which is consistent with Item 1 of Objective 5 for burrowing owl in the MSHCP.

- I-28** Please see Response I-15 regarding data from past surveys that were used in the analysis in the Draft EIR. SOP-BIO-14 includes surveys for non-listed special-status plant species. A clarification has been added that for facilities within Narrow Endemic Plant Species Survey Areas of the MSHCP, Narrow Endemic Plant Species will be included as target species (see Chapter 3, Changes to the Draft EIR, in this Final EIR). Additionally, clarification has been added to MM-BIO-3 that mitigation shall be implemented when greater than 10% of a population within or adjacent to District facilities is impacted (see Chapter 3). This standard is consistent with the MSHCP.

The analysis for potential impacts to small mammals at Declez Basin does not rely on MM-BIO-4, as incorrectly stated in the comment. Rather, the determination that the proposed program would not be in conflict with the small mammal survey requirements is based on habitat assessments and impact analyses for the San Bernardino kangaroo rat and Los Angeles pocket mouse (*Perognathus longimembris brevinasus*). A habitat assessment for San Bernardino kangaroo rat was completed for the proposed program in consultation with USFWS and CDFW. The results of the habitat assessment are provided in Appendix A (Results of Implementation of Take Methodologies) of the BTR (Appendix E to the Draft EIR). Potential impacts to Los Angeles pocket mouse are assessed on page 4.3-53 of the Draft EIR. The proposed program would result in less than significant impacts to Los Angeles pocket mouse. Further, the goal of the MSHCP is to avoid and conserve areas occupied by Los Angeles pocket mouse. The proposed program would not result in permanent removal of habitat for Los Angeles pocket mouse; as described in Thematic Response TH-1, the proposed program would allow the District to continue to maintain Declez Basin in the manner in which it is currently maintained, allowing habitat for Los Angeles pocket mouse to remain. Therefore, the proposed program would not be in conflict with the goals to avoid and conserve habitat for Los Angeles pocket mouse.

Please see Table 4.12-1 of the Draft EIR for facilities that occur on BLM lands. Please see Responses K-7 through K-13 and Chapter 3, Changes to the Draft EIR, in this Final EIR for more details regarding compliance with Desert Renewable Energy Conservation Plan (DRECP) conservation management actions.

The proposed program would receive its own permits under the ESA and CESA and is not relying on existing or future HCPs for compliance with the ESA and CESA.

**I-29** The SOPs would be implemented as described in the Maintenance Plan (Appendix A to the Draft EIR; also included in this Final EIR as Appendix A). As described in Thematic Response TH-1, the compliance portion of the proposed program includes an assessment of SOPs required for each facility, documentation that the SOP has been implemented (along with applicable mitigation measures and permit conditions), and an annual report submitted to the resource agencies summarizing all maintenance activities completed and SOPs, mitigation measures, and permit conditions implemented for each activity.

The commenter states that neither the Draft EIR nor SOP-BIO-1 through SOP-BIO-3 specify that should activities occur during nesting seasons, a qualified or permitted biologist will conduct focused surveys. However, SOP-BIO-1 through SOP-BIO-3 specifically describe pre-activity surveys for least Bell's vireo (*Vireo bellii pusillus*), coastal California gnatcatcher, and southwestern willow flycatcher (*Empidonax traillii extimus*), all of which are to be conducted during nesting season if it cannot be avoided. Each SOP states that surveys are conducted by a qualified biologist and describes the method for conducting a pre-activity survey, which is different than a focused survey (described by the comment). SOP-BIO-3 also includes focused surveys for southwestern willow flycatcher.

The District submits forms to the California Natural Diversity Database for special-status species observed in the course of their activities. This clarification has been added to SOP-BIO-17 (see Chapter 3, Changes to the Draft EIR).

Reporting of brown-headed cowbirds is a requirement when conducting focused surveys for least Bell's vireo or southwestern willow flycatcher, and results are reported to USFWS and CDFW as required. The District also has a management program for brown-headed cowbird in both the Santa Ana River and the Mojave River, and results are reported to the resource agencies.

**I-30** The commenter states that SOP-BIO-1 to SOP-BIO-14 fail to give authority to biological monitors. SOP-BIO-1 through SOP-BIO-3, SOP-BIO-10, SOP-BIO-11, and SOP-BIO-14 have been updated to clarify that the biological monitor has the authority to stop maintenance activities as needed to protect the respective biological resources (see Chapter 3, Changes to the Draft EIR).

SOP-BIO-5 and SOP-BIO-6 summarize the District's agency-approved Nesting Bird and Burrowing Owl Management Plan; therefore, changes were not made to these measures. SOP-BIO-4, SOP-BIO-8, SOP-BIO-9, and SOP-BIO-13 provide avoidance measures related to timing of maintenance activities within certain habitats. Because

- they do not specifically reference focused surveys or monitoring, no change or further response is needed.
- I-31** The SOPs have been updated as described in Responses I-29 and I-30. SOPs are enforced as described in the Maintenance Plan (see Appendix A in this Final EIR), which requires their implementation as part of the proposed program and includes annual reporting to the resource agencies.
- I-32** The commenter identifies mitigation measures that include management plans and indicates that these measures are deferred mitigation. The Draft EIR does not include deferred mitigation. The identified mitigation measures include minimum requirements that can be assessed on their own merit as to whether the specified management plans would reduce impacts to less than significant. The mitigation measures do not rely on recommendations of a future report; rather, they dictate the type of information the management plans must include. MM-BIO-16, Mitigation for Mojave River Vole, describes the minimum requirements of the management plan, including phased removal of occupied habitat and relocation of voles to unoccupied areas (page 4.3-143 in the Draft EIR). MM-BIO-18, Compensation for Jurisdictional Waters, describes mitigation required for permanent impacts to jurisdictional waters (page 4.3-145 in the Draft EIR). The Habitat Mitigation and Monitoring Plan mentioned in this mitigation measure is a requirement of the U.S. Army Corps of Engineers permit application only if applicant-proposed mitigation is selected as the mitigation vehicle for that permit. For SOP-BIO-4, water diversion plans would be specific to on-the-ground conditions at the time each maintenance activity is implemented and therefore cannot be developed in advance or included in the Draft EIR. However, due to the County-wide scope of the proposed program, it is appropriate for the District to determine to mitigate impacts on a watershed-wide basis by means of the management plans, and to mitigate on a site-specific basis by means of the evaluation process as described in the Maintenance Plan and depicted on Figure 2-1 of Thematic Response TH-2. The District has no discretion to implement any of its activities under the proposed program until mitigation is in place. These mitigation measures are proper for a Program EIR and provide adequate minimum standards and regulatory authority for implementation. Accordingly, the Draft EIR does not leave the success of these mitigation measures to unformulated management plans and executive discretion to implement the plans; therefore, there is no improper deferred mitigation (*Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal.App.4th 214).
- I-33** Please see Response I-32. The comment does not accurately state the holding in *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681 (*POET*), in which the court

examined how several courts handled exceptions to the general bar against deferred mitigation and decided on two principles:

First, the deferral of the formulation of mitigation measures requires the agency to commit itself to *specific performance criteria* for evaluating the efficacy of the measures implemented. Second, the “activity” constituting the CEQA project may not be undertaken without mitigation measures being in place “to minimize any significant adverse effect on the environment of the activity.” ([§ 21080.5, subd. \(d\)\(3\)\(A\).](#)) In other words, the deferral relates only to the *formulation* of mitigation measures, not the mitigation itself. Once the project reaches the point where activity will have a significant adverse effect on the environment, the mitigation measures must be in place.

The Draft EIR includes both of these principles in the mitigation measures, requiring minimum performance standards and/or regulatory compliance for all management plans, and ensuring that no activity would take place until these mitigation measures are in place.

Details regarding the District’s proposed mitigation areas are provided in Response Q-15. Regarding the comment that long-term monitoring and adaptive management are needed to ensure the success of mitigation sites, these components are included in the mitigation measures. MM-BIO-10 (Compensation for Special-Status Vegetation Communities in the Valley Region), MM-BIO-11 (Compensation for Special-Status Vegetation Communities in the Mountain Region), and MM-BIO-17 (Compensation for Special-Status Vegetation Communities in the Desert Region), on pages 4.3-39, 4.3-40, and 4.3-143 through 4.3-145 of the Draft EIR, require that the management plan include contingency measures, long-term management, and funding assurances. MM-BIO-18 provides for use of an in-lieu fee program, a mitigation bank, or applicant proposed mitigation (page 4.3-145 of the Draft EIR). For the first two, long-term management is incorporated as part of the program/bank. For applicant proposed mitigation, the mitigation states that a Habitat Mitigation and Monitoring Plan shall be prepared in accordance with U.S. Army Corps of Engineers and State Water Resources Control Board guidelines. These guidelines also require that long-term conservation, adaptive management, and funding provisions be included in the Habitat Mitigation and Monitoring Plan.

**I-34** The mitigation ratios proposed by the commenter are those typically applied for habitat removed by permanent development. As described in Thematic Response TH-1, the proposed program is the formalization and consolidation of current maintenance

activities that have been ongoing since the inception of the District. The Draft EIR acknowledges that maintenance activities would remove habitat for some special-status species, and vegetation communities may be permanently altered as a result of these activities. Therefore, the proposed program would mitigate for these impacts. However, habitat for desert tortoise (*Gopherus agassizii*) is not being permanently developed and will remain with the continuation of routine maintenance activities under the proposed program. Substrate would not be altered with continuation of routine maintenance activities and desert tortoise would continue to have the ability to cross through facilities and use burrows. Because habitat would not be permanently lost, the District determined that 0.5:1 and 1:1 mitigation ratios for moderate-quality and high-quality habitat, respectively, would fully mitigate for impacts resulting from routine maintenance activities.

The same applies for the other special-status species and habitats generally discussed in the comment. As described above, because the proposed program is not a development project, the maintained areas retain some functions and values for special-status species even after maintenance is conducted. Therefore, the District determined that impacts to biological resources would be mitigated to less than significant.

**I-35** The County’s Integrated Pest Management Plan (IPMP) is provided as Appendix B to this Final EIR. The IPMP provides details regarding measures implemented to avoid and minimize impacts from rodenticide on wildlife and special-status species. As described in the IPMP, in maintenance facilities where San Bernardino kangaroo rat have the potential to occur, bait station entrances are elevated as a way to exclude kangaroo rats. A number of designs for elevated bait stations have been proposed, but the effectiveness of these stations in excluding kangaroo rats has not been well documented. As described in the IPMP, the simple, low-cost inverted “T” bait stations was one of the only types shown to be effective in excluding kangaroo rats from entering the bait station; this is the method used by the District.

As described in the IPMP, within areas that have been identified as having high potential for the Mohave ground squirrel (*Spermophilus (Xerospermophilus) mohavensis*), no rodenticide practices will be performed from April to June when this species may be active. When Mohave ground squirrels are not active, all gopher holes will be identified by a qualified individual prior to rodenticide application. No broadcasting will be performed. Gas shall be used only by qualified individuals. Such persons shall be limited to wildlife biologists trained to distinguish dens and burrows of target species from those of non-target species.

To minimize potential effects to predators, the District conducts carcass recovery as required by California Department of Pesticide Regulation Best Management Practice (BMP) CDPR-10 and does not use second-generation anticoagulants, which are more toxic to birds and mammals (CDPR 2013). Other measures include monitoring; annual training of personnel related to use of rodenticide; and placement of stations to prevent direct access by non-target species, monitoring, and removal of stations when objectives are achieved.

**I-36** The District appreciates the commenter’s suggestion for alternative methods to rodent control. The District had previously reviewed the study conducted in Ventura County, visited the Ventura sites that implemented the raptor poles, and reviewed the feasibility of adopting a similar program. As described in Response I-35 and in the IPMP, the District works closely with the County Pest Control Officer and CDFW to implement BMPs to control rodents, including frequent monitoring for rodent activity around critical facilities, management of the local environment to exclude and reduce rodent habitat, training for District staff, consideration and application of effective and environmentally responsible control techniques, and record keeping. The District’s IPMP is provided as Appendix B to this Final EIR.

**I-37** The maintenance activities proposed under the Maintenance Plan are the proper subject of a Program EIR. As defined in the CEQA Guidelines, Section 15168, a Program EIR is an EIR that may be prepared on a series of actions that can be characterized as one large project and are related:

1. Geographically;
2. As logical parts in the chain of contemplated actions;
3. In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or
4. As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

The Draft EIR properly analyzes the scope and impacts of the proposed maintenance activities. The commenter indicates that in *North Coast Rivers Alliance v. Kawamura* (*North Coast*; 2015), the court ruled that an “EIR should contain a sufficient degree of analysis, with respect to what is reasonably feasible, to provide decision-makers with enough information to enable them to make a decision that intelligently takes into account environmental consequences.” But the commenter omitted the following statement: “The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.” The court case continues as follows:

CEQA does not require identification of every possible ... site. (Guidelines Section 15151 [“An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible”]). The level of specificity is determined by the nature of the project and the rule of reason, not by any semantic label (*Laurel Heights I, supra, 47 Cal.3d at p. 407*).

The Draft EIR contains a sufficient degree of analysis, with respect to what is reasonably feasible, to provide decision makers with enough information to enable them to make a decision that intelligently takes into account environmental consequences. In addition, the EIR provides a good faith effort at full disclosure of hydrogeologic conditions and program-related impacts, and reasonably evaluates hydrogeologic conditions and program-related impacts.

**I-38** The District disagrees with this interpretation of the *North Coast* decision. The court in *North Coast* rejected the argument that the rule of reason requires a site-based analysis. Rather, the nature of the project determines what level of analysis is appropriate. Here, the rule of reason does not necessitate a project-by-project analysis, considering there are 500 drainage facilities that are generally similar in nature, as subdivided by Valley, Mountain, and Desert Regions. The Valley facilities are all generally located on large alluvial plains consisting of unconsolidated sand, silt, and gravel; the facilities are generally on gently sloping surfaces and located in urban environments. The Mountain facilities are all generally located in gently to moderately sloping canyon bottoms, which often abut steep slopes and are underlain by granitic bedrock and alluvium/colluvium. The Desert facilities are all generally located on gently sloping alluvial plains that are underlain by unconsolidated, erosive sand, silt, and gravel and are prone to monsoonal flash floods. Similar maintenance techniques would be implemented in each of these geographic areas, under the guidance of the same resource agencies (i.e., State Water Resources Control Board, CDFW). Impacts would generally be the same in each geographic area and District SOPs would be applicable in offsetting potentially significant water quality impacts. In these respects, this EIR precisely meets the definition of a Program EIR, as outlined in Response I-37.

The commenter indicates that in *North Coast*, “the court determined that it was insufficient to neglect to discuss site-specific impacts merely because the EIR identified some sites which were likely to be subject to program activities.” The District disagrees with this interpretation of the *North Coast* decision. The court in *North Coast* determined that no project-specific analysis was necessary for the vector control program. Furthermore, the commenter’s argument does not apply to the Draft EIR, because the Draft EIR does not cherry-pick project- and program-level analysis. All of

the facilities are being considered programmatically, for the reasons stated above. As described in the Maintenance Plan (Appendix A of the Draft EIR; also included in this Final EIR as Appendix A) and summarized in Thematic Response TH-2, prior to implementing maintenance activities, the District would review each facility and maintenance activity to document site-specific impacts; implement applicable SOPs, mitigation measures, and permit conditions; and confirm that impacts are consistent with the analysis in the EIR.

The commenter indicates that Impacts HYD-4 and HYD-6 have not been subdivided into the three geographic regions. As indicated on page 4.8-62 of the Draft EIR for Impact HYD-4, “The following analysis regarding potential alteration of drainages is applicable to the RWQCB [Regional Water Quality Control Board] Santa Ana, Lahontan, and Colorado River Basin regions, as the types of drainage facilities are generally not unique to each region. Impacts associated potential increased rate/amount of surface runoff or on- or off-site flooding, due to alteration of existing drainage patterns, would generally be the same for each region.” On page 4.8-36, with respect to Impact HYD-6, the Draft EIR states: “The following analysis regarding other potential impacts is applicable to the RWQCB Santa Ana, Lahontan, and Colorado River Basin regions, because the types of drainage facilities are generally not unique to each region. Impacts associated potential downstream deprivation of sand as a result of detention/debris basins would generally be the same for each region.”

**I-39** CEQA requires that an EIR evaluate impacts of projects on the environment, not “the effects of existing environmental conditions on a proposed project’s future users or residents” (*California Building Industry Assn. v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369, 392). The commenter expresses concerns that climate change may negatively affect the proposed maintenance activities; these concerns are noted, but such evaluation is beyond the scope of this EIR.

As discussed in Section 4.6.6 of the Draft EIR, greenhouse gas (GHG) emissions and their association with global climate change is an inherently cumulative impact issue; there are no non-cumulative GHG emission impacts from a climate change perspective. Alterations in the flow regime and subsequent flood potential impact issues are addressed in Section 4.8 of the Draft EIR under Impact HYD-3 and Impact HYD-4. While maintenance activities would increase surface flow velocities as a result of vegetation and sediment removal, thus increasing runoff and potentially resulting in downstream flooding impacts, implementation of SOP-HYD-2 (Vegetation Management) would minimize vegetation clearing to the extent feasible, which would contribute to minimizing increased surface runoff as a result of maintenance activities.

Section 4.6.9 of the Draft EIR indicates that maintenance activities associated with the proposed program would create less than significant impacts on emissions. Assuming that a maximum of 30% of the facilities would be maintained in a given year, maintenance activities would result in approximately 2,113 metric tons (MT) carbon dioxide equivalent (CO<sub>2</sub>E) per year, which is less than the County’s recommended screening threshold of 3,000 MT CO<sub>2</sub>E. It is generally the case that the size and nature of the proposed maintenance activities are of insufficient magnitude to influence climate change or result in a substantial contribution to the global GHG inventory. As evidenced previously, the additive effect of the proposed program’s GHG emissions would not result in a reasonably foreseeable cumulatively considerable contribution to global climate change. Furthermore, the proposed program as well as other cumulative related projects would also be subject to all applicable regulatory requirements. Therefore, the proposed program’s cumulative GHG emissions would not exacerbate the problem of flooding or increase the risks from other events.

**I-40** As noted in Response I-39, CEQA requires that an EIR evaluate impacts of projects on the environment, not “the effects of existing environmental conditions on a proposed project’s future users or residents” (*California Building Industry Assn. v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369, 392). The commenter expresses concerns that climate change may negatively affect the proposed maintenance activities; these concerns are noted, but such evaluation is beyond the scope of this EIR.

**I-41** Under CEQA, the discussion of cumulative impacts should be guided by the standards of practicality and reasonableness. As described on page 4-6 of the Draft EIR, the cumulative impacts analysis is based on a listing of key large, reasonably foreseeable projects that could contribute to a cumulatively considerable impact for particular resource areas. Collectively, these projects represent known and anticipated activities that may occur in the vicinity of the program that have the potential to contribute to a cumulative impact on the environment. The cumulative impact analysis discusses the regions, species, and habitats (as described by the commenter) that would be impacted by projects on the cumulative projects list. Therefore, the impacts described in the environmental documents from the cumulative projects list are assessed together with impacts from the proposed program, which includes detailed information about the current species populations and distributions and status of suitable habitat, to provide an analysis of the potential cumulative impacts of the proposed program.

Please see Responses I-28 through I-34 regarding the adequacy of the proposed program’s SOPs and mitigation measures.

- I-42** The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

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Comment Letter J

**Caitlin Munson**

**From:** Linda Archer  
**Sent:** Tuesday, July 31, 2018 7:13 AM  
**To:** Caitlin Munson  
**Cc:** Rachel Struglia  
**Subject:** Fwd: San Bernardino County Master Storm Water System Maintenance Program /// Draft EIR

Veronika (Linda) Archer  
909.677.3775  
Sent from my iPhone

Begin forwarded message:

**From:** MSWSMPcomments - DPW <[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)>  
**Date:** July 31, 2018 at 7:08:54 AM PDT  
**To:** "Linda Archer ([larcher@dudek.com](mailto:larcher@dudek.com))" <[larcher@dudek.com](mailto:larcher@dudek.com)>  
**Subject:** FW: San Bernardino County Master Storm Water System Maintenance Program /// Draft EIR

FYI

**Michael Perry**  
Supervising Planner  
Department of Public Works  
Environmental Management Division  
Office – (909) 387-1864  
Cell – (909) 557-7700

**From:** Smith, Michael <[Michael.Smith@cityofrc.us](mailto:Michael.Smith@cityofrc.us)>  
**Sent:** Monday, July 30, 2018 6:37 PM  
**To:** Perry, Michael - DPW <[Michael.Perry@dpw.sbcounty.gov](mailto:Michael.Perry@dpw.sbcounty.gov)>  
**Cc:** Burnett, Candyce <[Candyce.Burnett@cityofrc.us](mailto:Candyce.Burnett@cityofrc.us)>; Granger, Donald <[Donald.Granger@cityofrc.us](mailto:Donald.Granger@cityofrc.us)>; Welday, Jason <[Jason.Welday@cityofrc.us](mailto:Jason.Welday@cityofrc.us)>; Espinoza, Albert <[Albert.Espinoza@cityofrc.us](mailto:Albert.Espinoza@cityofrc.us)>; Wittkopf, William <[William.Wittkopf@cityofrc.us](mailto:William.Wittkopf@cityofrc.us)>  
**Subject:** San Bernardino County Master Storm Water System Maintenance Program /// Draft EIR

Hello, Michael

The City of Rancho Cucamonga has finished its review of the Draft Environmental Impact Report (DEIR) for the above-noted project that was made available on June 14, 2018 with a public comment period ending on July 30, 2018. Based on the City's review of the DEIR, the project is a proposed program for routine operations and maintenance of existing facilities and that the project does not propose new construction or significant alteration of existing facilities.

Therefore, the City has the following comments/corrections:

- 1. COMMENT: The City requests that a statement and/or acknowledgement be added to the Final Environmental Impact Report (FEIR) and the proposed program that indicates that the San Bernardino County Flood Control District will inform the City's Planning Department of a maintenance activity (or

J-1

activities) within the City's boundaries or Sphere of Influence, prior to commencement of the activity, when such activity will be located within 660 feet of a residential use and/or zone.

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2. COMMENT: The City's Engineering Department will require the District to obtain encroachment and detour/lane closure permits for any work within the public right-of-way.
3. COMMENT: If there is any use of the public right-of-way for hauling excavated material (e.g. soil or gravel), the Engineering Department requests that the District provide to them a map of the route, that will be followed by haul vehicles, for that Department's review;
4. CORRECTION: Table 4-1: Day Creek Square – this project is now under construction;
5. CORRECTION: Table 4-1: Empire Lakes Specific Plan – under the "Use" column, the use is mixed use with 2650 – 3450 dwelling units (apartments, townhomes, condominiums) and up to 220,000SF of non-residential floor area (retail office, etc). *Note to the EIR preparer: there is no proposal for a hotel within the Empire Lakes Specific Plan;*
6. CORRECTION: The NESAP is now being referred to as the Etiwanda Heights Neighborhood and Conservation Plan. For clarity, you may want to identify that project as "the Etiwanda Heights Neighborhood and Conservation Plan (formerly referred to as the NESAP)". Please revise all applicable pages accordingly;
7. CORRECTION: On page 4.11-7: "Rancho Cucamonga Fire District" should be "Rancho Cucamonga Fire *Protection* District"

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If you have any questions, let me know.

Thanks.

**Mike Smith**  
Senior Planner  
City of Rancho Cucamonga  
10500 Civic Center Drive  
Rancho Cucamonga, CA 91730  
(909) 774-4317 (direct)  
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[michael.smith@cityofrc.us](mailto:michael.smith@cityofrc.us)

## Response to Comment Letter J

**City of Rancho Cucamonga**  
**Mike Smith, Senior Planner**  
**July 30, 2018**

- J-1** Thank you for your letter pursuant to the proposed program. As requested by the City of Rancho Cucamonga (City), Appendix A of the Draft EIR (also included in this Final EIR as Appendix A) has been revised to clarify that when a maintenance activity within the City boundaries or Sphere of Influence is located within 660 feet of a residential use and/or zone, the District informs the City’s planning department prior to the commencement of the activity. Please see Chapter 3, Changes to the Draft EIR, in this Final EIR.
- J-2** For maintenance activities that occur within the City’s right-of-way, the District will obtain encroachment and detour/lane closure permits, where applicable, as described in Table 3-5, Agency Coordination, of the Draft EIR.
- J-3** Per the City’s request, for maintenance activities that require the use of the City’s right-of-way for hauling excavated material, the District will provide a map of the route that will be used by haul vehicles. Please see changes to SOP-NOI-1 in Chapter 3 in this Final EIR.
- J-4** Per the City’s request, the description of this cumulative project has been revised accordingly. Please see Chapter 3 in this Final EIR.
- J-5** Per the City’s request, the description of this cumulative project has been revised accordingly. Please see Chapter 3 in this Final EIR.
- J-6** Per the City’s request, the description of this cumulative project has been revised accordingly. Please see Chapter 3 in this Final EIR.
- J-7** Per the City’s request, “Rancho Cucamonga Fire District” on page 4.11-7 of the Draft EIR was changed to “Rancho Cucamonga Fire Protection District.” Please see Chapter 3 in this Final EIR.

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Comment Letter K



California Program Office  
980 Ninth Street, Suite 1730 | Sacramento, California 95814 | tel 916.313.5800  
www.defenders.org

July 30, 2018

Michael Perry, Supervising Planner  
San Bernardino County Flood Control District  
Environmental Management Division  
825 East Third Street, Room 123  
San Bernardino, California 92415-0835  
Via Email: [Michael.Perry@dpw.sbcounty.gov](mailto:Michael.Perry@dpw.sbcounty.gov)

Re: Comments on the Draft Environmental Impact Report for the San Bernardino County Master Storm Water System Maintenance Program

Dear Mr. Perry;

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the San Bernardino County Master Storm Water System Maintenance Program (Program) prepared for the San Bernardino County (SBC) Flood Control District (District).

These comments are submitted by Defenders of Wildlife (Defenders), on behalf of its 1.8 million members and supporters, including approximately 279,000 in California. Defenders is dedicated to protecting all wild animals and plants in their natural communities. To this end, we employ science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to impede the accelerating rate of species extinction, associated loss of biological diversity, habitat alteration and destruction.

**Master Storm Water System Maintenance Program Description**

The purpose of the Program as proposed in the DEIR is to provide a programmatic approach in maintaining the County’s existing flood control facilities so that the District can continue to provide flood protection and water conservation in a timely and cost-effective manner for the benefit of county residents, businesses, and other stakeholders. A programmatic approach in maintaining the existing facilities over a period of 20 years necessarily entails obtaining permits for Program activities from the United States Army Corps of Engineers (USACE), Lahonton Regional Water Quality Control Board (LRWQCB), California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS).



Land use authorizations would also be sought from entities which own or manage lands on which Program activities would occur, including public lands managed by the United States Bureau of Land Management (BLM) and/or national forest lands managed by the U.S. Forest Service (USFS).

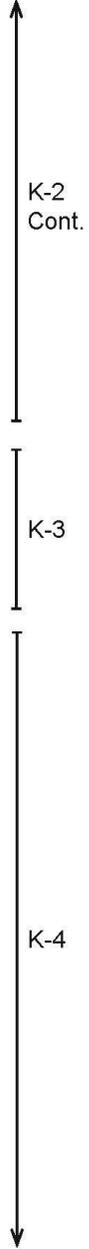
Program activities involve maintaining approximately 500 individual flood control facilities located throughout San Bernardino County. Facilities include debris/detention basins, dams, channels, natural drainages, spreading grounds, levees, and storm drains. Program maintenance activities include removal of excess sediment, debris, and vegetation; vegetation management; stockpiling excess material and debris following removal; maintaining sufficient flow paths; grooming/repairing earthen and improved channel slopes and bottoms; and maintaining culverts and bridges to ensure proper drainage and structural integrity, including access road maintenance and related herbicide application. The Program includes impact avoidance and minimization measures, and the application of compensatory mitigation for significant impacts that cannot be avoided.

Defenders' comments are largely limited to the Desert Region of San Bernardino County because it is among the Key Landscapes in our Strategic Plan and the subject of our California Desert Program. Comments are arranged by subject and, where appropriate, by specific section in the DEIR. Our comments, as outlined below, are intended to assist the District in preparing the Final Environmental Impact Report (FEIR) for the Program.

**1. Program history:** Defenders understands that the Program has been prepared to support routine maintenance activities on flood control facilities within the County. A comprehensive Maintenance Plan has been developed as part of the Program, to guide future routine maintenance of facilities by describing and mapping maintenance work to be accomplished and identifying appropriate standard operating procedures (SOPs) to provide flood control protection, while preserving environmental resources to the greatest degree possible. We understand the Maintenance Plan includes a resource agency notification and permit compliance process to allow the District to effectively maintain its facilities countywide.

**Comment:** Program history should include a focused, concise summary of previous permits issued by the CDFW, USACE, USFWS and/or LRWQCB for flood control facility maintenance activities (i.e., Clean Water Act Section 401/404 permits, Endangered Species Act (ESA) Section 7 Consultation Biological Opinions, ESA Section 10(a)1(B) incidental take permits, California Fish and Game Code Section 1602 Streambed Alteration Agreements, etc.).

Please include information on the location of all authorized and/or permitted maintenance activity in a summarized fashion. Please also include all required avoidance, minimization, mitigation and compensatory mitigation measures, including where specific pre-construction survey procedures are undertaken; as well as all required terms and conditions previously issued for this work. The degree of compliance monitoring undertaken in the past should be described.



Also, please clarify if any of these previously issued measures, terms and conditions were used in preparing the impact avoidance, minimization and mitigation measures, as well as any associated requirements for compensatory mitigation, proposed in the Program DEIR. Inconsistencies should be summarized and discussed; with supporting rationale provided.

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**Comment:** For facilities located on public lands managed by the BLM/USFS, please include information on the facility, its location, and type of authorization issued by the BLM/USFS. Specific terms and conditions associated with any agency-issued right-of-way grants should be incorporated into the Program and identified in the DEIR. Those facilities where additional right-of-way action is pending or anticipated to be completed in the 20 year future, should similarly be addressed in the DEIR; along with planned scheduling and anticipated timelines for completion.

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**2. Wildlife permits:** A variety of necessary wildlife impact minimization permits, as well as consultation and coordination tasks are discussed in DEIR Section 4.3.2 (Regulatory Framework) and Section 2 (Regulatory Framework) of DEIR Appendix E (Biological Technical Report).

**Comment:** As both state and federally listed species, as well as designated critical habitat, would be affected by actions proposed in the Program per the DEIR, specific permitting procedures are required. Please clarify how Endangered Species Act (ESA) and California Endangered Species Act (CESA) consultation and conference requirements, as well as incidental take permitting and other permits addressing wildlife, such as the Clean Water Act and Section 1600 of the California Fish and Game Code (Streambed Alteration), are specifically addressed for all Program actions.

If there has been a federal nexus identified (i.e., work or involvement necessitated by a federal agency, such as the BLM, Federal Emergency Management Agency [FEMA], USACE or USFS), it should be identified and the intent to engage in an associated Endangered Species Act (ESA) Section 7 consultation process with that federal agency and associated National Environmental Policy Act (NEPA) documentation) acknowledged. If no federal nexus has been identified or is anticipated, an intent to acquire an ESA Section 10 (a)1(B) incidental take permit, along with preparation of an accompanying Habitat Conservation Plan (HCP), should be acknowledged and discussed. Associated public involvement needs and timelines to accomplish these agency coordination issues should also be clarified in a summarized fashion.

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Species listed under both the ESA and CESA, as well as those species which are only state listed, are sometimes addressed under a separate incidental take permitting process. However, we note the CDFW can adopt the terms and conditions of a federal biological opinion for species that are listed under both the CESA and ESA, under certain conditions, where impacts have been sufficiently addressed. These facets of state/federal agency consultation and coordination, the specific named permits and their terms and conditions, as well as involved agencies (i.e., USACE, BLM, CDFW, LRWQCB and/or others) should be clearly identified in the DEIR.

**3. Permits and Approvals:** Chapter 3.7 of the DEIR includes Table 3-5 (Interagency Coordination), identifies various agencies and their permitting roles in the proposed SBC Program. The BLM is among the federal agencies listed with a role described as “*Manages the West Mojave Habitat Conservation Plan.*” BLM’s permit regulatory role is also described as “*Coordination on compliance with reserve agreements.*”

**Comment:** Information in Table 3-5 applicable to the public lands which BLM manages, and elsewhere in the DEIR, should be corrected. Those SBC Program activities which would occur on public lands would be situated within the California Desert Conservation Area (CDCA) and are subject to the provisions of the CDCA Plan. The latter plan has been amended numerous times, including quite significantly by the West Mojave (WEMO) Plan in 2006 and the Desert Renewable Energy Conservation Plan (DRECP) in 2017. Both these plans are currently under review. Although the 2006 WEMO Plan amendment was initially developed as a both a CDCA Plan Amendment and Habitat Conservation Plan (HCP), the CDFW, USFWS and local agencies never adopted it as an HCP. BLM (2006) proceeded with a planning alternative applicable only to public lands under its jurisdiction, wherein an ESA Section 7 consultation was completed and a resulting biological opinion was issued by the USFWS with specific terms and conditions.

The 2018 WEMO amendment to the CDCA Plan is currently under revision relative to vehicle route designation and certain other specific conservation aspects, with a finalization expected later in the year. The latter plan is not a stand-alone action document, but rather an amendment to the CDCA Plan, and an ESA biological opinion with binding terms and conditions will again be issued by USFWS that has bearing on Program activities.

It should also be noted that the CDCA Plan was also amended by BLM in 2016, through the adoption of the DRECP, which is also being reviewed and we address in item #4. A biological opinion has similarly been issued for this CDCA Plan amendment, which also has bearing on proposed Program activities. Land use planning can affect how/where certain mitigation is completed, such as rights of way terms and conditions.

**Comment:** Please clarify what is meant by the statement “*Coordination on compliance with reserve agreements.*” We are unaware of any “reserve agreements” affecting public lands managed by BLM, or other private land reserve agreements that would be affected by the Program. If there are potential reserve agreements associated with pending Habitat Conservation Plans or existing conservation planning documents in the affected area, they should be discussed more fully in the DEIR.

**4. California Desert Conservation Area (CDCA) Plan:** The SBC DEIR provides confusing, outdated and even incorrect information on the applicability of the BLM’s CDCA Plan and the BLM’s Phase I of the Desert Renewable Energy Conservation Plan (DRECP) plan amendment. Chapter 4, Section 4.9.2 (Regulatory Framework) of the SBC DEIR states quite succinctly and erroneously:



*“No federal regulations, plans, or policies are applicable to the analysis of land use and planning as it pertains to the proposed program.”*

Although Phase I of the DRECP is correctly described in DEIR Section 4.9.4, it is mischaracterized in DEIR Section 4.9.6.2, which states, *“Although the DRECP area includes the Desert Region, the DRECP currently only applies to renewable energy projects and would not be applicable to the proposed program. It is possible that renewable energy projects could compete with the proposed program for mitigation lands; however, that possibility exists regardless of the DRECP. The proposed program is not in conflict with the goals and policies of the DRECP.”*

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**Comment:** The DRECP, adopted by BLM (2016) for public lands in the Desert Region of the Program as a CDCA Plan amendment, is generally described as Phase I of regional renewable energy and conservation planning necessary for long term management of natural resources applicable to the entire Desert Region of the Program.

The intent, terms and conditions of this adopted public lands planning effort are currently being implemented. The BLM’s (2016) DRECP is also currently under review and may be modified in the future. The final DRECP, Record of Decision as approved by the BLM (2016), and extensive background information are available at: <https://www.drecp.org/finaldrecp/>.

The CDCA Plan, as amended by Phase I of the DRECP, applies to **all activities on public land, including the Project, and is not limited to renewable energy projects.**

The 2016 DRECP amendment to the CDCA Plan included numerous required Conservation Management Actions (CMAs) arranged by subject and designated land category – many of which we believe are also applicable to the SBC Flood Control Program. Specific conservation for special status species and sensitive plant communities has been identified for some of these lands, such as Areas of Critical Environmental Concern (ACECs), National Conservation Lands (NCLs), Wildlife Allocation, General Public Land (GPL); and certain Variance Process Land (VPL) and Solar Energy Zones (SEZs) were also addressed, some of which have bearing on Program activities.

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Planning generally referred to as Phase II of the DRECP, addressing regional renewable energy and conservation on private, state and county lands within the Desert Region, has previously been envisioned to be completed by the individual counties encompassed within the CDCA.

Relative to San Bernardino County, the Renewable Energy and Conservation Element (RECE) of the SBC General Plan, adopted by the SBC Board of Supervisors (2017), as well as the ongoing SBC Regional Conservation Investment Strategy (RCIS) planning effort, have been identified to fulfill Phase II of regional renewable energy and conservation necessary for long term management of natural resources on private, state and county lands within the Desert Region of the Program.

Inclusion of relevant summarized material describing these previous and ongoing planning efforts; and how they pertain to the Program, is highly recommended. The DEIR should be informed by the RECE, as well as vice-versa; and both should be informed by BLM’s previously adopted (2006) WEMO and (2016) DRECP plans; which are currently under review.

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**5. Special Status Species:** Section 4.3.2 of the SBC DEIR describes various special status species previously identified by the CDFW and USFWS.

**Comment:** A number of relevant special status species are not identified in the DEIR. BLM-designated sensitive species as of 2015 can be found in Appendix Q of the BLM’s (2016) DRECP.<sup>1</sup> The latter species have been identified based on BLM input by individual field offices and have been designated by the BLM’s California State Director.<sup>2</sup> A number of these species are detailed in the aforementioned DRECP, as well as in several additional background documents.<sup>3,4</sup> The USFS similarly maintains a list of special status species<sup>5</sup> relevant to certain foothills and mountain lands situated adjacent to the above public lands, along with considerable information relative to the adjacent Desert and Mountain regions addressed by the Program.<sup>6,7</sup>

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K-11

Please ensure that appropriate agency coordination occurs in all Program planning, and that BLM and USFS-designated sensitive species are analyzed in the Final EIR relative to all Program activities potentially affecting these sensitive species on national forests and public lands.

<sup>1</sup> Bureau of Land Management (BLM). 2015. Desert Renewable Energy Conservation Plan (DRECP) Appendix Q. Baseline Biology Report. Parts I & II. Prepared by Dudek for California Energy Commission. California Energy Commission Headquarters. Sacramento, California. [https://www.drecp.org/finaldrecp/pdf\\_files/Appendices/Appendix\\_Q\\_Baseline\\_Biology\\_Report/](https://www.drecp.org/finaldrecp/pdf_files/Appendices/Appendix_Q_Baseline_Biology_Report/).  
<sup>2</sup> BLM. 2014. BLM Special Status Animal Species by Field Office. California. Document dated September 23, 2014. California State Office. Sacramento, California. [https://www.blm.gov/sites/blm.gov/files/documents/files/Programs\\_FishandWildlife\\_BLMCA%20Special%20Stat%20Species.pdf](https://www.blm.gov/sites/blm.gov/files/documents/files/Programs_FishandWildlife_BLMCA%20Special%20Stat%20Species.pdf).  
<sup>3</sup> BLM. 2018. West Mojave Route Network Project Draft Land Use Plan Amendment (LUPA) and Supplemental Environmental Impact Statement (SEIS) Appendix C. Special Status Species. California Desert District. Moreno Valley, California. [https://eplanning.blm.gov/epl-front-office/eplanning/docset\\_view.do?projectId=93521&currentPageId=139661&documentId=137935](https://eplanning.blm.gov/epl-front-office/eplanning/docset_view.do?projectId=93521&currentPageId=139661&documentId=137935).  
<sup>4</sup> BLM. 2005. Final Environmental Impact Report and Statement for the West Mojave Plan. A Habitat Conservation Plan and California Desert Conservation Area Plan Amendment. Volume 1. [https://www.blm.gov/ca/pdfs/cdd\\_pdfs/wemo\\_pdfs/plan/wemo/Vol-1-Chapter1\\_Bookmarks.pdf](https://www.blm.gov/ca/pdfs/cdd_pdfs/wemo_pdfs/plan/wemo/Vol-1-Chapter1_Bookmarks.pdf).  
<sup>5</sup> United States Forest Service (USFS). 2013. Sensitive Animal Species by Forest. Pacific Southwest Region Headquarters. Vallejo, California. <https://www.fs.usda.gov/main/r5/plants-animals/wildlife>.  
<sup>6</sup> Stephenson, J.R. and G.M. Calcarone. 1999. Southern California Mountains and Foothills Assessment. United States Department of Agriculture (USDA) Pacific Southwest General Technical Report 172 (PSW-GTR-172). USDA Pacific Southwest Research Station. <https://www.fs.fed.us/psw/publications/documents/gtr-172/>.  
<sup>7</sup> USFS. 2005. Land Management Plan. Southern California National Forests. Part 2 San Bernardino National Forest Strategy. San Bernardino National Forest Headquarters. San Bernardino, California. [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fsbdev7\\_007719.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fsbdev7_007719.pdf).

**6. Impacts to Habitat for Special Status Species:** Chapter 4.3 of the DEIR includes an analysis of impacts to Special Status Species of plants and animals, as well as sensitive natural communities, resulting from implementation of the Program. Both direct and indirect impacts to these resources are identified according to habitat quality; described as low, moderate or high impacts.

**Comment:** The Program is described generally as maintaining existing flood control and water conservation facilities under terms conditions required under various permits, for a period of 20 years, rather than on a project-by-project basis. The latter practice, as has occurred to date, has been determined as less than efficient and costlier than a programmatic, long-term approach.

As existing facilities have been maintained for decades, the DEIR description of moderate and high-quality habitat for special status species and sensitive communities occurring in some areas is unclear. Given that plant community recovery following surface disturbance in the California Deserts is extremely slow, we would appreciate a more clarified description of how, or why, moderate and high-quality habitat still exists within maintained project sites following decades of work. Does maintenance work completely remove affected habitat, or is such work occurring in riverine/wetland areas which recover more quickly than adjacent uplands? Have previously impacted lands recovered enough to support returning wildlife between maintenance intervals, or are certain special status wildlife not limited by disturbed plant community constraints?

Defenders notes that while Program pre-construction surveys are proposed during the blooming periods of several special status plant species, there are years where some of these species may not flower; and consequently impacts to supporting habitat could accrue without knowledge of these species' periodic occurrence, unless historic records from the California Natural Diversity Database (CNDDB) are also considered in the pre-construction evaluation. This is particularly important relative to the federally-listed threatened Parish's daisy in the State Route 18-southern Camp Rock Road-Cushenbury Canyon locality of the southern Mojave Desert region.

**7. Compensatory mitigation:** The DEIR proposes compensatory mitigation for significant adverse impacts to Special Status Species and sensitive natural communities. Compensatory mitigation is intended to reduce such impacts to below a considered threshold of significance and varies at ratios generally ranging from 0.5:1 (e.g., moderate quality desert tortoise habitat) to 3:1 (e.g., high quality Mohave ground squirrel habitat).

**Comment:** It appears the proposed compensatory mitigation ratios described in the DEIR are lower than what are typically required by CDFW and BLM, and generally supported by the USFWS, for impacts to habitat supporting Special Status Species and sensitive natural communities. We recommend that the proposed compensatory mitigation ratios be evaluated to determine if they are consistent with mitigation application for similar activities previously permitted for all special status species. If SBC-proposed mitigation application is found inconsistent with past practices and planning documents, it should be revised based on coordination with involved agencies.

K-12

K-13

Additionally, the CDCA Plan as amended by Phase I of the DRECP contains numerous compensatory mitigation CMAs that are now standard requirements for land uses on public land that may result in the loss of habitat for various special status species, as well as sensitive natural communities. Please refer to the Final DRECP amendments for specific compensatory mitigation ratios applicable for actions on public land, available at the website identified in item #4, above. We recommend a consistent approach be undertaken on both public and private lands.

Further, we would also greatly appreciate a definition in the DEIR of how habitat quality is being assessed, categorized and tied to specific calculated compensatory mitigation ratios; particularly habitat for state/federally listed species such as Agassiz’s desert tortoise (*Gopherus agassizii*), Mohave ground squirrel (*Xerospermophilus mohavensis*), San Bernardino kangaroo rat (*Dipodomys merriami parvus*) or SBKR, Southwestern willow flycatcher (*Empidonax traillii extimus*), Least Bell’s vireo (*Vireo bellii pusillus*), Western yellow-billed cuckoo (*Coccyzus americana*), Tricolored blackbird (*Agelaius tricolor*), and Arroyo toad (*Anaxyrus californicus*).

The habitat quality assessment approach proposed for designated critical habitat (i.e., Agassiz’s desert tortoise, Southwestern willow flycatcher, SBKR and Arroyo toad); crucial habitat needed for the recovery of state-listed species such as the Mohave ground squirrel and Tricolored blackbird; and important habitat for special status species such as Western burrowing owl (*Athene cunicularia hypugaea*), should be clarified in the DEIR, to facilitate program analysis.

Impacts to critical and crucial habitats should be mitigated to a higher standard than areas which are not, to facilitate rapid recovery of involved listed species. Mitigation habitat should also be prioritized to promote the acquisition of highest-value habitat and maximal connectivity.

**8. Full Mitigation Standard:** The California Environmental Quality Act (CEQA), in conjunction with the California Fish and Game Code (CFGF), requires that adverse impacts to species listed under the California Endangered Species Act (CESA) be fully mitigated. This is considerably different than only mitigating to a reduced level of significance, in the CEQA documentation process.

**Comment:** The CDFW should be contacted for guidance on the incorporation of compensatory mitigation and other mitigation measures necessary to meet California’s full mitigation standard for listed species.

Defenders believes inclusion of parameters and/or recommendations for applied mitigation, or minimally an appropriate reference to such applied planning, should be considered in relation to the Program. Potential mitigation fulfillment options and even mitigation banking opportunities may be forthcoming with development of the SBC Regional Conservation Investment Strategy (RCIS) program underway for the western Mojave Desert. This RCIS program, if and as adopted by the County, should be discussed in terms of its potential benefit to identifying and expediting advance mitigation application associated with the proposed stormwater maintenance Program.

↑  
K-13  
Cont.

K-14

Thank you for your consideration of our comments. Please add our organization to the distribution list for the San Bernardino County Master Storm Water System Maintenance Program. We would greatly appreciate notification of the final environmental impact report to be prepared for this Program, as well as subsequent programmatic applications approved by the County. We look forward to working with the County on planning for its flood control facilities so that the District can continue to provide flood protection and water conservation, as well as wildlife habitat protection, in a timely and cost-effective manner for the benefit of county residents, businesses, and other stakeholders.

K-15

Sincerely,



Jeff Aardahl  
California Representative  
Defenders of Wildlife  
46600 Old State Highway, Unit 13  
Gualala, CA 95445  
[jaardahl@defenders.org](mailto:jaardahl@defenders.org)



Tom Egan  
California Desert Representative  
Defenders of Wildlife  
P.O. Box 388  
Helendale, CA 92342  
[tegan@defenders.org](mailto:tegan@defenders.org)

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## Response to Comment Letter K

**Defenders of Wildlife**  
**Jeff Aardahl, California Representative**  
**Tom Egan, California Desert Representative**  
**July 30, 2018**

- K-1** Thank you for your letter pursuant to the proposed program. This comment provides a description of the Defenders of Wildlife (Defenders). The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- K-2** This comment provides a summary of the proposed program. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- K-3** This comment provides a summary of the Defenders' comments and the arrangement of the comments. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- K-4** As discussed in Section 1.2 (Background) of the Draft EIR and summarized in Thematic Response TH-1 (see Section 2.2, Thematic Responses), the District has maintained its facilities on an as-needed basis since its establishment in 1939 and obtains necessary regulatory approvals on a case-by-case basis. The facilities identified in the Draft EIR are those that the District has routinely maintained. A focused, concise summary of previous permits—including any terms, conditions, and monitoring requirements of such permits—is not practicable due to the sheer volume of both facilities and permits over the nearly 90-year history of the District, and CEQA does not require disclosure of past permitting history. Additionally, permits have been facility-specific and measures, terms, and conditions vary amongst the permits depending on the facility, the resources present, and the activity undertaken. The goal of the proposed program is to have a consistent maintenance program for all routine maintenance activities with uniformly applied standard operating procedures and mitigation measures.
- K-5** Table 4.12-1 of the Draft EIR identifies District-maintained areas included as part of the proposed program that traverse public lands managed by the Bureau of Land Management (BLM) and U.S. Forest Service (USFS). This table includes the regions and facility numbers, with all corresponding maintained facility locations depicted in the Figure 3-2 series of the Draft EIR. The District coordinates with BLM and USFS as required if maintenance activities affect land managed by these agencies and

- implements any facility-specific terms and conditions. Due to the facility-specific nature of such terms and conditions, it is beyond the scope of this EIR to incorporate all permits from each of these agencies.
- K-6** Please see Table 3-5, Agency Coordination, of the Draft EIR for a summary of permits and approvals required for the project. Mitigation Measure (MM) BIO-2 through MM-BIO-9 and MM-BIO-12 through MM-BIO-15 further describe the permits required for the resource discussed in each mitigation measure. The permit requirements are also summarized here. As described under Impact BIO-3 of the Draft EIR, the proposed program may result in impacts to waters of the United States and it is anticipated that an Individual Permit under Section 404 of the Clean Water Act will be required. As part of issuance of an Individual Permit, the U.S. Army Corps of Engineers will release a National Environmental Policy Act document for public review. The proposed program is also anticipated to require consultation under Section 7 of the federal Endangered Species Act for impacts to federally listed species due to a federal nexus of impacts to waters of the United States, as well as maintenance of facilities on federal lands, including USFS lands and lands managed by BLM. The proposed program would also impact state-listed species; therefore, the proposed program is anticipated to require an Incidental Take Permit or a Consistency Determination from the California Department of Fish and Wildlife (CDFW).
- K-7** Please see update to Table 3-5 in Chapter 3, Changes to the Draft EIR, of this Final EIR.
- K-8** Please see update to Table 3-5 in Chapter 3 of this Final EIR.
- K-9** Please see Chapter 3 of this Final EIR for updates to Section 4.9.6.2.
- K-10** In general, agreements between the District and BLM for maintenance of District facilities on land managed by the BLM predate the Desert Renewable Energy Conservation Plan (DRECP) and related management plans. As described in Thematic Response TH-1, the proposed program is the formalization of current routine maintenance activities for the purpose of securing long-term permits. Existing agreements between the District and BLM would remain in place under this program. The District will implement conditions for each facility as required by BLM.
- K-11** As discussed in Section 3.3, Literature Review, of the Biological Technical Report (BTR; provided as Appendix E to the Draft EIR and included in this Final EIR as Appendix C), an extensive literature review was conducted of species with a potential to occur in the program area. The results of this literature review are provided as Appendix E (Special-Status Species Documented in the Valley Region, Mountain Region, and Desert Region) to the BTR. Appendix E to the BTR has been updated to

reflect the BLM and USFS designation for species and is provided in Appendix C to this Final EIR. Please see Chapter 3 of this Final EIR for changes to the text of the Draft EIR regarding BLM- and USFS-designated sensitive species.

- K-12** Moderate- and high-quality habitat exists within District facilities for a number of reasons. For some facilities, maintenance activities have occurred with less frequency due to delays in obtaining permits for the work as a result of the amount of time required to obtain permits on a case-by-case basis. As suggested by the commenter, maintenance activities typically occur in riverine areas, where vegetation recovers more quickly. Another factor is the method by which impacts were calculated for the Draft EIR. For example, for access roads and bank repair, a buffer was used in geographic information systems (GIS) around these features to ensure that potential impacts were fully captured. This method resulted in habitat adjacent to existing access roads and maintained banks being captured in the impact analysis. As a result, the calculation of impacts is a worst-case scenario, capturing habitat that would be avoided as practicable.

Please see Response I-15 regarding the history of surveys conducted for special-status plants within District facilities. Special-status plant occurrences will inform pre-activity surveys. Additionally, pre-activity surveys will conform to the California Native Plant Society's Botanical Survey Guidelines (CNPS 2001), which include observation of target species at nearby accessible occurrences (reference sites) to confirm whether the species are observable that year.

- K-13** Please see Responses I-5, I-6, Q-6, and Q-10 regarding the rationale for mitigation ratios provided in the Draft EIR.

Regarding mitigation aligning with the California Desert Conservation Area, the DRECP states that exceptions to the disturbance mitigation requirement apply to any portion of the proposed activity that is located on land previously disturbed by an existing validly authorized/approved action. Because the proposed program consists of the maintenance of existing flood control facilities, it meets the requirements for this exception to the disturbance mitigation requirement.

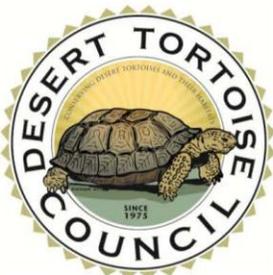
Regarding the assessment of habitat quality and how it is tied to specific compensatory mitigation ratios, the District worked closely with CDFW and the U.S. Fish and Wildlife Service (USFWS) to identify species that require habitat quality assessments and to develop methodologies for conducting such assessments for those species. The results of those efforts are detailed in Appendix A, Results of Implementation of Take Methodologies, of Appendix E, BTR, of the Draft EIR (also provided in this Final EIR as Appendix C). The results of these assessments were used in the impact analysis and

mitigation measures presented in the Draft EIR. The Results of Implementation of Take Methodologies specifically discusses desert tortoise (*Gopherus agassizii*), San Bernardino kangaroo rat (*Dipodomys merriami parvus*), least Bell's vireo (*Vireo bellii pusillus*), and Mohave ground squirrel (*Spermophilus (Xerospermophilus) mohavensis*). For desert tortoise, impacts to habitat with a moderate potential to support desert tortoise would be mitigated at a ratio of 0.5:1 and habitat with a high potential to support the species would be mitigated at a ratio of 1:1. For San Bernardino kangaroo rat and least Bell's vireo, impacts to habitat with a low potential to support the species would be mitigated at a 1:1 ratio, habitat with a moderate potential to support the species would be mitigated at a 2:1 ratio, and habitat with a high potential to support the species would be mitigated at a 3:1 ratio. Impacts to Mohave ground squirrel habitat would be mitigated at 1:1 for good-quality habitat and 1.5:1 for excellent-quality habitat. Due to the low potential for the program area to support southwestern willow flycatcher (*Empidonax traillii extimus*), western yellow-billed cuckoo (*Coccyzus americanus*), tricolored blackbird (*Agelaius tricolor*), and arroyo toad (*Anaxyrus californicus*), specific habitat assessments were not conducted for these species; however, focused surveys and avoidance measures are required for these species as described in the program SOPs and in the EIR mitigation measures. Please see Response Q-3 regarding potential impacts to burrowing owl (*Athene cunicularia*) habitat.

**K-14** The District coordinated with both CDFW and USFWS over the course of 2 years to develop methods for assessing and compensating for impacts to listed species. The results of this effort are included in Appendix A, Results of Implementation of Take Methodologies, of Appendix E, BTR, of the Draft EIR (see Appendix C to this Final EIR). The impact analysis and proposed mitigation measures in the Draft EIR reflect the results of the extensive coordination undertaken with CDFW and USFWS. Additional coordination with CDFW and USFWS will be undertaken as part of the Incidental Take Permit process required for the proposed program. Please see Response Q-15 regarding the District's proposed approach to mitigation. The District has reviewed a variety of options and has met with the resource agencies (U.S. Army Corps of Engineers, State Water Resources Control Board, CDFW, and USFWS) to discuss potential mitigation vehicles, including banking opportunities. The District will consider the County's Regional Conservation Investment Strategy program for mitigation opportunities should it be available within the timeline in which mitigation must be secured for the proposed program.

**K-15** This comment consists of a request to be added to the distribution list for the proposed program. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

Comment Letter L



**DESERT TORTOISE COUNCIL**  
4654 East Avenue S #257B  
Palmdale, California 93552  
[www.deserttortoise.org](http://www.deserttortoise.org)  
[eac@deserttortoise.org](mailto:eac@deserttortoise.org)

**Via email only**

27 July 2018

Michael Perry, Supervising Planner  
San Bernardino County Flood Control District  
Environmental Management Division  
825 East Third Street, Room 123  
San Bernardino, California 92415-0835  
Email: [Michael.Perry@dpw.sbcounty.gov](mailto:Michael.Perry@dpw.sbcounty.gov)

RE: Environmental Impact Report for the San Bernardino County Master Storm Water System Maintenance Programs

Dear M. Perry,

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public’s understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats likely occupied by Agassiz’s desert tortoise (*Gopherus agassizii*) (synonymous with “Mojave desert tortoise”), our comments pertain to enhancing protection of this species during activities authorized by the San Bernardino County Flood Control District (District).

We are impressed with the depth of consideration that has been given in this document to the conservation of the desert tortoise and other species at risk. We are especially grateful that appropriate survey work will be performed prior to activities and that authorized biologists will be present to oversee any work that has the potential to impact tortoises and tortoise habitat.

L-1

We advocate that a worker education program will be administered and that a 15-mile per hour speed limit will be implemented during all construction, maintenance, and operations activities. It may be prudent to post the speed limit should members of the public begin using any construction-enhanced access roads.

L-2

If tortoises are encountered during construction, operations, and maintenance activities, we expect that the District would be obligated to determine the project “may affect” tortoises and initiate consultation with the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) or authorize the project under an existing small-project biological opinion. Alternatively, authorized biologists and/or biological monitors would take steps, without handling tortoises, to avoid all tortoises. Please be sure that the Bureau of Land Management (BLM), USFWS, and CDFW all authorize experienced biologists before enlisting them to implement protective measures.

L-3

Finally, please be sure that no facilities or construction activities serve to attract ravens into the area or provide raven nesting opportunities that would not exist but for the project.

L-4

We appreciate this opportunity to provide input and trust that our comments will further protect tortoises during authorized project activities. We are willing to offer additional input and information about desert tortoise conservation methods if desired. Herein, we ask that the Desert Tortoise Council be identified as an Affected Interest for this and all other District projects that may affect species of desert tortoises, and that any subsequent environmental documentation for this particular project is provided to us at the contact information listed above.

L-5

Regards,



Edward L. LaRue, Jr., M.S.  
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

## Response to Comment Letter L

### Desert Tortoise Council

Edward L. LaRue Jr., MS, Chairperson, Ecosystems Advisory Committee

July 27, 2018

- L-1** Thank you for your letter pursuant to the proposed program. This comment provides a description of the Desert Tortoise Council (Council) and an introduction to comments pertaining to enhancing protection of Agassiz’s desert tortoise (“desert tortoise” in the Draft EIR; *Gopherus agassizii*). The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- L-2** The District will implement standard operating procedures (SOPs) as described in the Draft EIR. As described in SOP-BIO-15, Worker Environmental Awareness Program, on page 4.3-35 of the Draft EIR, the District will require a qualified biologist to conduct a training/education session for operations staff members and/or District contractors. Additional text has been added to this SOP clarifying that a speed limit of 15 miles per hour is implemented in areas supporting special-status species (see Chapter 3, Changes to the Draft EIR, in this Final EIR).
- L-3** As described in Mitigation Measure (MM) BIO-13, Mitigation for Desert Tortoise, the District would receive authorization from the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) through the federal Endangered Species Act Incidental Take Permit (ITP) process prior to impacts to desert tortoise. As described in Response Q-7, the District anticipates that a Translocation Plan would be required under the ITP and that an Authorized Biologist (as defined by the ITP) would be responsible for implementing the Translocation Plan. Authorized Biologists are typically approved by CDFW, USFWS, and the federal agency implementing the action (i.e., U.S. Army Corps of Engineers, Bureau of Land Management, and/or U.S. Forest Service for the proposed program). As described in SOP-BIO-10, Desert Tortoise, and clarified in Chapter 3 in this Final EIR, a qualified biologist would be present during maintenance activities within occupied habitat and would stop maintenance activities as needed to avoid impacts to desert tortoise.
- L-4** SOP-BIO-16, Best Management Practices, as described in the Draft EIR, will require the removal of all trash and would therefore ensure that no facilities or construction activities would attract ravens (*Corvus corax*) into the area. Furthermore, the proposed program would not include any construction that would support or provide raven nesting opportunities.

- L-5** This comment includes a request that the Council be identified as an Affected Interest for this and all other District projects that may affect species of desert tortoises, and that any subsequent environmental documentation for the proposed program be provided to the Council. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

Comment Letter M

**Caitlin Munson**

**From:** Linda Archer  
**Sent:** Tuesday, July 31, 2018 7:12 AM  
**To:** Caitlin Munson  
**Cc:** Rachel Struglia  
**Subject:** Fwd: CA Water Boards Draft EIR Comments

Veronika (Linda) Archer  
909.677.3775  
Sent from my iPhone

Begin forwarded message:

**From:** MSWSMPcomments - DPW <[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)>  
**Date:** July 31, 2018 at 7:07:32 AM PDT  
**To:** "Linda Archer ([larcher@dudek.com](mailto:larcher@dudek.com))" <[larcher@dudek.com](mailto:larcher@dudek.com)>  
**Subject:** FW: CA Water Boards Draft EIR Comments

FYI

**Michael Perry**  
Supervising Planner  
Department of Public Works  
Environmental Management Division  
Office – (909) 387-1864  
Cell – (909) 557-7700

**From:** Lopez, Alexander@Waterboards <[Alexander.Lopez@Waterboards.ca.gov](mailto:Alexander.Lopez@Waterboards.ca.gov)>  
**Sent:** Monday, July 30, 2018 10:35 PM  
**To:** [MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)  
**Cc:** Payne, Elizabeth@Waterboards <[Elizabeth.Payne@waterboards.ca.gov](mailto:Elizabeth.Payne@waterboards.ca.gov)>; Bill, Jason@Waterboards <[Jason.Bill@Waterboards.ca.gov](mailto:Jason.Bill@Waterboards.ca.gov)>; Robertson, Glenn@Waterboards <[Glenn.Robertson@waterboards.ca.gov](mailto:Glenn.Robertson@waterboards.ca.gov)>  
**Subject:** CA Water Boards Draft EIR Comments

Hello,

The State Water Resources Control Board and the Santa Ana Regional Water Quality Control Board have reviewed the Draft EIR for the San Bernardino County Master Storm Water System Maintenance Program. Please find our comments on this Draft EIR in the text below.

Impact BIO-3

- It is unclear how SOP-BIO-20 is an effective standard operating procedure measure against permanent/significant impacts to stockpiling when the District admits to stockpiling inside jurisdictional waters where avoidance is not possible. In addition, it

M-1

appears that SOP-BIO-20 is not aligned with the stockpile location descriptions provided in SOP-HYD-3.

↑ M-1  
Cont.

5.2.9.5

- We disagree with the stipulation that the impact from depriving waters downstream of sediment is not significant. Waters downstream of the facilities in the District continue to be impacted by the reduction of sediment inputs from the operation and maintenance of the San Bernardino County basins. Also, the release of sediment-starved water from basins increase the erosion potential downstream of the basins.

M-2

MM-BIO-18

- Wetlands are not discussed separately. Mitigation for wetland impacts needs to be offset by wetland mitigation issues to comply with the no-net loss policy for wetlands.
- It is unclear why permanent impacts are required to be certified when this Program is for maintenance purposes. Will activities under this program result in changes to the maintenance baseline for the affected facilities? Please note that the Water Boards will require individual section 401 Clean Water Act certification for such projects, including those that involve excavation or new construction at armoring sites.

M-3

Impact HAZ-4

- If impacts from hazardous materials sites within the program area affect Waters of the United States/State, then please also account for these impacts in the Hazardous Materials Contingency Plan that will be prepared as part of MM-HAZ-1.

M-4

Impact HYD-1

- What level of disturbance constitutes a “large/substantial” amount of ground disturbance, and how was this threshold determined? (see tables 4.8-7 through 4.8-9)

M-5

Appendix A

- Pre-Activity notification. The time frame suggested (2 weeks) does not allow long term planning of facility maintenance or coordination with regulatory agencies. A plan for needed maintenance submitted at the beginning of the year would allow maintenance staff to plan around the Limited Operating Periods and would allow county staff to provide needed pre-activity notification to the various regulatory agencies. Additionally,

M-6  
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having a plan of work would allow for the procuring of compensatory mitigation prior to maintenance activities so that longer temporal losses will not need to be mitigated for.

- Unforeseen and Urgent Maintenance – Some of work described is already covered by CEQA and Emergency permits.

↑  
M-6  
Cont.

Thank you,

Alex Lopez  
Environmental Scientist  
State Water Resources Control Board, Division of Water Quality  
1001 I Street, 15th Floor  
Sacramento, CA 95814  
(916) 327-8117

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## Response to Comment Letter M

**State Water Resources Control Board, Division of Water Quality**  
**Alex Lopez, Environmental Scientist**  
**July 30, 2018**

**M-1** Thank you for your letter pursuant to the proposed program. It is the District's standard practice to not place stockpiles within jurisdictional waters in order to avoid or minimize impacts to jurisdictional waters. As described in Impact BIO-3 of Section 4.3.6.2 of the Draft EIR, if a stockpile had to be placed within jurisdictional waters it would be considered a permanent impact and would be permitted and mitigated accordingly as described in Mitigation Measure (MM) BIO-18, Compensation for Jurisdictional Waters. Standard Operating Procedure (SOP) BIO-20 indicates that stockpiles are placed outside jurisdictional waters as practicable. SOP-HYD-3 indicates that permanent stockpiles are not created within the 100-year flood hazard zone. Temporary stockpiles may occur within channel bottoms or debris basins; however, because these are temporary they would not result in permanent impacts to jurisdictional waters; therefore, SOP-HYD-3 is not in conflict with SOP-BIO-20.

**M-2** The proposed program does not include construction of new facilities or the expansion of existing facilities. Routine maintenance of existing facilities would maintain their current function and would not result in a change in sediment transport compared to existing conditions.

**M-3** The Draft EIR finds that the proposed program would not result in permanent impacts to wetland waters of the United States (please see Tables 4.3-38, 4.3-42, and 4.3-46 of the Draft EIR); therefore, the proposed program is consistent with the no net loss of wetlands policy.

Please see Response I-7 and Chapter 3, Changes to the Draft EIR, Impact BIO-3 for clarification regarding impacts to jurisdictional waters. The proposed program would not result in permanent impacts to waters of the United States and would not result in changes to the maintenance baseline. The proposed program does not include new construction. As described on page 4.3-116 of the Draft EIR, the maintenance of existing access roads may result in the placement of fill where the roads cross waters of the United States, necessitating a permit under Section 404 of the Clean Water Act and an accompanying Water Quality Certification under Section 401 of the Clean Water Act.

**M-4** The Hazardous Materials Contingency Plan provides for protection from and management of potential hazardous materials/wastes within the proposed program

area. The District is not privy to or responsible for assessment and/or cleanup activities at hazardous materials sites within the proposed program area. It is incumbent on the responsible party and regulatory agency overseeing the assessment/cleanup of the impacted site to ensure the protection of the waters of the United States as it relates to potential impacts from the hazardous materials sites. With regard to prevention of potential impacts related to any hazardous materials used during proposed program activities, please see SOP-HYD-4 (pages 4.8-33 through 4.8-36 in the Draft EIR).

**M-5** Activities described in Tables 4.8-7 through 4.8-9 in the Draft EIR representing facilities that would initially require substantial ground disturbance were determined by reviewing the maintained facilities listed in Appendix A and identifying those that have not received routine maintenance recently (and that therefore will require more sediment removal than is anticipated in the future). From this list, the facilities with the largest areas (either in extent or depth) were selected. By identifying facilities that would require relatively large amounts of grading when compared with maintenance at other facilities, worst-case scenarios with respect to potential water quality impacts were analyzed.

**M-6** The 2-week pre-activity notification described in Appendix A, Maintenance Plan, of the Draft EIR (also included in this Final EIR as Appendix A) refers to notification between District Operations staff and County Environmental Management Division staff. The District acknowledges that an annual plan of work would be beneficial and has added this component to the Maintenance Plan (see Appendix A to this Final EIR). The comment regarding unforeseen and urgent maintenance is noted.

Comment Letter N

**Caitlin Munson**

**From:** Linda Archer  
**Sent:** Monday, July 30, 2018 5:53 PM  
**To:** Caitlin Munson; Rachel Struglia  
**Subject:** Fwd: [EXTERNAL] RE: Request for extension of SB County MSWSMP DEIR comment period

Veronika (Linda) Archer  
909.677.3775  
Sent from my iPhone

Begin forwarded message:

**From:** MSWSMPcomments - DPW <[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)>  
**Date:** July 30, 2018 at 4:43:10 PM PDT  
**To:** "Linda Archer ([larcher@dudek.com](mailto:larcher@dudek.com))" <[larcher@dudek.com](mailto:larcher@dudek.com)>  
**Subject:** FW: [EXTERNAL] RE: Request for extension of SB County MSWSMP DEIR comment period

**Michael Perry**  
Supervising Planner  
Department of Public Works  
Environmental Management Division  
Office – (909) 387-1864  
Cell – (909) 557-7700

**From:** Palenscar, Kai <[kai\\_palenscar@fws.gov](mailto:kai_palenscar@fws.gov)>  
**Sent:** Monday, July 30, 2018 3:59 PM  
**To:** MSWSMPcomments - DPW <[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)>  
**Subject:** Re: [EXTERNAL] RE: Request for extension of SB County MSWSMP DEIR comment period

Hello,

Thank you for allowing the extension to comment on the MSWSMP DEIR.

Kai

Kai Palenscar, Ph. D.  
Fish and Wildlife Biologist

U.S. Fish and Wildlife Service - Palm Springs Office  
777 E. Tahquitz Canyon Way, Suite 208  
Palm Springs, California 92262  
T: 760-322-2070 x 408  
E: [kai\\_palenscar@fws.gov](mailto:kai_palenscar@fws.gov)

|  
N-1  
|

On Mon, Jul 30, 2018 at 12:08 PM, MSWSMPcomments - DPW  
<[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)> wrote:

Mr. Palenscar,

Although we have had a couple of requests to extend the 45-day comment period for 30, 60 and 90 days, and we have as a policy denied those request. However, without officially extending the review period, we will continue to accept comments from the USFWS after July 30, 2018; preferably by Friday August 3, 2018, but please no later than Monday August 6, 2018.

N-2

**Michael Perry**

Supervising Planner  
Department of Public Works

Environmental Management Division

Office – (909) 387-1864

Cell – (909) 557-7700

**From:** Palenscar, Kai <[kai\\_palenscar@fws.gov](mailto:kai_palenscar@fws.gov)>

**Sent:** Friday, July 27, 2018 4:39 PM

**To:** Perry, Michael - DPW <[Michael.Perry@dpw.sbcounty.gov](mailto:Michael.Perry@dpw.sbcounty.gov)>

**Cc:** Karin Cleary-Rose <[karin\\_cleary-rose@fws.gov](mailto:karin_cleary-rose@fws.gov)>; Sims, Theresa <[tsims@dpw.sbcounty.gov](mailto:tsims@dpw.sbcounty.gov)>; Ray Bransfield <[ray\\_bransfield@fws.gov](mailto:ray_bransfield@fws.gov)>

**Subject:** Request for extension of SB County MSWSMP DEIR comment period

Dear Mr. Perry,

I have been working on our comments to the MSWSMP Draft EIR this week and will likely not be able to complete review and submission by 5 pm on July 30 (Monday). The Service requests an additional week beyond July 30 due date to provide comments for this substantive document. If granted, our submission date would be August 6, 2018. Thank you for the consideration.

N-3

Sincerely,

Kai

Kai Palenscar, Ph. D.

Fish and Wildlife Biologist

U.S. Fish and Wildlife Service - Palm Springs Office

[777 E. Tahquitz Canyon Way, Suite 208](#)

[Palm Springs, California 92262](#)

T: 760-322-2070 x 408

E: [kai\\_palenscar@fws.gov](mailto:kai_palenscar@fws.gov)

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## **Response to Comment Letter N**

**U.S. Fish and Wildlife Service  
Kai Palenscar, PhD, Fish and Wildlife Biologist  
July 27–30, 2018**

- N-1** Thank you for your letter pursuant to the proposed program. The District received requests to extend the 45-day review period of the Draft EIR. Although the District understands that the document is lengthy, the District is also committed to completing the EIR in a timely manner so the proposed Maintenance Plan can be implemented in a reasonable time frame. The District sent an email to the U.S. Fish and Wildlife Service on July 30, 2018, indicating that an extension of the 45-day review period had not been granted. The District did not receive an additional comment letter from the U.S. Fish and Wildlife Service.
- N-2** Please see Response N-1.
- N-3** Please see Response N-1.

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Comment Letter O



MICHAEL LINTON  
VICE PRESIDENT  
PROPERTIES & LAND DEVELOPMENT

500 N. BRAND BLVD., SUITE 500  
GLENDALE, CA 91203  
TELEPHONE 818.553.8953  
EMAIL LINTONM@VMCMAIL.COM

July 30, 2018

Transmitted to: MSWSMPcomments@dpw.sbcounty.gov  
San Bernardino County Flood Control District  
Environmental Management Division  
Attn: Michael Perry, Supervising Planner  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835

Re: San Bernardino County Master Storm Water System Maintenance Program dEIR

Dear Sirs:

Vulcan Materials Company-Western Division (Vulcan) has reviewed the San Bernardino County Master Storm Water System Maintenance Program Draft Environmental Impact Report (dEIR) and has the following comments. Vulcan’s interest in this document is the potential impacts of the project to the Cajon Creek Habitat Conservation and Management Area (Conservation Area), a state and federal approved conservation area and conservation bank and the haul road between Vulcan’s San Bernardino and Cajon Creek facilities.

The Conservation Area was established in 1996 through a Memorandum of Understanding (MOU) between Vulcan Materials Company, the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers.

The Conservation Area is located in the Community of Muscoy, in San Bernardino County. It is composed of a network of large parcels within and immediately adjacent to Lytle Creek Wash from Highland Avenue (just north of the 210) to the confluence of Lytle Creek Wash and Cajon Creek, and upstream within and immediately adjacent to Cajon Creek to Devore Road (just south of the I-15/215 interchange). Interspersed between these parcels are lands owned and managed by the County of San Bernardino Flood Control District. Vulcan also has an easement through the County’s lands for a

O-1

Page 2

haul road between their San Bernardino and Cajon Creek facilities which is relocatable at Vulcan’s option from time to time.

O-1  
Cont.

The 1,360-acre Conservation Area has two component parts: (1) the Conservation Lands that provided mitigation for Vulcan’s Cajon Creek Specific Plan and (2) the Conservation Bank that provides mitigation opportunities to other parties. Since the establishment of the Conservation Area, over 50 projects have used the Conservation Bank to provide mitigation for their projects. As of January of this year, a total of 436.73 credits have been sold.

O-2

Approximately 1,125 acres of the Conservation Area has been mapped as waters of the State and 586.8 acres has been mapped as waters of the United States. The Conservation Area supports approximately 1,231 acres of Riversidian alluvial fan sage scrub (RAFSS), a State recognized rare vegetation community. Approximately 200 acres of this RAFSS habitat have been successfully restored. This plant community is associated with alluvial fans formed by ephemeral streams flowing from the coastal mountain ranges and supports a unique assemblage of plant species and wildlife.

Vulcan has recently undertaken a number of efforts in the Conservation Area. First, the 2017 amendment to the MOU that established the Conservation Area now recognizes approximately forty-five special status species as present or having a high potential to be present in the Conservation Area. The list of species includes the federal endangered San Bernardino kangaroo rat (SBKR); the state and federal endangered Santa Ana River woolly star (SARWS) and slender-horned spineflower; the federal threatened California gnatcatcher; numerous Species of Concern as designated by the State of California; and/or numerous species listed as rare by the California Native Plant Society. This newly adopted list added 21 species to the 24 species originally found to benefit from the establishment of the Conservation Area. The Conservation Area supports an extremely important suite of public trust resources.

O-3

In addition to recognizing the importance of the Conservation Area to numerous special status species, the 2017 amendment also now requires Vulcan to implement an adaptive management program, that includes not only activities to maintain the habitat values within the Conservation Area, but also to monitor those activities to determine their effectiveness. This update to the Conservation Area’s management plan provides that the area is being managed consistent with today’s conservation monitoring and adaptive management practices. New management activities include maintaining the majority of the habitat in the Conservation Area for SBKR and SARWS and restoring an island immediately downstream of the confluence of Cajon Creek and Lytle Creek Wash. Additional management techniques also have been added to the management toolbox, such as sheep grazing to remove non-native grasses.

O-4

Page 3

The 2017 amendment also includes an annual and periodic monitoring of habitat and sensitive species populations. To implement the monitoring plan, Vulcan is now flying the Conservation Area annually with a drone to document changes in channel patterns and plant communities. Vulcan also recently had the entire Conservation Area trapped for endangered San Bernardino kangaroo rat. This species was found throughout the Conservation Area in all phases of RAFSS. A survey has recently been completed for SARWS. Like SBKR, it was found throughout the Conservation Area.

Other efforts that have recently been undertaken include the following:

- San Bernardino kangaroo rat has recently been relocated in the Conservation Area from another project site. Working with the agencies and the project proponent, Vulcan agreed to accept approximately 300 individuals and undertook additional management efforts on their behalf. Monitoring completed to date is documenting success of this effort.
- Los Angeles pocket mouse (LAPM) has recently been relocated into the confluence of the Conservation Area from another project site. The relocation of LAPM into this area occurred in the Spring of 2018 and is to be monitored for five years.
- The Agencies and others have used the Area to collect information and/or undertake studies to better understand the Riversidian alluvial fan sage scrub community and the species it supports.

According to the dEIR, the maintenance projects have the potential to change the hydrology of the area and cause downstream erosion and the introduction of non-native invasive species. The document also notes that these activities can cause the generation of fugitive dust, increased turbidity downstream, increased human activity, and introduction of chemical pollutants. The document does not discuss the crushing of vegetation, including SARWS and/or burrows used by SBKR and other sensitive wildlife during the undertaking of these activities. Based on the document, Vulcan is concerned that the proposed maintenance activities have the potential to change and adversely impact the habitat values of the Conservation Area and possibly even precluding Vulcan from fulfilling its obligations under the MOU, as amended.

Because of the potential for significance impacts to the Conservation Area, including lands that have served as mitigation to offset impacts of other projects, Vulcan believes that for projects in Cajon Creek and Lytle Creek Wash the document must consider other means to achieve the desired results and complete a more thorough analysis of the maintenance activities proposed adjacent to the Conservation Area. This analysis should include the ability of the Conservation Area to sustain viable populations of the many special status species found there.

O-5

O-6

Page 4

In addition, Vulcan believes that for projects in Cajon Creek and Lytle Creek Wash the document must consider mitigation for the impacts of the project on Vulcan's relocatable easement mentioned in the first page of this letter. The viability of Vulcan's mining operations in the area depends on the continuous accessibility of its haul road between its San Bernardino and Cajon Creek facilities. Potential impacts on access must be analyzed and appropriate mitigation, to reduce those impacts to below a level of significance, must be adopted.

Vulcan is willing to work with you to achieve your needs and to protect this valuable natural resource area and to also protect Vulcan's access between its San Bernardino and Cajon Creek facilities by way of its haul road. We look forward to hearing from you regarding how you will address these concerns and requests. Should you have any questions regarding this letter, please contact me. I will be looking forward to your response.

Sincerely,



Michael Linton  
Vice President

Cc: U.S. Fish and Wildlife Service  
Ecological Services Branch  
777 Tahquitz Canyon Way, Suite 207  
Palm Springs, California. 92262  
Attn: Ken Corey, Karin Cleary-Rose, and Kai Palenscar

California Department of Fish and Wildlife  
Region VI – Inland Deserts  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, California. 91764  
Attn: Leslie McNair and Joanna Gibson

O-7

## Response to Comment Letter O

**Vulcan Materials Company, Western Division**  
**Michael Linton, Vice President, Properties and Land Development**  
**July 30, 2018**

- O-1** Thank you for your letter pursuant to the proposed program. This comment provides a description of the Vulcan Materials Company–Western Division (Vulcan) and the Cajon Creek Habitat Conservation and Management Area (Conservation Area). The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- O-2** This comment provides a description of the Conservation Area components. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- O-3** This comment provides a description of the 2017 amendment to the Memorandum of Understanding pertaining to special-status species recognized as being present or having potential to occur within the Conservation Area. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- O-4** This comment provides a description of the 2017 amendment pertaining to implementation of an adaptive management program within the Conservation Area. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- O-5** This comment provides a description of the 2017 amendment pertaining to annual and periodic monitoring of habitat and sensitive species populations within the Conservation Area. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.
- O-6** As described under Impact HYD-3 and Impact HYD-4 of the Draft EIR, the proposed program would not result in substantial erosion or substantially change the hydrology of the area. Potential effects to erosion and hydrology would be minimized through implementation of Standard Operating Procedure (SOP) HYD-1 through SOP-HYD-3. The potential introduction of chemical pollutants would be minimized through

implementation of SOP-HYD-4. Generation of fugitive dust, increased turbidity, and increased human activity are temporary impacts that would occur during periods of maintenance activity. As described in more detail below, these impacts would not be substantially different from existing conditions. Impacts to vegetation are discussed under Impact BIO-2 of the Draft EIR; potential impacts to special-status plants, including Santa Ana River woollystar (*Eriastrum densifolium* ssp. *sanctorum*), are discussed on pages 4.3-63 and 4.3-64 of the Draft EIR; and impacts to San Bernardino kangaroo rat (*Dipodomys merriami parvus*) are discussed on pages 4.3-43 and 4.3-44 of the Draft EIR.

Maintenance activities occurring adjacent to the Conservation Area primarily consist of maintenance of the access road along Lower Devore Levee and the Muscoy Groins, which occurs under existing conditions. Vegetation management is also planned along the Muscoy Groins, which also occurs under existing conditions. One maintenance activity is mapped as encroaching within the Conservation Area: vegetation management in accordance with federal guidelines (“federal maintenance”) along Lower Devore Levee and along Muscoy Groin No. 4. The federal maintenance layer was developed by using geographic information systems (GIS) to add a 15-foot buffer to the toe of the levee as visible on aerial photographs. As a result, this GIS layer is coarse in scale and does not represent actual on-the-ground impacts. While the District must fulfill its obligation for the maintenance of facilities under federal jurisdiction, it does not have the jurisdiction to conduct work on lands not under District ownership or easement. Maintenance activities, including those required by federal guidelines, would only occur within District ownership or easement.

The proposed program would not result in impacts, either directly or indirectly, to the Conservation Area. Additionally, as described in Response Q-18, the District is proposing to conduct mitigation for the proposed program adjacent to the Conservation Area, potentially further enhancing the Conservation Area.

- O-7** The proposed program is the formalization of current routine maintenance activities for the purpose of securing long-term permits. There would be no change as a result of the proposed program to Vulcan’s relocatable easement with the County for a haul road.

Comment Letter P



Santa Ana Regional Water Quality Control Board

July 31, 2018

Mr. Michael Perry, Supervising Planner
San Bernardino County Flood Control District
Environmental Management Division
825 East Third Street, Rm 123
San Bernardino, CA 92415-0835

Email: Michael.Perry@dpw.sbcounty.gov

DRAFT ENVIRONMENTAL IMPACT REPORT, SAN BERNARDINO COUNTY MASTER STORM WATER SYSTEM MAINTENANCE PROGRAM - SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS, FLOOD CONTROL DISTRICT, STATE CLEARINGHOUSE NO. 2014011063

Dear Mr. Perry:

Staff of the Regional Water Quality Control Board, Santa Ana Region (Regional Board) has reviewed the San Bernardino County Flood Control District's (County) Draft Environmental Impact Report (DEIR) for the San Bernardino County Master Storm Water System Maintenance Program (Project). The DEIR proposes a future program for comprehensive routine maintenance and operation activities and their permitting for County-managed facilities throughout San Bernardino County. Activities requiring countywide permits would cross portions of the jurisdictions of three Regional Water Quality Control Boards, including the Santa Ana Region. The DEIR proposes a program of "resource-agency permits" active over a period of 20 years<sup>1</sup>.

Regional Board staff recommends that the following comments be addressed in the Project's Final Environmental Impact Report in order to protect water quality standards (water quality objectives, beneficial uses, and antidegradation policy) as defined in the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan):

- 1. Regional Board staff understands that, according to the proposed program, new construction at a flood-control facility would still require an individual Clean Water Act (CWA) section 401 Water Quality Certification (Certification) for impacts to waters of the U.S., if an operational expansion were to occur outside of that facility's existing footprint. Further, the DEIR discusses (pp.3-18- and 3-19) sites for which Certifications and CWA section 404 Permits have not been obtained and where impacts to waters of the U.S. would occur for the first time. Regional Board staff believes that any proposed activities within waters of the U.S. and not previously permitted under the CWA would require

P-1

<sup>1</sup> PP.3-19, 4.8 to 4-46, and throughout the document

(footnote continued on next page)

WILLIAM RUH, CHAIR | HOPE A. SMYTHE, EXECUTIVE OFFICER

3137 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santana



Mr. Michael Perry

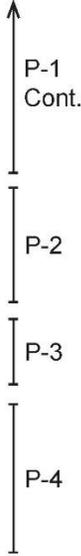
- 2 -

July 31, 2018

separate approvals.<sup>2</sup> These activities could later be integrated into routine maintenance and operations and be renewed with others into a conceptual general Certification.

Of the routine maintenance operations described in three classifications (ground-disturbing activities, non-ground-disturbing vegetation management, and non-ground-disturbing activities) the extent of the more intensive ground-disturbing activities (including excavation, DEIR p.4-3) should be consistent with the standard of restoring facilities to a "maintenance baseline condition" of as-built structures and dimensions.<sup>3</sup>

- 2. We disagree with the stipulation in Section 5.2.9.5. that the impact from depriving downstream waters of sediment is not significant. Waters downstream of the facilities continue to be impacted by the reduction of sediment inputs from the operation and maintenance of San Bernardino County basins. The release of sediment-starved water from basins increases downstream erosion and related Hydraulic Conditions of Concern.
- 3. Wetlands are not discussed separately in Mitigation Measure MM-BIO-18. Mitigation for wetland impacts should comply with the State Wetland Conservation Policy (1993 Executive Order) requiring no net loss of wetlands.
- 4. Pre-Activity Notification (Appendix A). The two-week time frame suggested does not allow long-term planning of facility maintenance or coordination with regulatory agencies. A plan for needed maintenance submitted at the beginning of the calendar or fiscal year would allow County staff to plan around the Limited Operating Periods and provide needed pre-activity notification to the various regulatory agencies involved. Additionally, having a work plan would allow for the procurement of compensatory mitigation prior to maintenance activities.



If you have any questions, please contact Glenn Robertson at (951) 782-3259 or [Glenn.Robertson@waterboards.ca.gov](mailto:Glenn.Robertson@waterboards.ca.gov), or me at (951) 782-4995 or [Terri.Reeder@waterboards.ca.gov](mailto:Terri.Reeder@waterboards.ca.gov).

Sincerely,

Terri S. Reeder, PG, CEG, CHG  
Supervisor, Coastal Waters Planning and CEQA Section

<sup>2</sup> Examples are the Cucamonga Basins in Upland and the Lenwood Channel/ Spreading Grounds near Barstow (Lahontan Region) (pp.3-18 and 3-19). The latter example has no permit at all, and DEIR p.3-19 indicates that "due to the size of the Lenwood facilities, the extent of maintenance required, and nature of the scope of work, which combines maintenance with new construction elements, it was decided that that these facilities would receive individual CEQA clearances and be permitted under separate environmental processes."

<sup>3</sup> Refer to the June 2018 State Water Resources Control Board's "General Water Quality Certification and Order for Routine Channel and Flood Control Maintenance Activities for the Riverside County Flood Control & Water Conservation District."

Mr. Michael Perry

- 3 -

July 31, 2018

CC:

Shannon Pankratz, U.S. Army Corps of Engineers, Los Angeles Office – [shannon.l.pankratz@usace.army.mil](mailto:shannon.l.pankratz@usace.army.mil)

Karin Cleary-Rose, U.S. Fish and Wildlife Service, Palm Springs Office- [karin\\_cleary-rose@fws.gov](mailto:karin_cleary-rose@fws.gov)

Jeff Brandt, California Department of Fish and Wildlife, Ontario - [jeff.brandt@wildlife.ca.gov](mailto:jeff.brandt@wildlife.ca.gov)

Claire Ingel, California Department of Fish and Wildlife, Ontario – [claire.ingel@wildlife.ca.gov](mailto:claire.ingel@wildlife.ca.gov)

Alexander Lopez, State Water Resources Control Board Division of Water Quality –  
[Alexander.Lopez@waterboards.ca.gov](mailto:Alexander.Lopez@waterboards.ca.gov)

Jan Zimmerman, Regional Water Quality Control Board, Lahontan Region, Victorville –  
[Jan.Zimmerman@waterboards.ca.gov](mailto:Jan.Zimmerman@waterboards.ca.gov)

[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)

Drive H: Grobertson/Data/CEQA/CEQA Responses/San Bernardino County/DEIR–SB Co Flood Control Dist – Proposed Operations and Maintenance Program 2018.docx

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## Response to Comment Letter P

**Santa Ana Regional Water Quality Control Board**  
**Terri S. Reeder, PG, CEG, CHG, Supervisor,**  
**Coastal Waters Planning and CEQA Section**  
**July 31, 2018**

- P-1** Thank you for your letter pursuant to the proposed program. The proposed program does not include expansion of facilities outside of the facility's existing footprint. The pages of the Draft EIR referenced by the commenter (pages 3-18 and 3-19) describe the local overlapping permitting processes (LOPPs). These LOPPs are in the process of obtaining separate approvals. Long-term maintenance of these facilities, if approved, is included in the proposed program. As described in Section 1.3, Program Objectives, of the Draft EIR, one of the proposed program's objectives is to maintain facilities in such a way as to allow existing facilities or structures to function at the current/designed capacity.
- P-2** The proposed program does not include construction of new facilities or the expansion of existing facilities. Routine maintenance of existing facilities would maintain their current function and would not result in a substantial change in sediment transport compared to existing conditions. As discussed in Section 5.2.9.5 of the Draft EIR, maintenance of basins would have beneficial erosion-related impacts because the increased hydraulic capacity of the basins would reduce the potential for downstream erosive scour. Basins are maintained under existing conditions, and long-term permits for routine maintenance would result in only an incremental increase in sediment removal.
- P-3** The proposed program would not result in permanent impacts to wetland waters of the United States (please see Tables 4.3-38, 4.3-42, and 4.3-46 of the Draft EIR); therefore, the proposed program is consistent with the no net loss of wetlands policy.
- P-4** The 2-week pre-activity notification described in Appendix A, Maintenance Plan, of the Draft EIR (also included in this Final EIR as Appendix A) refers to notification between District Operations staff and County Environmental Management Division staff. The District agrees that an annual plan of work would be beneficial and has added this provision to the Maintenance Plan (see Appendix A to this Final EIR). The comment regarding unforeseen and urgent maintenance is noted.

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Comment Letter Q



State of California - Natural Resources Agency  
CDFW OF FISH AND WILDLIFE  
Inland Deserts Region  
3602 Inland Empire Blvd., Suite C-220  
Ontario, CA 91764  
(909) 484-0459  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

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



August 6, 2018

Mr. Michael Perry  
San Bernardino County Flood Control District  
825 East Third Street  
San Bernardino, CA 92415

Subject: Draft Environmental Impact Report  
San Bernardino County Master Stormwater System Maintenance Project  
State Clearinghouse No. 2014061100

Dear Mr. Perry:

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the San Bernardino County Master Stormwater System Maintenance Project (project) [State Clearinghouse No. 2014061100]. CDFW appreciates your willingness to accept these comments after the State Clearinghouse review period. CDFW is responding to the DEIR as a Trustee Agency for fish and wildlife resources (California Fish and Game Code Sections 711.7 and 1802, and the California Environmental Quality Act [CEQA] Guidelines Section 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 *et seq.*) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code Sections 2080 and 2080.1).

**PROJECT DESCRIPTION**

The proposed project includes routine operations and maintenance of approximately 500 flood control facilities within 20,105 square miles of San Bernardino County. The District's flood control responsibilities include debris/detention basins, dams, channels, natural drainages, spreading grounds, levees, and storm drains within portions of the Santa Ana River and its tributaries, the Mojave River and its tributaries, portions of the Lower Colorado River, and many smaller desert watersheds that drain into isolated basins. District facilities are located both in unincorporated lands in San Bernardino County and in portions of 24 incorporated cities and towns in the County. The project includes the preparation and implementation of a Maintenance Plan (described in Appendix A) that incorporates standard operating procedures, compliance tracking, and annual reporting for routine maintenance of facilities. The Maintenance Plan outlines systemwide maintenance activities and outlines annual regulatory agency notification

Q-1

*Conserving California's Wildlife Since 1870*

Draft Environmental Impact Report  
San Bernardino County Master Stormwater System Maintenance Project  
SCH No. 2014061100  
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and permit compliance processes that will be developed to notify agencies of upcoming maintenance activities. The intent of this project is for the District to implement a streamlined maintenance process so the facilities can function at their current/designated capacity. Activities include sediment removal, mechanized land clearing, vegetation management, repair of structures, stockpiling material, sand and gravel operations, vector control, application of herbicide, and rodent management.

**COMMENTS AND RECOMMENDATIONS**

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (i.e., biological resources); and administers the Natural Community Conservation Planning Program (NCCP Program). CDFW offers the comments and recommendations presented below to assist the San Bernardino County Flood Control District (District; the CEQA lead agency) in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources. CDFW has concerns regarding the sufficiency and completeness of the DEIR. CDFW requests that the Biological Resources and Hydrology and Water Quality sections of the Environmental Impact Analysis be revised (an in-depth discussion follows below).

**Special Status Species and Communities**

The proposed project will result in impacts to habitats that support native species. To avoid direct mortality, CDFW recommends that the lead agency condition the EIR to require that a CDFW-approved qualified biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm's way special status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to avoid project impact (i.e., CDFW does not recommend relocation to other areas). Please note that temporary relocation of onsite wildlife does not constitute mitigation for the purposes of offsetting project impacts associated with habitat loss and CDFW generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species as studies have shown that these efforts are experimental in nature and largely unsuccessful.

*Nesting Birds*

Section 1.2.2 of the Biological Technical Report states that "Depending on specific location and weather patterns, nesting season is generally January 15 through August 31. For areas with sensitive biological resources, the District avoids conducting maintenance during nesting season if practicable. For all facilities, the District applies



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San Bernardino County Master Stormwater System Maintenance Project  
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avoidance measures during the nesting season to ensure compliance with regulations protecting nesting birds." CDFW recommends the EIR require nesting bird surveys for species of special concern regardless of time of year, include the results of any avian surveys conducted, and include avoidance and minimization measures for species of special concern, such as training for District staff and contractors to avoid nesting birds while engaged in project activities; project phasing and timing, monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate. CDFW recommends surveys be conducted no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner. Additionally, CDFW recommends inclusion of measures to be implemented should a nest be located within the project site.

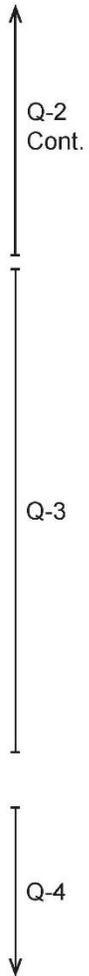
*Burrowing owl*

Based on CDFW local biological knowledge of the project area, and review of California Natural Diversity Database, some portions of the project area have a high potential to support both nesting and foraging habitat for burrowing owl (*Athene cunicularia*), a California Species of Special Concern. As such, CDFW recommends the EIR include recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation (Staff Report) (Department of Fish and Game, March 2012); available for download from the CDFW website at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocols>

The Staff Report guides that project impact evaluations include a habitat assessment, surveys, and an impact assessment. As stated in the Staff Report, three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform subsequent avoidance, minimization, and mitigation measures. Habitat assessments should be conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of the project

*Bats*

SOP-BIO-7 states that "maintenance activities in suitable bat roost habitat, including bridges and mature riparian forests and woodlands, occur outside the bat maternity season (generally between April 1 and July 31)." In order to provide a more complete description of the baseline conditions, CDFW recommends that the District complete a bat habitat assessment of all suitable roosting structures/locations within and adjacent to the project area, during the appropriate time of year. CDFW further recommends that the assessment be completed by a bat biologist experienced in the ecology of bats



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using both natural and man-made structures. If bats are detected within the project area the EIR should include appropriate avoidance, minimization, and/or mitigation measures to address potential impacts, including considerations of vegetation removal and noise minimization.

*Desert Kit Fox*

CDFW recommends the Applicant complete pre-construction surveys to confirm that desert kit foxes or their burrows are not found on site. Biological Monitors should conduct the pre-construction surveys for desert kit fox and American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys should also address the potential presence of active dens within 100 feet of the project boundary (including utility corridors and access roads). If dens are detected, each den should be classified as inactive, potentially active, or definitely active den and a report should be submitted to CDFW for review and approval prior to collapsing a den. Desert kit fox is a protected species as a fur-bearing mammal pursuant to Title 14 of the California Code of Regulations Section 460.

*Mohave Ground Squirrel*

In the DEIR, the Proposed Mitigation Ratios and Estimated Mitigation Acreage for Mohave Ground Squirrel Table is inconsistent with the MM-BIO-12 Mitigation for Mohave Ground Squirrel. The table indicates that a mitigation ratio of 1:1 for good quality habitat and 1.5:1 for excellent quality habitat are the preferred ratios, however MM-BIO-12 states that a mitigation ratio of 2:1 for good quality habitat and 3:1 for excellent quality habitat will be used to determine compensatory mitigation. CDFW requests clarification regarding the differing mitigation ratios, and how the proposed mitigation adequately mitigates the project's impacts on biological resources. Mitigation should consider both the habitat quality of the impacted site and the habitat quality of the conserved site. CDFW recommends the EIR require a 3:1 ratio when the habitat quality of both impact and mitigation sites are similar.

*Desert Tortoise*

CDFW requests additional explanation regarding how the desert tortoise habitat quality was determined. CDFW requests a map of the facilities with a delineation of habitat indicating which portions are considered "high" quality and "moderate" quality, and a description of how this determination was made. Determination of compensatory mitigation should be informed by variables including, but not limited to, habitat type, habitat quality, and species presence. CDFW recommends inclusion of this analysis in the CEQA document. A Translocation Plan should be submitted as part of a CESA Incidental Take Permit (ITP) application. The Translocation Plan should include a summary of the procedures that the Authorized Biologist must follow when tortoises are



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observed and need to be relocated. The Authorized Biologist should use a CDFW-approved protocol and the approved Translocation Plan.

*Santa Ana Sucker*

Hydrological modifications within the Santa Ana River have led to the degradation and loss of habitat for a multitude of species, including the federally threatened Santa Ana sucker (*Catostomus santaanae*). The species is endemic to the Los Angeles, San Gabriel, and Santa Ana Rivers, and one third of the species range occurs within the Santa Ana River. The United States Fish and Wildlife Service (USFWS) ruling (2000, pp. 19687-19688) stated that approximately 70 percent of the Santa Ana sucker's historical range has been lost in the Santa Ana River watershed. Furthermore, because of past, current, and future proposed hydrological modifications, impassable barriers, limited availability of suitable in-stream habitat, dependency on tertiary-treated water, and jeopardy from inconsistent flows associated with the maintenance of the water treatment facilities, the Santa Ana River population of Santa Ana sucker is at risk of extirpation.

Page 4.3-51 in the Biological Resources section of the DEIR states:

"The District has been conducting maintenance removal, including sediment removal, throughout the Santa Ana River system periodically since the establishment of the District in 1939, and suitable spawning habitat currently occurs downstream of Rialto Channel; therefore, it is reasonable to conclude that current sediment-removal practices are not negatively impacting spawning habitat. By way of example, emergency maintenance work was conducted by the District in the Santa Ana River in November of 2015 in anticipation of El Niño storms. Approximately 175,000 cubic yards of sediment was removed from the Santa Ana River. The U.S. Geological Survey conducted population studies of the Santa Ana sucker in 2015 and 2016 (Wulff et al. 2017a, 2017b). These studies show that the number of Santa Ana sucker increased between 2015 and 2016, and that the gravel/cobble substrate condition was improved in the January 2016 sample when compared with the January 2015 sample. Although multiple factors affect fish populations and habitat conditions, the sediment removal conducted in November 2015 did not negatively affect the downstream habitat, as indicated by improved habitat conditions in January 2016. Additionally, the amount of material removed as a result of maintenance activities would be limited to the facility's maintenance baseline for flood control purposes; sediment would remain within the channels and be available for transport downstream to sucker spawning areas during suitable flow conditions.

Further, accumulation of sand over downstream gravel and cobble may negatively impact otherwise suitable spawning habitat; therefore, the removal of accumulated sediment upstream may have a benefit to the Santa Ana sucker habitat downstream. Due to the relatively small amount of sediment removal when compared to the overall system, combined with the fact that sediment removal practices have not negatively affected Santa Ana sucker habitat and may slightly improve the habitat, indirect impacts to downstream reaches occupied by Santa Ana sucker would be less than significant."

The DEIR does not provide adequate information to assess this statement and whether impacts from sediment removal will be offset to a less than significant level. It appears

↑ Q-7  
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Q-8  
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the District is assuming an improvement in Santa Ana sucker habitat due to sediment removal activities based on a single correlating event, and without additional evidence demonstrating causation. The statement also implies that ongoing sediment removal has no negative impact on sustaining Santa Ana sucker habitat without providing a comparison of pre-project condition. CDFW recommends that the analysis of impacts for the Santa Ana sucker be amended in the document to include measurable data and associated conclusions regarding the effects of historic and ongoing sediment removal on Santa Ana sucker habitat. CDFW also recommends the District develop a species specific strategy to mitigate the project's impacts on the Santa Ana sucker. The mitigation strategy could include elements such as: implementing a maintenance schedule that requires work at the least environmentally damaging times; recontouring outlets and stream confluences to enhance the habitat; developing and implementing a predator management plan; filling plunge pools at select sites to prevent colonization by predators; placing rock and cobble at select sites; and securing and conserving suitable habitat.

*Special Status Plants*

CDFW disagrees that the District has provided sufficient information to determine that impacts to special status plants will be mitigated to a less than significant level. MM-BIO-3 states "In cases where significant impacts to special-status plant species cannot be avoided during implementation of SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys and Avoidance), the following mitigation shall be implemented. For species federally and/or state listed as threatened or endangered, prior to maintenance activities that would occur within occupied habitat and that may affect the respective species, a mitigation and monitoring plan shall be submitted to and approved by USFWS (for federally listed plants) and/or the California Department of Fish and Wildlife (CDFW) (for state-listed plants)." Because specific and enforceable mitigation is not being proposed, and is dependent on the outcome of future surveys, CDFW is concerned that appropriate mitigation measures are being deferred to future regulatory discretionary actions, such as a CESA ITP and/or a Lake and Streambed Alteration (LSA) Agreement. CDFW does not believe the measure mitigates the impact to a level of less than significant and recommends the development and inclusion of mitigation measures that describes the habitat acres and type, land management including enhancement, and funding for mitigation that would be established for impacts to listed plant species.

CDFW recommends that the District conduct focused surveys for sensitive plant species in order to adequately identify and describe impacts, and recommends that a CESA ITP be obtained if the project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species. For CDFW to rely on the EIR for issuance of a CESA ITP, the project CEQA document must address impacts to listed species and specify a mitigation monitoring and reporting program. To facilitate future permitting requirements, CDFW also recommends the



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mitigation measures be modified to require floristic-based assessments of special status plants and natural communities that follow the CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see <https://www.wildlife.ca.gov/Conservation/Plants>).

*Special-Status Vegetation Communities*

Page 4.3-107 of the DEIR states that "ground-disturbing vegetation management is considered a permanent impact to desert dry wash woodland, desert dunes, desert sink scrub, Joshua tree woodland, riparian forest and woodland, and Sonoran and Mojavean desert scrub communities because these vegetation communities are not likely to passively revegetate within 3 years." The proposed mitigation for these permanent impacts is replacement at a 1:1 ratio. Additionally, impacts to other special-status vegetation communities in the valley, mountain and desert areas are proposed to be mitigated at a 1:1 ratio or "as otherwise required in applicable resource agency permits".

Replacement of habitat at a 1:1 ratio typically leads directly to a 50% reduction in habitat. These communities provide high quality habitat for fish and wildlife and are geographically limited. CDFW has concerns the EIR proposed mitigation ratio of 1:1 may not mitigate the impact to a level of less than significant. Mitigation should consider geographic distribution of the community and both the habitat quality of the impacted site and the habitat quality of the conserved site. CDFW recommends the EIR require a 3:1 ratio when the habitat quality of both impact and mitigation sites are similar. CDFW also recommends the EIR require on-site enhancement, such as measures to reduce or remediate human-caused disturbance and improve conditions for native vegetation, which would bolster a conclusion the impacts are mitigated to a level of less than significant. CDFW supports the contents described for the final mitigation plan to be developed for special-status vegetation communities and recommends the final mitigation plan is provided to CDFW for review and approval.

**Lake and Streambed Alteration Program**

*CEQA Compliance and Impact Assessment*

CDFW has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to CDFW pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, CDFW then determines whether an LSA Agreement is required. CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the environmental document should fully identify the potential impacts to the lake, stream or



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riparian resources and provide adequate avoidance, mitigation, and monitoring and reporting commitments.

Section 2.2.1 of the DEIR states that "currently ongoing and future unidentified maintenance activities associated with the proposed program are included". CDFW requests clarification and recommends disclosure of the District's definition of "unidentified maintenance activities." Please note that all activities proposed in areas pursuant to Fish and Game Code section 1602 should be identified and described in the EIR to facilitate CDFW's reliance on the CEQA document for issuance of any LSA Agreement or other responsible agency discretionary action.

*Repetitive Maintenance Actions*

CDFW recommends revising the analysis of impacts to disclose the temporal and cumulative impacts associated with repetitive maintenance actions and repetitive emergency work. Areas subject to repetitive work are often unable to support the habitat that would otherwise occur at the location in the absence of project activities. These activities therefore cause impacts by precluding the development of habitat and presence of species of special concern. The EIR should evaluate the potential of areas subject to project activities to support species of special concern and their habitat and should provide mitigation for those activities that reduce or eliminate the development of habitat. CDFW advises that in the absence of mitigation for repetitive activities, impacts resulting from those activities are not mitigated to a level of less than significant. CDFW requests that the District clarify (with descriptions and maps) all areas that were and are expected to be subject to repetitive work, describe how the impacts are to be mitigated, and ensure the impacts are included in the Local Overlapping Permit Processes sections of the EIR and Maintenance Plan

*El Niño Maintenance Area*

Appendix A: Maintenance Plan, page 14 notes that "the District determined that a portion of the Santa Ana River needed to be maintained to restore capacity and prevent any flooding that could occur in the surrounding areas as a result of this projected weather condition." The description does not address facilities outside of the mainstem of the Santa Ana River that were subjected to maintenance activities in preparation for the potential El Niño activities. The maintenance activities resulted in impacts to streambed resources within at least 36 additional facilities. Known impacts to facilities maintained in preparation for El Niño exceed 346 acres, with the majority of impacts occurring in riparian vegetation. The District has committed to CDFW to mitigate for these previous impacts. The EIR should identify these mitigation areas, implement operational measures to avoid impacts to these areas, and should not locate new mitigation associated with EIR activities in these mitigation areas. CDFW requests that the District clarify (with descriptions and maps) all areas that were maintained in preparation for El Niño, describe how all impacts are to be mitigated, and ensure that



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impacts and mitigation are appropriately described in the Local Overlapping Permit Processes sections of the EIR and Maintenance Plan.

**Hydrology**

Where a project has the potential to affect the hydrologic regime and sediment transport of a watershed, the CEQA document should identify and discuss the necessary elements and/or processes required to successfully maintain downstream biological diversity in order to minimize downstream impacts. CDFW recommends inclusion of at minimum the following items in order to adequately evaluate the proposed maintenance alternative and clarify the maintenance activities proposed for each facility:

1. A systemwide hydraulic analysis and hydrological model used to inform maintenance needs. Section 1.2 of the Executive Summary states that hydraulic modeling was conducted for key waterways, but the information is not included in the DEIR;
2. A systemwide sediment transport study, detailing impacts of maintenance activities on downstream resources. The District has analyzed sediment removal as a temporary impact; however analysis of the cumulative impacts have not been included in the DEIR.

The analyses should be able to accommodate likely foreseeable changes as facilities receive additional inputs. CDFW recommends revising the impacts assessment of the Environmental Checklist as necessary for Section 4.3 (Biological Resources) and Section 4.8 (Hydrology and Water Quality) to include the summary of this additional information, and provide the analyses in an appendix to the EIR.

**Mitigation Measures**

The CEQA document should not defer mitigation measures to future regulatory discretionary actions, such as a CESA ITP or LSA Agreement. The EIR should state each threshold and include a factually based explanation as to why project impacts will result in no effect or effects that are less than significant, less than significant with mitigation, or significant with feasible mitigation. While the impacts analyses of some species and habitat types contain a description of the mitigation ratios and total mitigation acreage, others defer mitigation to future regulatory actions. Furthermore, the mitigation type and mechanism for long-term management and funding are not identified. CDFW is concerned that some mitigation measures are incomplete, and therefore insufficient to make the determination that project impacts will be mitigated to a level of less than significant, and that appropriate mitigation measures are being deferred to future regulatory discretionary actions, such as a CESA ITP and an LSA Agreement.

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Q-14

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Compensatory mitigation is still outstanding for several previous projects, and the EIR should disclose the outstanding mitigation in relation to proposed compensatory mitigation for this project. Inclusion of specific and enforceable compensatory mitigation for potential impacts in the EIR, will bolster the substantial evidence that impacts are adequately disclosed and mitigated and will allow CDFW to be able to rely on the CEQA document for the issuance of an LSA Agreement or CESA ITP.

CDFW therefore recommends that the EIR include an in-depth discussion of proposed mitigation areas. CDFW recommends that potential mitigation locations be identified and long-term conservation mechanisms and funding be thoroughly described, and areas proposed for compensatory mitigation are evaluated in the context of habitat type, habitat quality, availability, and suitability. The discussion should include information on the following: how the areas will be conserved (e.g., conservation easement); whether long-term management funds will be made available for the areas; whether the areas will include any man-made slopes, flood control structures or roads; if any portion of the area will require flood control operations or maintenance; if the area will be fenced and signed; the likelihood of enforcement or other mechanisms required to prevent trespassing and habitat degradation; and vector control and fuel modification activities in relation to the proposed mitigation areas.

**Further Coordination**

CDFW appreciates the opportunity to comment on the DEIR for the San Bernardino County Master Stormwater System Maintenance Project (SCH No. 2014061100). CDFW requests that the DEIR be revised to address our comments and concerns prior to certification. If you should have any questions pertaining to the comments provided in this letter, please contact Claire Ingel at (909) 484-3979 or at Claire.Ingel@wildlife.ca.gov.

Sincerely,



Scott Wilson  
Environmental Program Manager  
Inland Deserts Region

Cc: State Clearinghouse, Sacramento

References

[USFWS] U.S. Fish and Wildlife Service. 2000. 65 FR 19686. Endangered and threatened wildlife and plants; threatened status for the Santa Ana sucker. Federal Register 65: 19686-19698.

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Q-15  
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Q-16

## Response to Comment Letter Q

California Department of Fish and Wildlife  
Scott Wilson, Environmental Program Manager, Inland Deserts Region  
August 6, 2018

**Q-1** Thank you for your letter pursuant to the proposed program. This comment summarizes the program description and the jurisdiction and role of the California Department of Fish and Wildlife (CDFW). The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

**Q-2** The District implements Standard Operating Procedure (SOP) BIO-1 through SOP-BIO-15 to avoid and minimize impacts to special-status species. When there is a potential for special-status species to be present, a qualified biologist conducts a pre-activity survey and monitors maintenance activities as needed to avoid harm to special-status species, including moving wildlife out of harm's way as appropriate. This standard practice has been clarified in SOP-BIO-15 (please see Chapter 3, Changes to the Draft EIR, in this Final EIR). The District acknowledges that movement of wildlife out of harm's way does not constitute mitigation for the purposes of offsetting project impacts. Further, clarification has been added to Mitigation Measure (MM) BIO-3 regarding alternative options for mitigation for special-status plants in addition to transplantation (see Chapter 3 in this Final EIR).

The District implements nesting bird avoidance measures in accordance with the CDFW-approved Nesting Bird and Burrowing Owl Management Plan (provided in Appendix C to Appendix A, Maintenance Plan, of the Draft EIR (also included in this Final EIR as Appendix A)). This plan includes surveys to be conducted no more than 3 days prior to maintenance activities. The plan also includes avoidance measures should a nest be found, which are summarized in SOP-BIO-5. Avoidance measures described in the plan include implementing an appropriate buffer, avoidance of the nest, communication with District operations staff regarding the nest, and monitoring maintenance activity to ensure that activities are not disturbing the nest.

**Q-3** As stated by the commenter, burrowing owl (*Athene cunicularia*) is known to occur within the program area. Habitat assessments and focused surveys are conducted to confirm presence/absence of the species prior to impacting its habitat and to inform mitigation for loss of habitat. Maintenance activities implemented under the proposed program would not permanently remove burrowing owl habitat. In fact, as discussed on page 4.3-52 of the Draft EIR, maintenance activities could result in a positive impact

to burrowing owl breeding and foraging habitat due to the reduction in vegetation density and height. Maintenance activities could result in direct impacts to burrowing owls if they are present during maintenance of a site. The potential for burrowing owl to occupy a facility changes over time as suitable burrowing owl burrows are filled and created through natural processes; therefore, the presence/absence of burrowing owls is best assessed prior to maintenance of a facility. In accordance with the CDFW-approved Nesting Bird and Burrowing Owl Management Plan and as described in SOP-BIO-6, if burrowing owls are present they will be avoided through establishment of an activity-free buffer zone, eviction, and/or creation of permanent artificial burrows. These measures are consistent with the California Department of Fish and Game's 2012 Staff Report on Burrowing Owl Mitigation.

- Q-4** The goal of the proposed program is to obtain long-term (20-year) permits for routine maintenance activities. Maintenance at each facility would occur, on average, every 3 years, with some facilities being maintained less frequently and others more frequently. A baseline survey conducted several years in advance of maintenance activities occurring at a particular facility would not confirm the presence/absence of a bat roost at that facility at the time of the maintenance activity. Additionally, the proposed program would not result in permanent loss of bat roost sites, because the proposed program is for routine maintenance and would not involve removal or replacement of culverts or bridges. Removal of riparian woodland would occur outside the maternity roosting season. Maternity roosts present within the program area would be avoided during maternity season as described in SOP-BIO-7. SOP-BIO-7 has been clarified to indicate that a qualified biologist would conduct pre-activity surveys and implement avoidance measures if needed (see Chapter 3 of this Final EIR).
- Q-5** Pre-activity surveys are required to be routinely conducted by the District prior to implementing maintenance activities. This has been clarified in SOP-BIO-15, Worker Environmental Awareness Program. Additionally, clarification has been added that desert kit fox ("kit fox" in the Draft EIR; *Vulpes macrotis*) dens will be classified as inactive, potentially active, or definitely active and coordination undertaken with CDFW prior to collapsing a den (see Chapter 3 of this Final EIR).
- Q-6** The District has provided clarification in Chapter 3 of this Final EIR that the mitigation ratios are intended to be 1:1 for good-quality habitat and 1.5:1 for excellent-quality habitat for the Mohave ground squirrel. The District acknowledges that 3:1 is the mitigation ratio often applied for impacts from new development projects; however, the proposed program is the formalization of current maintenance activities that have been ongoing since the inception of the District. The Draft EIR acknowledges that vegetation communities may be permanently altered as a result of these activities;

therefore, the proposed program would mitigate for these impacts. However, habitat for Mohave ground squirrel (*Spermophilus (Xerospermophilus) mohavensis*) is not being permanently developed and will remain with continuation of routine maintenance activities under the proposed program. Substrate would not be altered with continuation of routine maintenance activities and Mohave ground squirrel would continue to have the ability to cross through facilities and use burrows. Because habitat would not be permanently lost, the District determined that 1:1 and 1.5:1 mitigation ratios for good-quality habitat and excellent-quality habitat, respectively, would fully mitigate for impacts resulting from routine maintenance activities.

**Q-7** The methodology for determining habitat suitability and quality for desert tortoise (*Gopherus agassizii*) is provided in Appendix A, Take Implementation Report, to Appendix E, Biological Technical Report, of the Draft EIR (also included in this Final EIR as Appendix C). The methods for assessing suitable habitat in the Take Implementation Report were developed in consultation with CDFW and the methodology for assessing suitability for desert tortoise approved by CDFW (Jones, pers. comm. 2015). In summary, the desert tortoise suitability assessment was completed through a review of suitable vegetation communities as mapped for the proposed program combined with habitat assessment data maintained by the District. The District has compiled data regarding the suitability of each facility for desert tortoise based on more than a decade of desert tortoise monitoring within its facilities. The raw data for desert tortoise habitat suitability and quality is provided as Appendix E to the Take Implementation Report.

The District acknowledges that a Translocation Plan should be submitted as part of a California Endangered Species Act (CESA) Incidental Take Permit (ITP) and that the Translocation Plan will include a summary of the procedures that the Authorized Biologist must follow when tortoises are observed and need to be relocated. An Authorized Biologist will use a CDFW-approved protocol and approved Translocation Plan. As described in MM-BIO-13, all conditions of the CESA ITP shall be incorporated into the Maintenance Plan for implementation.

**Q-8** The District acknowledges CDFW's concerns regarding downstream Santa Ana sucker (*Catostomus santaanae*) habitat. The Draft EIR used the proper baseline—existing conditions—for analyzing the impacts of the proposed program on the Santa Ana sucker. As described in Thematic Response TH-1 (see Section 2.2, Thematic Responses), the proposed program is the formalization and consolidation of existing routine maintenance activities for the purpose of obtaining long-term permits. The proposed program does not include altering the capacity of existing facilities and continues existing, ongoing routine maintenance practices on facilities that the District

has been managing since 1939. Routine maintenance is conducted to maintain the baseline/existing conditions of each facility. Based on this analysis, the Draft EIR concludes that the proposed program would not result in substantial changes to the sediment transport of the Santa Ana River as compared to existing conditions.

With respect to developing avoidance, minimization, and mitigation measures, the District avoids working in facilities when they are wet, as described in SOP-HYD-1 (pages 4.8-29 and 4.8-30 of the Draft EIR), and implements native fish avoidance measures when needed, as described in SOP-BIO-4 (page 4.3-32 of the Draft EIR). The proposed program does not include maintenance activities within suitable habitat for Santa Ana sucker; therefore, incorporating activities to enhance habitat for Santa Ana sucker is not applicable.

**Q-9** The Draft EIR does not defer mitigation to future regulatory discretionary actions. Due to the scope of the program as a County-wide plan, it is appropriate for the District to determine to mitigate impacts on a site-specific basis by means of the evaluation process as described in the Maintenance Plan and depicted on Figure 2-1 of Thematic Response TH-2. These mitigation measures are proper for a Program EIR and provide adequate minimum standards and regulatory authority for implementation. Accordingly, the Draft EIR does not leave the success of these mitigation measures to unformulated plans and executive discretion to implement the plans; therefore, there is no improper deferred mitigation.

As part of standard avoidance and minimization practices, the District has been conducting focused surveys for special-status plants when conducting routine maintenance activities. The results of surveys conducted within facilities from 2000 to 2015 were compiled in a geodatabase and these data were used in the Draft EIR impact analysis. Additionally, the District conducted focused surveys within the program area in 2017. The results of these surveys are provided as Appendix D to this Final EIR. Three special-status plants, Santa Ana River woollystar (*Eriastrum densifolium* ssp. *sanctorum*), Parry's spineflower (*Chorizanthe parryi* var. *parryi*), and white-bracted spineflower (*Chorizanthe xanti* var. *leucotheca*), were observed in the Valley Region during the 2017 surveys. The potential for these species to occur is described on page 4.3-15 of the Draft EIR. One special-status plant species, Latimer's woodland-gilia (*Saltugilia latimeri*), was observed in the Desert Region during the 2017 surveys. The potential for this species to occur is described on page 4.3-29 of the Draft EIR. The District avoids special-status resources as practicable; therefore, a facility-level impact analysis is conducted prior to implementing maintenance activities, which takes into account current conditions. The mapping of maintenance layers prepared for the program is on a broader scale and generally results in an overestimate of potential

impacts due to the scale of the mapping. However, the potential for maintenance activities to impact Santa Ana River woollystar, the only state- or federally listed plant species documented during the 2017 focused surveys, is summarized in Table 2.3-1.

**Table 2.3-1  
Santa Ana River Woollystar Potentially Impacted by Program Activities**

Facility Name (Number)	No. of Plants Impacted	No. of Plants Outside of Mapped Maintenance Activities	No. of Plants Within Mapped Maintenance Activities That May Be Avoided	Notes
Island Levee (2-207-5A)	—	—	14	These plants are within the federal maintenance layer and would be avoided as practicable.
Lower Devore Levee (2-208-5B)	—	—	8	These plants are within the federal maintenance layer and would be avoided as practicable.
	—	8	—	These plants are outside of mapped maintenance activities and would be avoided.
	—	—	4	These plants are within the federal maintenance layer and would be avoided as practicable.
Muscoy Groin No. 2 (2-209-5B)	—	270	—	The majority of this population is outside of mapped maintenance activities and would be avoided as practicable.
	—	16	—	The majority of this population is outside of mapped maintenance activities and would be avoided as practicable.
	—	56	—	This population is outside of mapped maintenance activities and would be avoided as practicable.
	—	14	—	These plants are outside of mapped maintenance activities and would be avoided.
Muscoy Groin No. 3 (2-209-5C)	—	1	1	One plant is outside of mapped maintenance activities; the second plant is within the mapped federal maintenance layer. Both of these plants would be avoided as practicable.
Muscoy Groin No. 4 (2-209-5D)	—	—	9	These plants are within the federal maintenance layer and would be avoided as practicable.

**Table 2.3-1  
Santa Ana River Woollystar Potentially Impacted by Program Activities**

Facility Name (Number)	No. of Plants Impacted	No. of Plants Outside of Mapped Maintenance Activities	No. of Plants Within Mapped Maintenance Activities That May Be Avoided	Notes
Lytle Creek Gatehouse (2-211-5A)	—	—	15	This population is within the federal maintenance layer and would be avoided as practicable.
	—	35	—	These plants are outside of mapped maintenance activities and would be avoided.
Santa Ana River (2-701-1A)	—	9	—	These plants are outside of mapped maintenance activities and would be avoided.
	32	—	—	These plants are within proposed mechanized land-clearing activities and would likely be impacted.
Santa Ana River (2-701-1B)	—	130	—	These plants are outside of mapped maintenance activities and would be avoided.
	128	—	—	These plants are within proposed mechanized land-clearing activities and would likely be impacted.
Santa Ana River (2-701-1C)	—	6	—	These plants are outside of mapped maintenance activities and would be avoided.
	19	—	—	These plants are within proposed mechanized land-clearing activities and would likely be impacted.
Santa Ana River (3-101-1D)	—	2	—	These plants are outside of mapped maintenance activities and would be avoided.
	4	—	—	These plants are within proposed mechanized land-clearing activities and would likely be impacted.
Santa Ana River (3-101-1E)	1	—	—	This plant is adjacent to proposed mechanized land-clearing activities and would likely be impacted.
<b>Total</b>	<b>184</b>	<b>547</b>	<b>51</b>	N/A

**Source:** GIS geodatabase associated with Aspen 2017.

**Notes:** N/A = not applicable.

As described in MM-BIO-3, Mitigation for Special-Status Plants, a mitigation and monitoring plan will be prepared for special-status plants that would be impacted (see pages 4.3-135 and 4.3-36 of the Draft EIR). The plan will describe the mitigation site,

site preparation, maintenance and monitoring of the mitigation area, adaptive management, success criteria, and annual monitoring and reporting. Mitigation would occur on District lands and would be supported by District funds. The District currently owns two properties that would be suitable for Santa Ana River woollystar mitigation: the Cajon Property and the Wash Plan mitigation area. The Cajon Property consists of approximately 391 acres within the Cajon Wash located west of Interstate (I) 215 and Cajon Boulevard, south of the I-215/I-15 interchange. This property is directly adjacent to the existing mitigation bank owned by Vulcan Materials within the existing Cajon Creek Habitat Conservation Lands known as the Cajon Creek Habitat Conservation Management Area. The property is within a hydrologically dynamic area, receiving natural river/creek flows, and is subject to flooding events (District 2015c). Vegetation communities include unvegetated wash; chaparral; and pioneer, intermediate, and mature Riversidean alluvial fan sage scrub (District 2015c). The Wash Plan mitigation area consists of lands that are within the boundaries of the Wash Plan but that are not a part of the Wash Plan conservation lands. The Wash Plan mitigation area consists of approximately 145 acres of Riversidean alluvial fan sage scrub habitat and is near the Santa Ana River Woollystar Preserve.

Pre-activity focused plant surveys would be conducted in accordance with the California Department of Fish and Game's 2009 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities, as described in SOP-BIO-14 (see page 4.3-35 of the Draft EIR).

- Q-10** The District acknowledges that 3:1 is the mitigation ratio often applied for impacts from new development projects; however, as described in Thematic Response TH-1, the program is the formalization of currently ongoing routine maintenance activities. The program would not result in new facilities nor expansion of existing facilities. The District acknowledges that repetitive activities such as vegetation management and mechanized land clearing can permanently alter vegetation communities present; therefore, it has considered these impacts to be permanent. However, unlike a development project or new construction, maintenance activities under the proposed program will allow habitat to remain within facilities following the activities. Areas where vegetation would be removed would still retain functions and values such as native earth suitable for burrowing, foraging opportunities, regrowth of annual species, and wildlife movement. Additionally, because facilities are maintained on average every 3 years, vegetation will be able to regenerate between maintenance events. Further, the District conducts vegetation management in a manner that reduces the spread of invasive species. The District also regularly removes homeless encampments and conducts enhancement activities as a good steward of the resources present within their facilities, including removing predatory species such as American bullfrog

(*Lithobates catesbeianus*) and brown-headed cowbird (*Molothrus ater*). Because the proposed program would not permanently develop over habitat and the proposed program includes enhancement activities, the District asserts that the proposed mitigation ratios would reduce impacts to less than significant.

The mitigation plan to be developed for special-status vegetation communities under CDFW jurisdiction will be provided to CDFW for review and approval.

- Q-11** The comment provides a summary of CDFW’s regulatory authority. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required to this portion of the comment.

The comment also addresses the scope of the proposed program. The Draft EIR has identified and described all activities proposed as part of the program. Please see Chapter 3 for a correction to the statement in Section 2.2.1 of the Draft EIR.

- Q-12** The District acknowledges that repetitive maintenance activities can result in the removal of habitat and alteration of vegetation communities, and the Draft EIR analyzed impacts in light of these repetitive activities. In the impact assessment for biological resources, mechanized land clearing, vegetation management in accordance with federal guidelines (“federal maintenance”), and vegetation management were all considered to be such activities that would result in the permanent loss of vegetation. Vegetation management was considered to be a temporary impact only for those vegetation communities that would regenerate within 3 years (the average time between maintenance events). Ingress/egress and stockpiles were also considered to be permanent impacts due to the nature of those activities. Potential impacts from project activities to species of special concern and their habitat are disclosed for maintenance activities within local overlapping permitting process (LOPP) areas and non-LOPP areas under Impacts BIO-1 and BIO-2 in Section 4.3.6.2 of the Draft EIR. Mitigation for these impacts is provided in MM-BIO-2 through MM-BIO-17 (see pages 4.3-135 through 4.3-145 of the Draft EIR). Maps depicting vegetation communities, jurisdictional waters, and maintenance activities are available to view at <https://sbcounty.mswwmp.com>.

- Q-13** The District has submitted a Notification of a Streambed Alteration Agreement for maintenance activities associated with the El Niño emergency work. The Streambed Alteration Agreement is not yet final; therefore, details from that Streambed Alteration Agreement are not available for inclusion in this EIR. However, the Notification of Emergency Activities in the Santa Ana River from Waterman Avenue to the 215-

Freeway dated October 20, 2015 (“Notification”), was reviewed and compared with the impacts described in the Draft EIR. This Notification corresponds to the area referred to as the El Niño LOPP in the Draft EIR. The Notification describes the emergency activities as follows:

- Within the Santa Ana River from Waterman Avenue to the 215-freeway, center flowing approximately 200 feet wide and four to five deep (portion of facilities 3-101-1F and 2-701-1A)
- Confluence of San Timoteo Creek with Santa Ana River, center flowing in the same manner described above (portion of facility 3-101-1F)
- Confluence of Twin Creek with Santa Ana River, center flowing in the same manner as described above (portion of facility 2-409-1D)
- Waterman Avenue bridge crossing of the Santa Ana River, clearing of trees and large vegetation approximately 100 feet upstream and downstream (portions of facilities 2-701-1A, 3-101-1E and 3-101-1F)
- E Street bridge crossing of the Santa Ana River, clearing of trees and large vegetation approximately 100 feet upstream and downstream (portion of facility 2-701-1B)
- Orange Show Road bridge crossing of the Santa Ana River, clearing of trees and large vegetation approximately 100 feet upstream and downstream (portions of facilities 2-701-1A and 3-101-1E).

The Notification estimated a total of 32 acres of temporary impacts.

The El Niño LOPP, as described in the Draft EIR, included center flowing within the Santa Ana River from Waterman to approximately 890 feet upstream of the E street crossing, center flowing at the San Timoteo and Twin Creek confluences with the Santa Ana River, and clearing of trees and large vegetation at the Waterman Avenue bridge crossing of the Santa Ana River. Total impacts to riparian areas within the El Niño LOPP were estimated at 21.3 acres.

The other areas described within the Notification that were not covered by the El Niño LOPP were covered as impacts of the program outside of LOPPs. In other words, the

Draft EIR is over-estimating potential impacts from the proposed program, because these areas of impacts will already be covered by this Notification.

Similarly, maintenance activities that may be covered by other Notifications of Emergency Work are analyzed in the Draft EIR and impacts within those areas have been included within proposed mitigation by the Draft EIR. Vegetation communities were mapped using an aerial base from 2009, as described on page 4.3-10 of the Draft EIR; therefore, potential impacts to vegetation communities described in the Draft EIR account for resources present prior to the 2017 Notifications of Emergency Work.

The mitigation areas proposed by the District for the proposed program do not overlap any previous mitigation obligations. Please see Response Q-15 for additional details regarding locations of proposed mitigation for the program.

**Q-14** Routine maintenance is conducted to maintain the baseline/existing conditions of each facility. Hydraulic analysis is conducted at construction of a new facility to inform design requirements. Routine maintenance is then conducted to maintain the facility to its design capacity; therefore, hydraulic analysis was not conducted for routine maintenance because maintenance requirements have already been determined. However, hydraulic modeling was conducted for specific facilities to determine whether maintenance could be reduced in order to minimize potential impacts to resources present. A memo describing the methods and results of the hydraulic modeling completed is provided as Appendix E to this Final EIR.

A sediment transport study has not been completed for the proposed program because the proposed program is the formalization of existing maintenance activities. The proposed program does not include the construction of new facilities or the expansion of existing facilities. Routine maintenance of existing facilities would maintain their current function and would not result in a change in sediment transport compared to existing conditions. Because the amount of sediment removed under the proposed program would be similar to existing conditions, the proposed program would not contribute to cumulative impacts related to sediment transport.

**Q-15** The Draft EIR does not improperly defer mitigation measures to future regulatory actions. The Draft EIR provides thresholds for implementation of mitigation for each potentially significant impact and provides a fact-based analysis for each impact area. Please see Chapter 3 for clarification added to MM-BIO-3 regarding the threshold for mitigating for non-listed special-status plants. The mitigation measures for state-listed and/or federally listed species and jurisdictional waters acknowledge that consultation with the applicable agency is required and that permits may include additional

mitigation and/or conditions beyond what is included in the EIR. This is appropriate under CEQA, which allows for the details of mitigation measures to await input from the regulatory agencies with jurisdiction over the review, identification, and imposition of such mitigation measures. Further, the Draft EIR does not rely on these future regulatory actions to reduce potentially significant impacts to less than significant. The Draft EIR includes mitigation measures separate and apart from what may be imposed during the regulatory process. Due to the scope of the proposed program as a County-wide plan, it is appropriate for the District to determine to mitigate impacts on a site-specific basis by means of the evaluation process as described in the Maintenance Plan and depicted on Figure 2-1 of Thematic Response TH-2. These mitigation measures are proper for a Program EIR and provide adequate minimum standards and regulatory authority for implementation. Accordingly, the Draft EIR does not leave the success of these mitigation measures to unformulated plans and executive discretion to implement the plans; therefore, there is no improper deferred mitigation.

Permanent impacts resulting from maintenance activities within LOPP areas are proposed to be mitigated through the respective LOPP environmental clearance process. Each of these is currently underway; therefore, additional information regarding mitigation under those programs is not available. However, the Draft EIR discloses impacts within LOPP areas and, should the permits for those programs not be finalized for an unforeseen reason, the District would mitigate for impacts within LOPP areas in the same manner as described in the Draft EIR for impacts outside LOPP areas. This process is provided in MM-BIO-1 (page 4.3-134 of the Draft EIR). Mitigation for any other previous projects conducted by the District is not a part of the proposed program.

The District proposes to mitigate for impacts in the following ways: use of District-owned mitigation property, use of District-owned parcels, and use of existing approved mitigation bank and/or in lieu fee programs. The proposed program's mitigation obligation and District mitigation opportunities are summarized in Tables 2.3-2 and 2.3-3. Following the tables, a description is provided of the proposed mitigation lands. Mitigation areas would be identified on District maps as set aside for long-term conservation, and funding would be through allocation of District budget. The District proposes to either dedicate a District staff or contract with a third party, such as a Resource Conservation District, for long-term management, monitoring, and reporting of the mitigation areas.

**Table 2.3-2**  
**MSWSMP Mitigation Obligation and Opportunities**  
**for the Valley and Mountain Regions**

Mitigation Type	Total Permanent Impacts (Acres)	Mitigation Ratio	MSWSMP Proposed Mitigation (Acres)	Additional Mitigation required for LOPPs (Acres)	Total Mitigation Obligation (Acres)	Mitigation Available (Acres)
Total RAFSS	339.7	1.7:1 <sup>a</sup>	<b>391.6</b>	28.7	<b>420.3</b>	<b>489.4</b> (244.7 P; 244.7 E)
Total Riparian	104.8	1.9:1 <sup>a</sup>	<b>196.5</b>	27	<b>223.5</b>	<b>255.4</b> (175.5 P; 79.9 E)
DSF Habitat	0.5	1.5:1	<b>0.75</b>	—	<b>0.75</b>	— <sup>b</sup>
Coastal Scrub	142.2	1:1	<b>142.2</b>	30.8	<b>173</b>	<b>178.5</b> (168.9 P; 9.6 E)
Oak Woodland	7.6	1:1	<b>7.6</b>	—	<b>7.6</b>	<b>11.3 (C)</b>

MSWSMP = Master Storm Water System Maintenance Program; LOPP = local overlapping permitting process; RAFSS = Riversidean alluvial fan sage scrub; P = preservation; E = enhancement; DSF = Delhi sands flower-loving fly; C = creation.

<sup>a</sup> Mitigation ratio affected by suitability of habitat for species.

<sup>b</sup> Mitigation is assumed to be through an existing approved mitigation bank.

**Table 2.3-3**  
**MSWSMP Mitigation Obligation and Opportunities for the Desert Region**

Mitigation Type	Total Permanent Impacts (Acres)	Mitigation Ratio	MSWSMP Proposed Mitigation (Acres)	Additional Mitigation Required for LOPPs (Acres)	Total Mitigation Obligation (Acres)	Mitigation Available (Acres)
Total Riparian	53.3	1.7:1 <sup>a</sup>	<b>91.7</b>	10.5	<b>102.2</b>	<b>282.5</b> (181.3 P; 28 E; 75 C)
Desert Dry Wash Woodland	9.6	1:1	<b>9.6</b>	—	<b>9.6</b>	<b>16.7</b>
Desert Dunes	8.2	1:1	<b>8.2</b>	1.9	<b>10.1</b>	— <sup>b</sup>
Desert Sink Scrub	0.2	1:1	<b>0.2</b>	—	<b>0.2</b>	— <sup>b</sup>
Joshua Tree Woodland	2.3	1:1	<b>2.3</b>	—	<b>2.3</b>	— <sup>b</sup>
Sonoran and Mojavean Desert Scrub	14.7	1:1	<b>14.7</b>	—	<b>14.7</b>	— <sup>b</sup>

MSWSMP = Master Storm Water System Maintenance Program; LOPP = local overlapping permitting process; P = preservation; E = enhancement; C = creation.

<sup>a</sup> Mitigation ratio affected by suitability of habitat for species.

<sup>b</sup> Mitigation lands not specifically assessed for these communities. Mitigation would be through either establishment or rehabilitation on District parcels or through use of an existing mitigation bank/in lieu fee program.

The District currently owns three properties available for mitigation (“mitigation properties”): the Cajon Property, the Hamm Property, and the Wash Plan mitigation area. There are no maintenance activities, current or future, proposed on these mitigation properties. The Cajon Property consists of approximately 391 acres within the Cajon Wash located west of I-215 and Cajon Boulevard, south of the I-215/I-15 interchange. This mitigation property is directly adjacent to the existing mitigation bank owned by Vulcan Materials within the existing Cajon Creek Habitat Conservation Lands known as the Cajon Creek Habitat Conservation Management Area. The mitigation property is within a hydrologically dynamic area, receiving natural river/creek flows, and is subject to flooding events (District 2015c). Vegetation communities include unvegetated wash; chaparral; and pioneer, intermediate, and mature Riversidean alluvial fan sage scrub (District 2015c). The Wash Plan mitigation area consists of lands within the boundaries of the Wash Plan that are not a part of the Wash Plan conservation lands. The Wash Plan mitigation area consists of approximately 145 acres of Riversidean alluvial fan sage scrub habitat. The Hamm Property is located along the Mojave River just north of the community of Oro Grande in unincorporated San Bernardino County. Vegetation communities include allscale scrub, American bulrush marsh, common monkey flower seeps, fourwing saltbush scrub, Fremont cottonwood forest, perennial pepperweed patches, red willow thickets, Russian thistle patches, sandbar willow thickets, sparsely vegetated sandy wash, and tamarisk thickets.

The District has also conducted a review of District-owned parcels to identify areas not needed for flood control responsibilities. A preliminary review of these parcels was conducted by a restoration ecologist to determine the potential for preservation, enhancement, restoration (reestablishment or rehabilitation), and establishment. Although these areas would not be subject to routine maintenance activities, they are typically adjacent to maintained flood control facilities and may include access for adjacent maintenance activities.

- Q-16** The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required.

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Comment Letter R



July 19, 2018

San Bernardino County Flood Control District  
Environmental Management Division  
Attn: Michael Perry, Supervising Planner  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835

RE: Request for extension of comment period

Dear Mr. Perry,

San Bernardino Valley Municipal Water District (Valley District) has received notification that the Draft Environmental Impact Report for the San Bernardino County Master Storm Water System Maintenance Program (EIR) is available for public review and comment. Valley District understands that comments are being requested on this EIR by July 30, 2018.

Due to staffing constraints, vacation schedules, and the length and complexity of the document, Valley District respectfully requests an extension of the comment period until August 24, 2018. Please respond to this request at your earliest convenience.

Sincerely,

Heather P. Dyer  
Water Resources Project Manager

R-1

Board of Directors and Officers

JUNE HAYES  
Division 1

GIL NAVARRO  
Division 2

SUSAN LONGVILLE  
Division 3

MARK BULOT  
Division 4

STEVE COPELAN  
Division 5

DOUGLAS D. HEADRICK  
General Manager

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## **Response to Comment Letter R**

**San Bernardino Valley Municipal Water District  
Heather P. Dyer, Water Resources Project Manager  
July 19, 2018**

- R-1** Thank you for your letter pursuant to the proposed program. The District received requests to extend the 45-day review period of the Draft EIR. Although the District understands that the document is lengthy, the District is also committed to completing the EIR in a timely manner so the proposed Maintenance Plan can be implemented in a reasonable time frame. The District sent an email to the San Bernardino Valley Municipal Water District on July 23, 2018, indicating that an extension of the 45-day review period had not been granted. The District did not receive an additional comment letter from the San Bernardino Valley Municipal Water District.

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Comment Letter S



California Program Office  
980 Ninth Street, Suite 1730 | Sacramento, California 95814 | tel 916.313.5800  
www.defenders.org

July 3, 2018

San Bernardino County Flood Control District  
Environmental Management Division  
Attn: Michael Perry, Supervising Planner  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835  
[MSWSMPcomments@dpw.sbcounty.gov](mailto:MSWSMPcomments@dpw.sbcounty.gov)

**RE: Request a 120-day Comment Deadline Extension on The San Bernardino County Master Storm Water System Maintenance Program Draft Environmental Impact Report SCH NO. 2014011063 - June 2018**

Dear Supervising Planner Perry,

On behalf of Defenders of Wildlife and our more than 149,000 members in California, of which more 8,000 reside within San Bernardino County, I am writing to respectfully request an extension of the comment period for the San Bernardino County Master Storm Water System Maintenance Program Draft Environmental Impact Report SCH NO. 2014011063 - June 2018.

The current 45-day comment period is inadequate to allow for the public to provide full review of the extensive DEIR, which covers multiple complex issues within its 832 pages and eight appendices, including an attachment that contains more than 18,000 pages. Under the current 45-day comment deadline, the public would have to read more than 600 pages each day to digest the DEIR, with all of its appendices, leaving little to no time to analyze the DEIR and formulate meaningful written comments.

Therefore, the current comment period provides far too little time to review the document, appendices and attachments fully and to develop meaningful comments under California Environmental Quality Act (CEQA).

S-1

Request for Comment Period Extension SBC Storm Water DEIR

1

For the reasons stated above, we respectfully request that the public comment deadline should be extended an additional 120 days to October 30, 2018, to allow for adequate public review and comment.

In light of the abbreviated public comment period and the extensive nature of the DEIR, we request that you respond to our request as soon as possible.

↑  
S-1  
Cont.

Sincerely,



Tom Egan  
California Desert Representative  
Defenders of Wildlife  
P.O. Box 388  
Helendale, CA 92342  
[tegan@defenders.org](mailto:tegan@defenders.org)

## **Response to Comment Letter S**

**Defenders of Wildlife  
Tom Egan, California Desert Representative  
July 3, 2018**

- S-1** Thank you for your letter pursuant to the proposed program. The District received requests to extend the 45-day review period of the Draft EIR. Although the District understands that the document is lengthy, the District is also committed to completing the EIR in a timely manner so the proposed Maintenance Plan can be implemented in a reasonable time frame. The District sent a letter to Defenders of Wildlife on July 10, 2018, indicating that an extension of the 45-day review period had not been granted. The District received an additional comment letter from the Defenders of Wildlife on July 30, 2018. Please see the Response to Comment Letter K for responses to those comments.

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Comment Letter T



July 3, 2018

Michele Derry, Senior Planner  
County of San Bernardino Flood Control District Environmental Management Division  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835  
E-mail: [mderry@dpw.sbcounty.gov](mailto:mderry@dpw.sbcounty.gov)

Dear Ms. Derry:

We have received the the Draft Environmental Impact Report (DEIR) for the Master Stormwater System Maintenance Program (MSWSMP) from San Bernardino County.

We take special interest in this document as at least three areas affected by the Program are Audubon Important Bird Areas of global and statewide significance. Audubon is the U.S. Parnter for the Important Bird Areas program, an international effort to identify areas of high conservation value for birds using strict criteria.

The release of the document identifies a comment period of 45 days.

This is too short to look at a document of over 18,000 pages.

We would like to request an extension on the deadline of the comments to an additional 45 days for a total of 90 days so that we can complete our analysis.

Your consideration would be most appreciated.

Sincerely,

Garry George  
Audubon California  
[ggeorge@audubon.org](mailto:ggeorge@audubon.org)  
323-933-6660 p

T-1

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## **Response to Comment Letter T**

**Audubon California**

**Garry George**

**July 3, 2018**

- T-1** Thank you for your letter pursuant to the proposed program. The District received requests to extend the 45-day review period of the Draft EIR. Although the District understands that the document is lengthy, the District is also committed to completing the EIR in a timely manner so the proposed Maintenance Plan can be implemented in a reasonable time frame. The District sent a letter to Audubon California on July 17, 2018, indicating that an extension of the 45-day review period had not been granted. The District did not receive an additional comment letter from Audubon California.

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Comment Letter U

**DOWNEY BRAND**

David R.E. Aladjem  
daladjem@downeybrand.com  
916.520.5361 Direct  
916.520.5761 Fax

Downey Brand LLP  
621 Capitol Mall, 18<sup>th</sup> Floor  
Sacramento, CA 95814  
916.444.1000 Main  
downeybrand.com

October 17, 2018

**VIA EMAIL AND U.S. MAIL**

Michael Perry, Supervising Planner  
San Bernardino County Flood Control District  
Environmental Management Division  
825 East Third Street, Room 123  
San Bernardino, CA 92415-0835

Re: Comments on the Draft Environmental Impact Report for San Bernardino County’s  
Master Storm Water System Maintenance Program

Dear Mr. Perry:

We are submitting these comments on behalf of the San Bernardino Valley Municipal Water District (“Valley District”). We appreciate the opportunity to comment on the Draft Environmental Impact Report (DEIR) for San Bernardino County’s Master Storm Water System Maintenance Program (the “Program”).

U-1

We regret that San Bernardino County Flood Control District (the “District”) refused Valley District’s request to extend the formal comment period on the DEIR. The District represented that its refusal was based upon its desire to complete environmental review of the Program “within a timely manner,” so that the Program could be implemented in a “reasonable timeframe.”

U-2

Valley District appreciates the District’s desire to move forward with flood protection for the public that we all serve. Given the length of time that has been spent in developing the Program, though, Valley District believes that providing us with a reasonable time to provide comments would not have caused an undue delay in implementing the Program. Regardless, as you know, any comments submitted to a lead agency prior to that agency’s approval of its final environmental impact report for the project are deemed by the courts to be timely. (*Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1121.) Accordingly, even though these comments are submitted after the close of the formal comment period, they are still timely as a matter of law. Valley District therefore trusts that the District will fully respond to these comments in the final environmental impact report for the Program.

1534860.2

Michael Perry, Supervising Planner  
October 17, 2018  
Page 2

*Summary of Comments*

Valley District believes several areas of the document are critical to understanding the potential impacts of the proposed program on Valley District and the public that we serve and should be addressed in the final EIR.

- 1) The document fails to analyze impacts to Utilities and Services and specifically does not disclose results of a hydraulic study or any impacts to geology or soils that are likely to result in damage to Valley District water infrastructure in locations where center-lining of the channel is proposed. The failure to disclose these impacts on Valley District’s vital water supply infrastructure is, *per se*, a violation of CEQA.
- 2) The document incorrectly states that District Routine Maintenance Activities will be included in the Upper Santa Ana River Habitat Conservation Plan.
- 3) The programmatic nature of the draft document, as presented to the public, does not contain any assurances that project-level analysis will timely be made available to agencies regarding potential individual project-related impacts so that other public agencies can comment upon such project-level impacts and so that the District can avoid adverse impacts on the environment. The failure to provide such assurances that adverse impacts on the environment will, at the proper time, be fully analyzed and mitigated represents a violation of CEQA.
- 4) The use of “Standard Operating Procedures, or SOPs” throughout the DEIR masks the true impacts of the Program, reduces impacts to less than significant levels despite SOPs not being defined as enforceable mitigation measures, and/or misconstrues SOPs as part of the project design. These uses of SOPs are a violation of CEQA as described below.

U-3

U-4

U-5

U-6

U-7

As described in detail below, the DEIR is fundamentally inadequate under CEQA. Therefore, Valley District requests that the DEIR be revised and recirculated to address the deficiencies raised below. Furthermore, the DEIR is so vague as to what the Project actually is, that it is impossible to determine what actions the District actually plans to carry out, or what the environmental impacts of those actions might be. We assume, therefore, that this DEIR will not be used to approve any particular project, and that before the District conducts any storm water maintenance, additional CEQA review will be conducted. To do otherwise would be a violation of CEQA. Accordingly, Valley District seeks written assurances from the District, in the form of the documentation used to approve the Program, that the District will not use the Final EIR to approve any project and that it will conduct additional CEQA review prior to conducting any storm water maintenance pursuant to the Final EIR.

1534360.2

**DOWNEY**BRAND

Michael Perry, Supervising Planner  
October 17, 2018  
Page 3

Comments

I. The DEIR Fails to Adequately Disclose, Analyze and Mitigate for Significant Impacts on the Environment.

A. Impacts to Utilities and Service Systems

The DEIR fails to adequately analyze and mitigate for impacts to utilities and service systems. Specifically, the Program will have wide-ranging and significant adverse impacts on Valley District’s infrastructure.

U-8

Appendix G of the CEQA Guidelines establishes the thresholds of significance for impacts to public utilities and service systems. Among the required inquiries is whether the project will “require or result in the construction of new water . . . facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.”

The maintenance activities will have significant impacts on Valley District’s water supply infrastructure, and will thus have significant impacts as to utilities and service systems which require mitigation. The DEIR must disclose the impacts to Valley District’s infrastructure that will inevitably result from the District’s administration of the Program (see details and references below in Geology and Soils). The District is required to adopt mitigation measures to prevent such harms from occurring.

U-9

Moreover and more fundamentally, though, it does not appear that there is any identification in the DEIR of infrastructure crossings under the facilities proposed for center-flowing, including the Santa Ana River or its tributaries such as City Creek and Mill Creek. Furthermore, there does not seem to be any analysis of potential effects to pipeline crossings or other infrastructure that would result from changes to hydraulic and geomorphic processes of these historically braided systems. In fact, the document implies that some impacts could occur through the seemingly accidental mention of hydraulic results as needing further internal discussion,

U-10

268 City Creek Channel 2-601-1A Channel  
Maintenance includes access road maintenance, herbicide, vector control, bank repair, excavation, vegetation management. **“Need to meet again on this one to discuss hydraulic results”** (Appendix A page 72)

Based on the attached studies (E&H 2006 and West Consultants 2008) and past observations by Valley District staff, it is clear that the proposed center-flowing activity has the potential to cause significant impacts to the fluvial geomorphic and fluvial hydraulic function of these waterbodies and consequently could jeopardize the existing public infrastructure and the surrounding communities.

U-11

1534360.2

DOWNEY BRAND

Michael Perry, Supervising Planner  
October 17, 2018  
Page 4

Specifically, Valley District requests that the District:

- Provide Valley District with the results of the hydraulic study mentioned but not disclosed in Appendix A within ten business days from the date of this letter.
- Provide Valley District with an additional twenty business days to provide comments on that hydraulic study to the District.
- Incorporate any recommendations that Valley District may have for mitigation measures that would protect Valley District’s infrastructure from the potential impacts of the Project.

U-12

The failure of the District to agree to these requests would constitute a violation of CEQA, for the District is obliged to mitigate fully for the impacts of its project on the environment.

**B. Impacts to Geology and Soils**

The DEIR’s discussion of impacts to geology and soils is wholly inadequate. Geology and soils was “scoped out” of the DEIR, and is therefore discussed only in the “Other CEQA Considerations” section of the DEIR, based on the conclusion that there was no potential for significant impacts. (DEIR at 5-1, 5-7 to 5-8.) But that conclusion is based on the statement that: “[t]he proposed maintenance activities include actions to minimize the potential for soil erosion, such as the removal of excess sediment and sand from the invert of the channel or basin or on-site/off-site stockpile location and placing it onto side slopes.” (*Id.* at 5-7.) Based on implementation of these “actions,” the DEIR concludes that no further analysis of impacts to geology and soils is required.

U-13

However, relying on these “actions” to conclude that impacts are less than significant in order to avoid discussion regarding impacts and potential mitigation violates the standards elucidated in *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 656 (“*Lotus*”). In that case, the Court of Appeal found that:

avoidance, minimization and/or mitigation measures,” as they are characterized in the EIR, are not “part of the project.” They are mitigation measures designed to reduce or eliminate the damage to the redwoods anticipated from disturbing the structural root zone of the trees by excavation and placement of impermeable materials over the root zones. By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA.

U-14

While the District’s program does not involve the construction of a highway in a redwood forest, the principle articulated by the *Lotus* court directly applies to the Program. It is impermissible for the District to rely upon these “actions” to reach a conclusion that the Program would have less-than-significant impacts on the environment. In fact, some maintenance activities will result

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in substantial erosion of soil and topsoil, and these impacts need to be disclosed and fully mitigated for in the DEIR. The DEIR should therefore be recirculated to ensure the public has adequate opportunity to consider these impacts. (See CEQA Guidelines, § 15088.5.)

U-15  
Cont.

The Program proposes to "center-flow or center-line" main channels of the Santa Ana River and tributaries such as City Creek where Valley District and other agencies have major infrastructure crossings. For instance, in City Creek there are several major pipeline crossings, including a 78" pipeline owned by Valley District and a 144" pipeline owned by Metropolitan Water District of Southern California ("MWDSC"). A number of scientific studies have demonstrated that excavation of a single channel within a naturally braided system (i.e., "center-flowing") causes significant change to the channel morphology and hydraulic characteristics (see attachments West Consulting 2008 and E&H 2006). The single channel system and the concentrated flow of water has a higher erosive capacity than a braided system. Consequently, a single channel system, as is proposed by the Program, will result in increased scour and head cutting within the channel. A scour analysis conducted on behalf of MWDSC discusses the response of a stream or river to channelization stating:

U-16

By changing the channel characteristics from a braided channel to a single channel, the amount of discharge is effectively increased. This is deduced from the fact that the amount of discharge per channel in a braided system is less than the combined discharge in a single-thread channel. Additionally, the average channel slope has been increased because of the reduction in sinuosity. When general erosion occurs over a stream reach the average bed elevations along the river reach decrease. Degradation will continue until the variables determining stream channel characteristics are in balance (E&H 2006 p. 8).

U-17

For the foregoing reasons, the analysis of geology and soils in the DEIR fails to meet the standards of CEQA.

Valley District, accordingly, requests that the District recirculate the DEIR and include in the recirculated DEIR the following discussions:

- The District must identify and disclose all public infrastructure facilities that cross under channels with proposed center-flow or center-line activities (e.g. water and sewer pipeline crossings of all waterbodies proposed for center-flowing or center-lining).
- The District must, for all stream or river reaches where there are public infrastructure crossings, perform a full hydrogeomorphology analysis and hydraulic modeling of potential changes to the river or stream system resulting from the proposed activity. The study should include an assessment of historic and current conditions and potential changes to the hydrology, bed material characteristics, sediment transport, reach degradation, local scour, headcut migration, etc. Additionally, we request the geomorphic analysis be done at a

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watershed scale since in order to understand the erosion/deposition processes at a single cross section it is imperative to understand the processes occurring within the watershed system as a whole. Geomorphic characterization of the watershed is critical for understanding the potential mechanisms for scour.

- The District must, in locations where public infrastructure crossings of the River or its tributaries occur near these proposed maintenance activities, complete focused hydrogeomorphic analysis to determine what potential effects might occur in those specific reaches.
- Finally, for each of the above requests, Valley District requests to be allowed to peer review the discussion and analysis prior to its completion.

U-18  
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**II. The DEIR Incorrectly States that Routine Maintenance Activities are Included in the Upper Santa Ana River Habitat Conservation Plan.**

The DEIR incorrectly states:

The entire Valley Region falls within the boundary of the Upper Santa Ana River HCP (HCP). Based on the Final Phase I Report (ICF 2014), the Upper Santa Ana River HCP will include District routine maintenance activities within the HCP area (DEIR, p. 311).

Since the original scoping study referenced above, ICF and Valley District staff have worked to develop a comprehensive list of proposed activities for inclusion in the HCP Covered Activities. Each partner agency reviewed and approved the final description of their Covered Activities in 2017 and those activities were included in the extensive HCP impacts analysis based on detailed descriptions and footprint mapping.

U-19

The District included one large proposed Covered Activity, the modification and expansion of the Rialto Channel, which is described in the attached memo approved by District staff. Valley District has also included in the Covered Activities routine maintenance of several existing basins (e.g. Waterman and Cactus Basins) that are owned by the District but would be used by Valley District for groundwater recharge. Routine maintenance for these two Covered Activities will be covered by the HCP.

However, the HCP does not cover the District's routine maintenance activities contemplated to occur outside the footprints described in our project-related analyses. Therefore, only the District's routine maintenance activities associated with the Rialto Channel project will be covered by the HCP incidental take permit. Any proposed District maintenance activities to occur outside the Rialto Channel footprint are not contemplated in HCP analysis nor covered by the Plan. Clarification of this should be made in the Final EIR. To the extent that the DEIR relies on the efforts undertaken by Valley District and others under the auspices of the HCP to mitigate for the effects of the Program on the environment outside the area of the Rialto Channel,

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that reliance is improper. Relying on the HCP to provide mitigation for activities that are not included as Covered Activities in the HCP avoids the mandate of CEQA, which is to fully analyze environmental impacts of a project and then mitigate for those impacts. Accordingly, reliance on the HCP to mitigate for any effects of the Program outside the Rialto Channel violates CEQA. The District should recirculate the DEIR to fully analyze such impacts on the environment.

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**III. The Program Description is Inadequate for Purposes of Approving Any Project.**

The Program Description is not sufficiently clear to provide a basis for approving any particular project. The Program Description includes yet-to-be-determined maintenance activities for 504 facilities in six flood-control zones in three geographically distinct regions. (DEIR at 3-1; 3-5.) The Program Description covers over a dozen different types of facilities, ranging from levees to debris basins, all of which may require different types of maintenance on different schedules, for different reasons. (DEIR at 3-5 to 3-8.)

U-21

The Program Description discusses fourteen different types of activities (DEIR Table 3-4), but does not specify what activities might or might not occur at any particular facility or on what time frame. Instead, the DEIR states that “[m]aintenance activities in each flood control facility occur on an annual basis or more or less often, as needed.” (DEIR at 3-21.) The DEIR goes on to state that “[t]he District does not anticipate maintaining more than an average of 30% of its facilities each year based on operations staff and equipment constraints, budget constraints, and historical maintenance requirements based on storm events.” (*Id.*) But the DEIR places no limitations on what the District can do in any particular year, and much of the content of the Program is actually set forth in Appendix A to the DEIR.

U-22

A finite project description is the “*sine qua non* of an informative and legally sufficient EIR.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) In contrast, a “curtailed, enigmatic or unstable project description draws a red herring across the path of public input.” (*Id.* at 197-98.) A project or program description that does not provide the necessary detail is a fundamental flaw that precludes the public and decisionmakers from being adequately informed regarding a project’s impacts. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 672.) If the EIR does not provide a clear, accurate, and stable description of the Program, public agencies and members of the public simply cannot weigh the purported benefits of the project against its environmental cost, or properly evaluate project alternatives or measures to mitigate adverse environmental impacts. (*Id.* at 654-55.)

U-23

The DEIR states that: “[i]ndividual future projects that may not be analyzed in this EIR would undergo environmental review to determine if there would be new impacts as a result of their inclusion in the program.” (DEIR at 2-1.) This suggests that the District may rely upon this document for approval of particular Projects that it views as within the scope of the DEIR. To conduct any maintenance work under the auspices of the DEIR would be a clear violation of the law. The lack of a clear schedule for maintenance activities renders the DEIR inadequate *per se*

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under CEQA, because it does not accurately disclose or analyze the impacts of any particular project (or series of projects) at any particular facility at any point in time.

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↑ Cont.

In sum, the Program Description is so vague that it is not adequate to inform the public or decisionmakers about the environmental impacts of any particular project. Therefore, Valley District requests confirmation that additional Project-specific CEQA analysis will be conducted prior to any storm water maintenance work, even if a particular project may be generally described within the DEIR, that the environmental document analyzing such projects be timely provided to Valley District and members of the public prior to the outset of any such work, and that Valley District and the public have a reasonable period of time to comment on the environmental impacts of such work prior to the District approving any such work. The failure of the District to provide Valley District and the public with the type of environmental evaluation and assessment prescribed by CEQA would constitute a violation of CEQA.

U-25

**IV. The DEIR Improperly Relies Upon “Standard Operating Procedures.”**

The DEIR improperly incorporates mitigation measures—termed Standard Operating Procedures—into the Program description, in violation of the requirements of CEQA as set forth in the *Lotus* decision cited above. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658.) Section 3.6 of the DEIR, titled “Standard Operating Procedures,” states that: “[t]he District implements SOPs to avoid and minimize potential impacts to sensitive resources. The SOPs applicable to each resource topic are included in the relevant sections of Chapter 4, Environmental Analysis, and a complete list of SOPs is provided with the Maintenance Plan in Appendix A.” The DEIR includes SOPs in nearly every impact area, and in many instances relies upon them to find impacts of the Project less than significant.

U-26

The SOPs should properly be considered mitigation measures, and misconstruing them as part of the project design is a violation of CEQA. (*Lotus*, 223 Cal.App.4th at 658.) As the Court explained in *Lotus*, an EIR cannot incorporate: “the proposed mitigation measures into its description of the project and then conclude[] that any potential impacts from the project will be less than significant.” *Lotus* explained that this practice would make it “impossible to determine whether mitigation measures are required or to evaluate whether other more effective measures than those proposed should be considered.” (*Id.*) The Court in *Lotus* specifically found that this was not harmless error, explaining that the approach precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences.

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In some sections, the DEIR even relies on SOPs from other portions of the document to support a less-than-significant finding. For example, in the Aesthetics section, the DEIR states that:

[t]he following SOPs from Section 4.8, Hydrology and Water Quality, would reduce impacts on aesthetics from maintenance activities:

- SOP-HYD-2 (Vegetation Management)
- SOP-HYD-3 (Minimization of Controllable Discharge of Sediment)

(DEIR at 4.1-11.)

The DEIR goes on to provide a lengthy explanation of how the SOPs will impact maintenance activities and then concludes that impacts to aesthetics will be less-than-significant. But the DEIR does not analyze the Program without the SOPs, ignoring the fundamental requirement of CEQA that the agency fully consider the impacts of the Program or project before mitigation. (See *Lotus*, 223 Cal.App.4th at 658.)

In the analysis of biological impacts, the DEIR lists a total of 20 SOPs related to biological impacts, then lists four SOPs from the Hydrology and Water Quality section which it says “are relevant to the biological resources analysis.” (DEIR at 4.3-31 to 4.3-37.) Again, the DEIR fails to evaluate and disclose the Project’s impacts without the SOPs, contrary to the mandate of CEQA.

Even more confusing is the District’s addition of mitigation on top of SOPs in some circumstances. For example, in discussing the Program’s impacts “to Desert Tortoise and Critical Habitat in the Desert Region Within LOPPs,” the DEIR states that “[t]he District implements avoidance and minimization measures for desert tortoise as described in SOP-Bio-10 (Desert Tortoise); however, permanent direct impacts to desert tortoise that could not be avoided would be significant absent mitigation. Implementation of MM-BIO-13 (Mitigation for Desert Tortoise) would reduce impacts to desert tortoise to less than significant.” (DEIR at 4.3-79.) Mitigation Measure MM-BIO-13 states that “mitigation shall be a combination of habitat preservation, enhancement, and/or creation and shall be coordinated with the USFWS and CDFW as part of the ITP.” (*Id.* at 4.3-141.)

The DEIR uses SOPs to mask the true impacts of the Program, and the lack of Program analysis without the SOPs—which should be identified as mitigation measures—renders the DEIR inadequate under *Lotus* and its progeny. The DEIR also improperly relies upon SOPs to “scope out” certain topics, addressing them only in the “Other CEQA Considerations” section of the DEIR. Finally, because the SOPs are not identified as mitigation measures, they are not mandatory and there is no clear mechanism for either ensuring that they occur or enforcing against the District if they do not. The DEIR must be revised and recirculated to analyze the Program impacts without the SOPs, identify the SOPs as mitigation measures, and consider

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alternative Program designs and mitigation measures to reduce impacts. (See CEQA Guidelines, § 15088.5.)

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↑ Cont.

*Conclusion*

For the reasons set forth above, the DEIR should be revised and recirculated to ensure that decisionmakers and the public have adequate opportunity to consider and comment on the environmental impacts of the Program, as well as proposed mitigation measures and potential alternatives.

U-33

Thank you for the opportunity to present our comments on the DEIR. We look forward to discussing them with you at your earliest convenience.

Very truly yours,

DOWNEY BRAND LLP

David Aladjem

cc: Board of Directors  
Douglas Headrick, General Manager

Enclosures

- 1. E&H 2006
- 2. West Consultants 2008
- 3. Memo from District approving Covered Activities in the Upper Santa Ana River HCP

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Attachment 1

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## Response to Comment Letter U

**Downey Brand LLP**  
**(On Behalf of San Bernardino Valley Municipal Water District)**  
**David Aladjem**  
**October 17, 2018**

- U-1** Thank you for your letter pursuant to the proposed program. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. This comment is an introduction to the letter and does not require a response.
- U-2** Per California Public Resources Code, Section 21091(d)(2)(A), the California Environmental Quality Act (CEQA) does not require that a lead agency respond to late comments. (See also *Residents Against Specific Plan 380 v. County of Riverside* (2017) 9 Cal.App.5th 941, 972.) Despite the late submittal of this comment letter, the District is providing a response in this Final EIR.
- U-3** The Draft EIR discusses impacts to utilities and service systems in Section 4.14, Utilities and Service Systems, and potential impacts to geology and soils from the proposed program are described in Section 4.5, Geology and Soils. This comment is a summary of items detailed later in the letter; therefore, please see Responses U-8 through U-12 for details regarding potential impacts to utilities and service systems and Responses U-13 through U-18 regarding potential impacts to geology and soils. The results of the hydraulic analysis are provided in Appendix E of this Final EIR.
- U-4** This comment is a summary of the concerns detailed later in the comment letter; therefore, please see Responses U-19 and U-20 regarding the proposed program's routine maintenance activities within the Upper Santa Ana River Habitat Conservation Plan (HCP).
- U-5** The EIR provides a complete program description, including identifying maintenance activities that would occur at each facility, a map of the impact footprint (as depicted on Figures 3-2A through 3-2I of the Draft EIR), and the location and geographic extent of each maintenance activity (as provided in an online interactive viewer located at [sbcounty.mswwmp.com](http://sbcounty.mswwmp.com), as identified in the Notice of Availability). This provides the project-level analysis for impacts at each facility for public agencies to review. Further, as described in the Maintenance Plan (Appendix A of the Draft EIR, also provided as Appendix A to this Final EIR) and summarized in Figure 2-1 of this Final EIR, the District will review each maintenance activity to confirm its conformance with the EIR and applicable permits. As part of this process, and as clarified in Standard Operating

- Procedure (SOP) REC-1 (see Chapter 3, Changes to the Draft EIR), the District coordinates with applicable agencies to ensure that affected jurisdictions are aware of the maintenance activity and applicable conditions are implemented by the District. If a maintenance activity is outside the scope of the proposed program, separate review under CEQA and applicable regulations would be conducted for that activity, with required public notice. Please see Thematic Response TH-2 and Responses U-21 through U-25 for additional details.
- U-6** This comment is a summary of the concerns detailed later in the comment letter; therefore, please see Responses U-26 through U-32 regarding the proposed program’s use of SOPs. All project measures, including SOPs, mitigation measures, and permit conditions, would be enforced as described in the Maintenance Plan (Appendix A of the Draft EIR, which is also included as Appendix A to this Final EIR) and outlined in Figure 2-1 of this Final EIR.
- U-7** The adequacy of the EIR under CEQA is further described in Responses U-8 through U-32. The Draft EIR provides a complete program description. The maintenance activities proposed for each facility are provided in the Maintenance Plan (Appendix A of the Draft EIR, which is also included as Appendix A of this Final EIR). The impact area of the proposed program is depicted on Figures 3-2A through 3-2I of the Draft EIR and the location and geographic extent of each maintenance activity is provided in an online interactive viewer located at [sbcounty.mswsmp.com](http://sbcounty.mswsmp.com), as identified in the Notice of Availability. As described in the Maintenance Plan and clarified in Thematic Response TH-2 (see Section 2.2 of this chapter), maintenance activities would be reviewed for consistency with the proposed program prior to implementation. Please see Figure 2-1 of this Final EIR for a summary of how each maintenance activity would be evaluated for consistency with the proposed program, including the EIR. Maintenance activities outside the scope of the EIR would be assessed in accordance with CEQA and other applicable regulations.
- U-8** Please see Section 4.14, Utilities and Service Systems, for an analysis of the proposed program’s potential impacts on these resources. See also Response U-16 regarding the potential for the proposed program’s activities to impact San Bernardino Valley Municipal Water District’s (Valley District’s) infrastructure.
- U-9** This comment provides a description of Appendix G of the Draft EIR. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required. Please see Response U-16 regarding the potential for the proposed program’s activities to impact Valley District’s infrastructure.

**U-10** Infrastructure crossings are typically buried at a depth below the maximum depth at which maintenance activities would occur. Maintenance activities within channels typically involve excavation 2 to 3 feet below the surface (see Table 3-4, Typical Flood Control Activities, of the Draft EIR); therefore, maintenance activities are not expected to result in impacts to infrastructure crossings. However, where utility infrastructure crosses the District right-of-way, the utility provider is required to obtain an easement with the District. Such easements include provisions to allow the District to perform its responsibilities as required. For example, Valley District permit number P-32009025 with the District (for installing and maintaining infrastructure within City Creek south of Highland Avenue and east of Boulder Avenue) includes the following General Provisions:

22. District activities shall take precedence at all times and, when any work or activity must be performed to carry out the functions and purposes of the District, Permittee must allow same to be done without interference.
30. Should future activities of the Corps of Engineers and/or the District so require, the Permittee shall, at Permittee's expense, relocate all or any part of the subject works as so required.

As a result, although the commenter states that the District must assess the potential impacts of maintaining its facilities on utility infrastructure crossings, the opposite holds true: infrastructure crossings cannot interfere with the responsibilities of the District. The proposed program is not constructing new facilities; rather, it is maintaining existing facilities that were present and being maintained in similar fashion when infrastructure crossings were constructed. Therefore, these infrastructure crossings must continue to be operated and maintained in such a way as to not conflict with District activities, as conditioned in the District permit. The District also coordinates with applicable utility agencies as clarified in SOP-REC-1 in Chapter 3, Changes to the Draft EIR, of this Final EIR.

Further, as described in Response U-16, the proposed program is not expected to result in significant or detrimental changes to hydraulic or geomorphic processes. The statement (on page 72 of Appendix A of the Draft EIR) referenced in the comment reflects the meetings held by District staff to ensure that mapped maintenance activities were consistent with results of hydraulic modeling. The hydraulic modeling conducted as part of development of the maintenance activities layer is described in Appendix E of this Final EIR.

**U-11** The goal of the proposed program is to maintain facilities to their existing/design capacity, thereby also maintaining the designed hydraulic conditions of each facility.

Please see Thematic Response TH-1 (see Section 2.2) for more information on the program scope and goals. Additional details regarding the potential for maintenance activities to impact fluvial geomorphic and hydraulic functions of the waterbodies is provided in Response U-16.

**U-12** The results of the hydraulic study conducted as part of development of the maintenance activity layer is provided as Appendix E of this Final EIR. The hydraulic study informed the maintenance activities that are provided in the Draft EIR and does not present substantial evidence of an impact that has not been addressed; therefore, additional review time is not required. As described in SOP-REC-1, the District coordinates with applicable agencies, including Valley District, prior to conducting maintenance activities that overlap utility crossings. However, as detailed in Response U-10, Valley District must accommodate the activities of the District where infrastructure crosses a District easement, as detailed in permits with Valley District.

**U-13** The commenter's statement that geology and soils were scoped out of the EIR is not correct. Appendix G of the CEQA Guidelines identifies five thresholds for geology and soils. Four thresholds (whether the program would increase exposure to effects from earthquake rupture, strong seismic groundshaking, liquefaction, or landslides; would result in substantial soil erosion or loss of topsoil; would be located on expansive soil; or would be incapable of supporting the use of septic tanks or alternative wastewater disposal systems) were eliminated from further analysis in the Initial Study (included in the Draft EIR as Appendix B). The Valley District did not comment on the Initial Study in 2014 and did not raise any concerns at that time about the scope of the analysis. Potential impacts to the fifth threshold, which addresses the proposed program's potential to be located on soil that is unstable or would become unstable as a result of the program, resulting in landslides, lateral spreading, subsidence, liquefaction, or collapse, are described in Section 4.5 of the Draft EIR. The goal of the proposed program is to maintain existing facilities, and the proposed program includes conducting routine inspections to detect and repair erosion, installing erosion control features as needed, and repairing banks that experience frequent erosion. Because the proposed program seeks to minimize and repair erosion as part of ongoing maintenance activities, the Initial Study concluded that there would be a less than significant impact with respect to the proposed program resulting in substantial soil erosion or the loss of topsoil. Please see the Initial Study provided in Appendix B of the Draft EIR for more details regarding the assessment of impacts to geology and soils. Chapter 5, Other CEQA Considerations, of the Draft EIR provides a summary of the conclusions reached in the Initial Study and Draft EIR.

**U-14** The commenter misstates the nature of the proposed program. The proposed program involves establishing a Maintenance Plan (provided as Appendix A to the Draft EIR and included in this Final EIR as Appendix A), which includes a complete description of maintenance activities, the District’s SOPs required for such facilities, the frequency with which activities are conducted, seasonal restrictions, and methods for environmental compliance and reporting. The SOPs are based on procedures that the District has developed and implemented over many years to protect resources and prevent impacts to resources during maintenance activities, and are a critical part of the scope and nature of the proposed program. The commenter cites the case *Lotus v. Department of Transportation* (2104), which invalidated a California Department of Transportation (Caltrans) EIR for realigning a highway through a redwood forest because the EIR did not separate the analysis of the mitigation measures from the project’s design features. The court in *Lotus* made a distinction between project features (such as the type of cement used in the project) that could minimize impacts of the project, but were integral to the project itself, from those actions that were plainly mitigation measures and not part of the project itself. Here, like the distinction in *Lotus*, the sentence quoted from the Draft EIR refers to maintenance activities; the “actions” in the sentence are in fact the program description and not avoidance, minimization, or mitigation measures added to the proposed program.

**U-15** Please see Response U-14 regarding the actions described in the comment referring to maintenance activities that are part of the program description and not avoidance, minimization, and mitigation measures. Please see Section 4.5, Geology and Soils, of the Draft EIR for an assessment of activities that may result in impacts to geology and soils. Further, Section 4.8, Hydrology and Water Quality, of the Draft EIR discusses the proposed program’s potential to result in impacts from erosion and sedimentation (see Impact HYD-1).

**U-16** The commenter states that a single-channel system, as is proposed by the program, will result in increased scour and head cutting within the channel, and provides studies with additional information. The scour analyses provided by the commenter pertained to the following:

1. A pipeline that had been exposed due to transformation of a creek bottom (City Creek) from relatively flat and braided to a relatively deep, single-thread, earthen, trapezoidal channel, designed to contain flood flows (Scour Evaluation for the Foothill Pipeline Crossing, City Creek, in the City of Highland, CA, West Consultants 2008)
2. Transformation of the City Creek channel from a flat, braided system to a relatively deep, steep-sided, narrow-bottom, V-shaped channel (City Creek Scour Analysis for Inland Feeder Pipeline Crossing, E&H 2006).

Conversely, Table 3-4 of the Draft EIR indicates the following:

Mechanized land clearing includes centerflow (the establishment and maintenance of a smaller center channel within a channel and/or basin) to convey and guide low-volume storm and dry weather (urban runoff) flows within the center of an earthen channel or basin to keep flows away from the slopes and for guiding flows. A centerflow channel is established by clearing sediment and vegetation within the center of the channel or basin. The centerflow generally represents a width of up to 20%–50% of the channel and a depth of approximately 2–3 feet.

Mechanized land clearing includes grading the channel inverts or basin bottoms to properly convey flows downstream.

The centerflows proposed by the program would be locally wide, up to 200 feet in the Santa Ana River, and only 2 to 3 feet deep, thus minimizing narrow/constricted concentration of flow. These shallow center channels would not be designed to contain runoff as a result of high-intensity precipitation events and associated high-volume flows. Such runoff would overtop the shallow banks of the center channels and be dispersed throughout the channel bottom, thus minimizing erosive downcutting and potential exposure of underlying utility infrastructure, such as pipelines.

The 2006 City Creek Scour Analysis indicates that the pipeline subject of that analysis was buried 20 feet below the City Creek thalweg and the 2008 Scour Evaluation for the Foothill Pipeline Crossing indicates that the pipeline had a minimum of 8 feet of cover. The sediment removal proposed by the program would be 2 to 3 feet deep. The proposed program does not include the construction of new facilities or changing the capacity of existing facilities, which may result in a change in downstream hydrology or hydro-geomorphology. Further, as described above, the proposed program activities would not alter stream hydrology in a manner that would change the channel morphology and hydraulic characteristics. Rather, the purpose of the proposed program is to maintain facilities to their existing/design capacity, thereby also maintaining existing hydraulic and hydro-geomorphologic conditions. For these reasons, the proposed program would not result in excavation beyond 2 to 3 feet in depth and would not impact pipelines, which are typically buried more than 3 feet below the surface.

Additionally, the District coordinates with agencies with overlapping jurisdiction to confirm that maintenance activities are not in conflict with goals and infrastructure of other agencies. Please see Chapter 3, Changes to the Draft EIR, in this Final EIR for clarification added to SOP-REC-1 regarding the District's coordination with other agencies.

**U-17** Please see Response U-16.

**U-18** Regarding identification of existing public infrastructure, the District has right-of-way and/or easement over areas with maintenance obligations. Where public infrastructure crosses District-maintained facilities, the utility agency must obtain a permit from the District and, as described in Response U-10, operations and maintenance of the utility cannot conflict with the responsibilities of the District. Consistency with the goals and needs of the utility agency are identified in the easement. Additionally, as described in Response U-16, the District coordinates with overlapping jurisdictions prior to implementation of maintenance activities.

With respect to conducting a hydro-geomorphology analysis and hydraulic modeling, as discussed in Thematic Response TH-1 (see Section 2.2, Thematic Responses), the proposed program is the formalization of existing and ongoing maintenance activities and does not include the construction of new facilities or the expansion of existing facilities. Hydraulic modeling or geomorphology analysis is typically conducted for new facilities that may result in changes to the system. As further clarified in Response U-16, the proposed program would not affect the hydro-geomorphology of maintained facilities. In fact, the goal of the proposed program is to maintain existing/design capacity of the facilities and thereby the existing hydraulic conditions.

**U-19** The memorandum provided by the commenter is incomplete and does not provide clear information regarding activities to be covered by the Upper Santa Ana River HCP. However, the District has made changes to the EIR (as reflected in Chapter 3), removing reference to coverage of maintenance activities by the Upper Santa Ana River HCP.

**U-20** Clarification has been made to the EIR regarding the Upper Santa Ana River HCP covered activities, as reflected in Response U-19. Further, the EIR does not rely on the Upper Santa Ana River HCP to mitigate for any effects of the proposed program on the environment. All impacts of the proposed program have been described in the EIR and have been fully mitigated by the proposed mitigation measures in the EIR. As detailed in Table 3-5 of the Draft EIR (page 3-27), as well as Section 4.3, Biological Resources, the proposed program would achieve compliance with the federal Endangered Species Act (ESA) through completion of consultation in accordance with Section 7 of the ESA and/or receipt of an Incidental Take Permit (ITP) under Section 10 of the ESA, and would be in compliance with the California Endangered Species Act (CESA) through receipt of an ITP or a Consistency Determination in accordance with Section 2080.1 of CESA. The proposed program would not rely on any existing or future HCPs for ESA and CESA compliance.

**U-21** The commenter states that the program description includes yet-to-be-determined maintenance activities. As explained in Thematic Response TH-2 (see Section 2.2), the maintenance activities proposed for each facility are provided in the Maintenance Plan included as Appendix A of the Draft EIR and provided in this Final EIR as Appendix A. The impact area of the proposed program is depicted on Figures 3-2A through Figure 3-2I of the Draft EIR. Further, the location and geographic extent of each maintenance activity is provided in an online interactive viewer located at sbcounty.mswwmp.com, as identified in the Notice of Availability.

**U-22** Maintenance activities proposed for each facility are identified in the Maintenance Plan included as Appendix A of the Draft EIR and provided with this Final EIR as Appendix A. With respect to the commenter’s statement that no limitations are placed on what the District can do in any particular year, the District would implement maintenance activities as described in the EIR and in the Maintenance Plan. As explained in Thematic Response TH-2 (see Section 2.2) and outlined in the Maintenance Plan, the District will identify proposed routine maintenance activities each year and provide the annual maintenance plan to the U.S. Army Corps of Engineers, State Water Resources Control Board, California Department of Fish and Wildlife, and U.S. Fish and Wildlife Service (resource agencies) for review. At the end of each year, a report will be provided to the resource agencies identifying the work actually completed that year. The compliance and reporting component of the Maintenance Plan provides the basis for ensuring that maintenance activities are implemented as described in the EIR.

To further support the estimate that the District would maintain approximately 30% of its facilities a year, the minimum amount of time to maintain all facilities is provided in Table 2.3-4. This table is based on the assumption that all crews are fully staffed year-round. It also does not account for emergency work or other obligations of the District’s Operations staff; therefore, it is a conservative estimate of how quickly all facilities could be maintained.

**Table 2.3-4**  
**Estimated Time to Maintain All Facilities**

Zone	Total Work Days <sup>a</sup>	Crews Available	Total Days per Crew <sup>b</sup>	Minimum Years Required to Maintain All Facilities
1	1,752	5	350.4	1.5
2	2,254	3.5	644	2.7
4	1,093	1.5	728.7	3.1
3, 5, and 6	2,787	2	1,393.5	5.9
<b>Total</b>	<b>7,886</b>	<b>12</b>	<b>657<sup>c</sup></b>	<b>2.8<sup>c</sup></b>

<sup>a</sup> This number is based on the estimated work days provided in the Facility Maintenance Matrix that is provided as Appendix A of the Maintenance Plan (Appendix A of the Draft EIR).

<sup>b</sup> Assumes 235 work days per year, accounting for an average 2 weeks of vacation time and 12 holidays per year.

<sup>c</sup> These numbers do not reflect the sum of the rows above; rather, they reflect Total Days per Crew and Minimum Years Required to Maintain All Facilities, respectively, based on the sum of Total Work Days and the sum of Crews Available (7,886 Total Work Days / 12 Crews Available = 657 Total Days per Crew; 657 Total Days per Crew / 235 word days per year = 2.8 years).

**U-23** This comment summarizes the *County of Inyo v. City of Los Angeles* and *San Joaquin Raptor Rescue Center v. County of Merced* cases. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program. No further response is required. All maintenance activities, including specific location, are provided in the EIR. Please see Response U-21 regarding the program description.

**U-24** The commenter misinterprets the language quoted from page 2-1 of the Draft EIR, “[i]ndividual future projects that may not be analyzed in this EIR would undergo environmental review to determine if there would be new impacts as a result of their inclusion in the program.” The statement comes at the end of a paragraph describing the Maintenance Plan and its purpose as a comprehensive guide to all maintenance activities. The Maintenance Plan is intended to be updated as new facilities are added to the District’s maintenance responsibility. As correctly stated by the commenter, the EIR cannot approve activities not described in the EIR program description. As explained in the quoted language, should new facilities be constructed and long-term maintenance be added to the District’s obligation, these facilities and their associated maintenance would have to be analyzed in their own environmental document in compliance with CEQA.

The proposed schedule for the maintenance activities is provided in Section 3.5.2 of the Draft EIR, which states that “maintenance activities in each flood control facility occur on an annual basis or more or less often, as needed. Some facilities may only require maintenance once every several years following large storm events, whereas others may require maintenance more than once a year.” The Maintenance Plan provides the time of year that each facility would be maintained. Additional details regarding frequency are not available on a facility-specific basis because maintenance needs are largely linked to storm events and other natural events such as fires, which cannot be predicted or scheduled far in advance. However, as described in Thematic Response TH-2 (see Section 2.2), the District will provide an annual work plan of facilities that are expected to be maintained in the upcoming year. The annual work plan will be available to the resource agencies for review.

**U-25** Please see Response U-21 regarding the completeness of the program description. As described in the Maintenance Plan (Appendix A) and clarified in Thematic Response TH-2 (see Section 2.2), maintenance activities would be reviewed for consistency with the program prior to implementation. Please see Figure 2-1 of this Final EIR for a

summary of how each maintenance activity would be evaluated for consistency with the proposed program, including the EIR. Maintenance activities outside the scope of the EIR would be assessed in accordance with CEQA and other applicable regulations.

**U-26** Please see Response U-14. The commenter incorrectly characterizes SOPs as mitigation measures. The SOPs are part of the proposed program design and are therefore analyzed in the Draft EIR in that context.

One of the objectives of the proposed program is to provide a comprehensive guide for the maintenance of existing stormwater infrastructure (see Chapter 3, Program Description, of the Draft EIR). The District, as part of their regular practice, implements best management practices (BMPs) that have been developed over years of working with the resource agencies in implementing maintenance activities. These BMPs are generally included as part of the project/program description because they are part of how a project is implemented. For example, BMPs are identified as part of the project description in the District's approved First Line of Defense (FLOD) Maintenance Project Final Initial Study/Mitigated Negative Declaration (District 2015 (SCH No. 2015061111)). This practice is consistent with the approach of other agencies with similar programs. For example, BMPs (identified as Applicant Proposed Measures) are included in the Metropolitan Water District of Southern California's approved EIR for the Orange County Distribution System Infrastructure Protection Program (MWD 2016 (SCH No. 2013121050)).

The District's BMPs have been formalized in the Maintenance Plan as SOPs. Incorporation of SOPs in the Maintenance Plan provides a complete and accurate description of how maintenance activities are implemented. The Maintenance Plan is a tool for District staff to implement maintenance activities consistently, in an environmentally sensitive manner, and in accordance with regulations. Additionally, the Maintenance Plan provides transparency to responsible agencies and the public as to the manner in which the District implements maintenance activities.

The Draft EIR analyzes the effects of the proposed program, including maintenance activities and SOPs, on the environment. For the ease of the reader, the EIR includes the SOPs from the Maintenance Plan in the chapter to which they are relevant. Where the proposed program would result in impacts on the environment, mitigation measures are included in the Draft EIR. Mitigation measures are included in the Draft EIR for impacts that are not avoided or reduced by implementing the SOPs. The EIR includes 18 mitigation measures to address biological resources impacts, 5 mitigation measures to address cultural resources impacts, and 1 mitigation measure to address hazards and

- hazardous materials impacts. The SOPs do not function as mitigation measures or replace mitigation measures.
- U-27** Please see Responses U-14 and U-26. The proposed program is the formalization of maintenance activities that are conducted on a routine basis within existing facilities rather than a new development project with a new impact footprint.
- U-28** The SOPs are part of the proposed program and are identified in the Maintenance Plan (see Appendix A). The Draft EIR incorporates SOPs from the Maintenance Plan in the section to which they are relevant. Some SOPs are relevant to more than one environmental issue area and therefore are referenced in more than one section of the Draft EIR. Please see Responses U-14 and U-26.
- U-29** As described in Responses U-14 and U-26, the SOPs are part of the proposed program and are therefore correctly analyzed as part of the program description. With respect to the aesthetics analysis, two SOPs describe how vegetation management is conducted by the District and how this is relevant to potential impacts to eligible state scenic highways. The Draft EIR assesses how maintenance activities would impact eligible state scenic highways in Table 4.1-2. The manner in which vegetation is removed is relevant to the significance of the impact; therefore, the SOPs are discussed in the text following this table. In contrast to what the commenter states, it would be impossible to come to a significance determination without information on the manner in which vegetation would be removed. Without incorporation of the SOPs in the program description and in the impact analysis, there would be insufficient information to reach a conclusion of significance.
- U-30** As described in Responses U-14 and U-26, the SOPs are part of the proposed program and are therefore correctly analyzed as part of the program description. Some SOPs are relevant to more than one environmental issue area and therefore are referenced in more than one section of the Draft EIR.
- U-31** The Draft EIR analyzes the effects of the proposed program, which includes SOPs. Where the proposed program would result in significant impacts on the environment, mitigation measures are proposed, consistent with the requirements of CEQA. In the case of desert tortoise (*Gopherus agassizii*), as described by the commenter, the proposed program would result in significant impacts; therefore, mitigation was proposed.
- U-32** As described in Responses U-14, U-26, and U-31, the SOPs are part of the program description and are therefore included in the analysis of impacts to the environment. When the proposed program would result in significant impacts, mitigation is proposed. The commenter incorrectly states that the Draft EIR relies on SOPs to “scope

- out” certain topics. The topics analyzed in the Draft EIR were based on the Initial Study circulated in 2014 (provided as Appendix B of the Draft EIR). Those issue areas determined by the Initial Study to be less than significant were not analyzed further in the Draft EIR.
- U-33** As described in Responses U-1 through U-32, the Draft EIR provides a complete program description and adequately analyzes the potential impacts of the proposed program.
- U-34** The commenter provides as an attachment the draft report *City Creek Scour Analysis for Inland Feeder Pipeline Crossing* dated February 22, 2006, and prepared by Engineering & Hydrosystems Inc. This report is included in Appendix F to this Final EIR. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program.
- U-35** The commenter provides as an attachment the draft report *Scour Evaluation for the Foothill Pipeline Crossing City Creek in the City of Highland, CA* dated December 22, 2008, prepared by West Consultants Inc. for San Bernardino Valley Municipal Water District. This report is included in Appendix F to this Final EIR. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program.
- U-36** The comment letter provides as an attachment what appears to be four pages from a memo with the following information in the header: “SB County Flood Control Approved Covered Activities, October 2017.” This attachment is included in Appendix F to this Final EIR. The District is including the comment as part of this Final EIR for review and consideration by the decision makers prior to a final decision on the proposed program.

## 2.4 REFERENCES

14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.

California Legislative Information. 2014. Assembly Bill No. 52, Chapter 532, Legislative Counsel’s Digest. September 25, 2014. [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB52](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB52).

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CDPR (California Department of Pesticide Regulation). 2013. “Second Generation Anticoagulant Rodenticide Assessment.” Memorandum from D. Daniels (CDPR) to A. Prichard (Pesticide Registration Branch). June 27, 2013.

CNPS (California Native Plant Society). 2001. Botanical Survey Guidelines.

CNPS. 2016. CNPS Inventory of Rare, Threatened, and Endangered Plants of California, 8th online edition.

County of Riverside. 2003. “Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP).” Riverside, California: County of Riverside, Transportation and Land Management Agency, Riverside County Integrated Project. June 17, 2003. <http://www.wrc-rca.org/about-rca/multiple-species-habitat-conservation-plan/mshcp-volume-one-the-plan/>.

District (San Bernardino County Flood Control District). 2015a. District’s biological geodatabase.

District. 2015b. Upper Santa Ana River HCP species occurrence database.

District. 2015c. *Jurisdictional Delineation and Determination: SBCFCD Wildlife and Habitat Preservation Bank 391.24-Acre Survey Area, Cajon Creek Wash, San Bernardino County, California*. Prepared by ECO. November 2013; updated July 2015.

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Jones, B. 2015. “DT and MGS Effects Methodologies for San Bernardino Flood Control District System-Wide Maintenance.” Email from R. Jones (California Department of Fish and Wildlife) to M. Romich (Dudek). May 7, 2015.

UCD (University of California, Davis). 2017. Tricolored blackbird data portal.

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USFWS (U.S. Fish and Wildlife Service). 2016. USFWS Carlsbad GIS species occurrence database.

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## CHAPTER 3 CHANGES TO THE DRAFT EIR

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### 3.1 INTRODUCTION

As provided in Section 15088(d) of the California Environmental Quality Act (CEQA) Guidelines (14 CCR 15000 et seq.), responses to comments may take the form of a revision to a draft environmental impact report (EIR) or may be a separate section in the Final EIR. This section complies with the latter and provides changes to the Draft EIR presented in strikethrough text (~~strikethrough~~) signifying deletions and underlined text (underline) signifying additions. For changes to appendices, a brief explanation of the nature of the changes is provided in Section 3.3 of this chapter. These notations and explanations are meant to provide clarification, corrections, or minor revisions as needed as a result of public comments on Draft EIR for the proposed Master Storm Water System Maintenance Program (proposed program), as required by Section 15132 of the CEQA Guidelines. None of the corrections and additions constitute significant new information or substantial project changes requiring recirculation, as defined by Section 15088.5 of the CEQA Guidelines.

### 3.2 CHANGES TO THE DRAFT EIR

Changes to the Draft EIR are provided in this section. Page numbers correspond to those in the Draft EIR as submitted for public review. After the location or locations of the changes (by page number), the text from the Draft EIR is provided with changes shown in ~~strikethrough~~/underline.

#### 2.2.1 CEQA Compliance, second paragraph

The EIR generally evaluates the broad environmental impacts of the proposed program as a series of actions that can be characterized as one large project. Currently ongoing and future ~~unidentified~~ maintenance activities associated with the proposed program are included.

#### 3.3.3 Local Overlapping Permitting Processes

##### Page 3-17

##### *Wash Plan*

The District will be a permittee of the Upper Santa Ana Wash Land Management and Habitat Conservation Plan (Wash Plan). The purpose of the Wash Plan is to allow the coordinated development and management of multiple resources in the Wash Plan area. The Wash Plan designates specific areas within the Wash Plan area for public services and aggregate mining to balance ground-disturbing activities and habitat preservation. The Wash Plan includes certain District routine maintenance activities. The official draft of the Wash Plan was approved in May 2015, with implementation of the plan beginning on December 1 of the same year, and has since

been reviewed and edited several times. Two bills—H.R. 4024 and S. 3080—have been introduced into the House of Representatives and the Senate that will allow for the land transfer needed for the successful implementation of the Wash Plan. Both bills are currently being looked over in committee. The Draft Wash Plan is complete, and the California Environmental Quality Act (CEQA)/National Environmental Policy Act draft environmental documents are currently being finalized. The Wash Plan and environmental documents are pending publication in the Federal Register, which will be followed by a 90-day public comment period. Finalization of these documents, including the Implementation Agreements, is currently scheduled for ~~2018~~ 2019.

### 3.7 Permits and Approvals

**Table 3-5  
Agency Coordination**

Agency	Jurisdiction	Permit Regulatory Requirement
<i>Federal</i>		
Advisory Council on Historic Preservation	National Historic Preservation Act	<ul style="list-style-type: none"> <li>National Historic Preservation Act, Section 106 Consultation (if required as part of the Section 404 Clean Water Act permit review)</li> </ul>
U.S. Fish and Wildlife Service	Endangered Species Act, Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, Fish and Wildlife Coordination Act	<ul style="list-style-type: none"> <li>Endangered Species Act Section 7 Consultation</li> <li>Endangered Species Act Section 10 Incidental Take Permit</li> </ul>
U.S. Army Corps of Engineers, Los Angeles District	Clean Water Act	<ul style="list-style-type: none"> <li>Clean Water Act Section 404 permit</li> </ul>
U.S. Department of the Interior, Bureau of Land Management	Manages the West Mojave Habitat Conservation Plan and <u>California Desert Conservation Area</u>	<ul style="list-style-type: none"> <li><del>Coordination on compliance with reserve agreements</del></li> <li><u>Compliance with Conservation and Management Actions</u></li> </ul>
U.S. Forest Service	Manages U.S. Forest Lands	<ul style="list-style-type: none"> <li>Coordination</li> </ul>
<i>State</i>		
California Department of Fish and Wildlife, Inland Deserts Region (Region 6)	Manage fish, wildlife, plant resources, and habitats; California Endangered Species Act, California Native Plant Protection Act, California Fish and Game Code Section 1601	<ul style="list-style-type: none"> <li>Streambed Alteration Agreement</li> <li>California Endangered Species Act Section 2081 Incidental Take Permit and/or Section 2080.1 Consistency Determination</li> </ul>
California Department of Transportation	California Streets and Highways Code 660–711.21; 16 CCR 1411.1–1411.6	<ul style="list-style-type: none"> <li>Encroachment Permits</li> <li>Traffic Control Plans</li> </ul>
California State Office of Historic Preservation	Potential to affect cultural or paleontological resources	<ul style="list-style-type: none"> <li>National Historic Preservation Act, Section 106 Consultation</li> </ul>
State Water Resources Control Board	Clean Water Act, Sections 401 and 402; Porter–Cologne Water Quality Control Act; California Water Code Division 7: Water Quality	<ul style="list-style-type: none"> <li>Clean Water Act Section 401 Water Quality Certification and/or Waste Discharge Requirement</li> </ul>

**Table 3-5  
Agency Coordination**

Agency	Jurisdiction	Permit Regulatory Requirement
<i>Local</i>		
Local Jurisdictions	Local/city roads and rights-of-way	<ul style="list-style-type: none"> <li>• Road Encroachment Permit</li> <li>• Coordination</li> </ul>
South Coast Air Quality Management District (SCAQMD) and Mojave Desert Air Quality Management District (MDAQMD)	SCAQMD and MDAQMD Regulation II, Rules 201 and 20310	<ul style="list-style-type: none"> <li>• Authority to Construct and Permit to Operate</li> </ul>

**4 Introduction to Environmental Analysis, Table 4-1, page 4-8**

**Table 4-1  
Cumulative Projects**

City/Jurisdiction	Project	Location	Use	Status
<i>Cities</i>				
City of Chino Hills	Heritage Professional Center	SE Soquel Canyon Pkwy and Pomona Rincon Rd	Mixed-use (medical office, hotel, retail)	Approved
City of Chino Hills	Indus Light Industrial	NW Fairfield Ranch Rd and Red Barn Ct	Light industrial	Entitlement approved
City of Chino Hills	The Rincon (formerly The Golden Triangle)	SW Soquel Canyon Pkwy and SR-71	Mixed-use	Under construction
City of Chino Hills	Soquel Canyon Square	NW Soquel Canyon and Pomona Rincon Rd	Mixed-use	Under construction
City of Rancho Cucamonga	Day Creek Square	SW Day Creek Blvd and Baseline Rd	Mixed-use (single-family, townhomes, higher-end boutique hotel, and restaurant)	<del>In review</del> <u>Under construction</u>
City of Rancho Cucamonga	Empire Lakes Specific Plan	NW 4th St and Milliken Ave	<del>Mixed-use (single-family, townhomes, higher-end boutique hotel, and restaurant)</del> <u>Mixed-use with 2,650 – 3,450 dwelling units (apartments, townhomes, condominiums) and up to 220,000 square feet of non-residential floor area (retail office, etc.)</u>	Post-approval

**Table 4-1  
Cumulative Projects**

City/Jurisdiction	Project	Location	Use	Status
City of Rancho Cucamonga	<del>North Eastern Sphere Annexation Proposal</del> Etiwanda Heights Neighborhood and Conservation Plan	Milliken Ave and Banyan St	Neighborhood, commercial, and parks/open space	Under review
City of Ontario	Armstrong Ranch	S of Cucamonga Creek Channel and Chino Ave	Residential, schools, parks, etc.	Post-approval
City of Ontario	California Commerce Center	S Riverside Dr and SCE Substation	Regional commercial/ office, residential, medical office, and research	Post-approval
City of Ontario	Colony Commerce Center	E Cucamonga Creek Channel and Archibald Ave	Industrial and business park	EIR approved March 2018
City of Ontario	Grand Park Specific Plan	SW Edison Ave and Haven Ave	Residential community with variety of housing and schools	EIR approved 2013
City of Ontario	Guasti Plaza	S of I-10 and Archibald Ave	Residential, office park, and commercial	Post-approval
City of Ontario	Meredith International Centre Specific Plan	N of I-10, S of 4th St	Industrial and urban commercial	Under construction

### 4.3.2 Regulatory Framework, Page 4.3-4

#### Federal Land Policy and Management Act of 1976

Portions of the proposed program area are on public lands managed by the Bureau of Land Management (BLM); therefore, the proposed program would need to be consistent with guidelines established by the BLM. The Federal Land Policy and Management Act of 1976, as amended, establishes public lands policy and management guidelines on public lands managed by the BLM. The act includes land use planning, range management, rights-of-way, and designated management areas.

The California Desert Conservation Area (CDCA) Plan was approved in 1980 in accordance with the Federal Land Policy and Management Act. The CDCA Plan provides for multiple-use management of approximately 25 million acres, of which 10 million acres are managed by the BLM, falling within San Bernardino County and six other counties. The CDCA Plan has been amended numerous times and is based on the concepts of multiple use, sustained yield, and maintenance of environmental quality. The CDCA Plan aims to protect biological, geological, paleontological, scenic, and cultural resources while allowing for a variety of land uses and activities.

Several major amendments to the CDCA Plan have been made in San Bernardino County, including the BLM Northern and Eastern Colorado Desert Coordinated Management Plan, the BLM Northern and Eastern Mojave Desert Management Plan, the BLM West Mojave Plan, and the Desert Renewable Energy Conservation Plan (DRECP) Land Use Plan Amendment.

### **U.S. Forest Service**

Portions of the proposed program area are within the San Bernardino National Forest; therefore, the proposed program would need to be consistent with guidelines established by the U.S. Forest Service (USFS). The Southern California National Forests (Angeles National Forest, Cleveland National Forest, Los Padres National Forest, and San Bernardino National Forest) include more than 3.5 million acres of federally managed public land, extending from Big Sur to the north to the international border with Mexico to the south. The revised land and resource management plans (forest plans) for the Southern California national forests describe the strategic direction at the broad program level for managing the land and its resources over the next 10 to 15 years. The strategic direction was developed by an interdisciplinary planning team working with national forest staff, using extensive public involvement and the best science available. The revised forest plans are outcome-based and are focused on the condition of the land after project completion. Each forest plan is directed toward the realization of the desired conditions using strategies that are consistent with the concept of adaptive management and sustainable resource use.

The revised forest plans are grounded in the concepts described by the Committee of Scientists in their report *Sustaining the People’s Lands* (1999). Paraphrasing the committee’s report, the term “sustainability” includes three components: ecological, social, and economic. Sustainability means meeting the needs of the present generation without compromising the ability of future generations to meet their needs. The concept of sustainability is old; its broadened interpretation and redefinition should be viewed as a continuation of the attempt by Gifford Pinchot and others that followed him to articulate the meaning of “conservation” and “conservative use” of the lands and waters of the national forests. Therefore, the revised forest plans are designed so that managers have the flexibility to adapt management strategies to the constantly changing demands that are inherent to natural resource management. The strategic direction is expressed through an overall vision of what is desired, the strategy for accomplishment, and the design criteria that will be used as activities are proposed, analyzed, and implemented (USFS 2005).

### **4.3.4 Existing Conditions**

#### **Page 4.3-8**

This subsection describes the existing special-status biological resources within the Valley, Mountain, and Desert Regions. Data regarding biological resources present within the proposed program area were obtained through an extensive data and literature review, desktop aerial

interpretation, field reconnaissance, and limited field surveys as described in Chapter 3 of Appendix E.

For purposes of this analysis, special-status resources are defined in the following paragraphs.

Vegetation communities considered special-status are those which CDFW has given a rarity rank with an “S” ranking of 1, 2, or 3 (CDFG 2010) or associations that are considered a high priority for inventory, or were considered special-status under Holland (1986). Special-status vegetation communities also include those with protection under the existing Development Code, which includes compliance with the Desert Native Plant Act for the Desert Region and compliance with Oak Woodland protection. Additionally, some wetland habitat types may be considered special status.

Special-status plant species are those plant species that are:

- Classified as state endangered (SE), threatened, or rare and/or classified as endangered or threatened by the USFWS (federally listed), or candidates for future listing.
- Considered by the California Native Plant Society to be “rare, threatened, or endangered in California” (CRPR 1 and 2).
- Considered a locally significant species, that is, a species that is not rare from a statewide perspective but is rare or uncommon in a local context such as within a county or region or is so designated in local or regional plans, policies, or ordinances. Within the County, this would apply to species regulated in the Development Code. Although the District is exempt from the Development Code, it is the District’s standard practice to avoid regulated trees or plants when practicable.
- Designated by the BLM as sensitive species.
- Designated by the USFS as sensitive species.

Special-status wildlife species are those wildlife species that are:

- Listed as threatened or endangered or candidates for future listing under the federal ESA or CESA.
- Designated as a species of concern by the CDFW.
- Fully protected species protected under California Fish and Game Code Sections 3511, 4700, 5050, and 5515.
- Listed as protected by California Code of Regulations, Title 14 (Natural resources), Divisions 1, Subdivision 2, Chapter 5 (fur-bearing animals), Section 460 (for example, kit fox (*Vulpes macrotis*)).

- Designated by the BLM as sensitive species.
- Designated by the USFS as sensitive species.

#### 4.3.4.1 Valley Region

##### Page 4.3-14

##### *Critical Habitat*

USFWS has designated critical habitat for several wildlife species. The acreage of critical habitat in the proposed program area in the Valley Region is summarized in Table 4.3-2. The geographic extent of critical habitat within the Valley Region and its location relative to the program area is provided on Figure 4-3 of the BTR (Appendix E).

##### Page 4.3-15

**Table 4.3-2  
Critical Habitat in the Program Area in the Valley Region**

Critical Habitat Species		Total Critical Habitat in Program Area in Valley Region (Acres)	Total Critical Habitat Identified as Suitable in Program Area in Valley Region (Acres) <sup>a</sup>
Common Name	Scientific Name		
California gnatcatcher	<i>Poliophtila californica</i>	10.4	N/A <u>—<sup>b</sup></u>
Least Bell's vireo	<i>Vireo bellii pusillus</i>	5.8	1.2
Santa Ana sucker	<i>Catostomus santaanae</i>	915.8	N/A <u>—<sup>b</sup></u>
San Bernardino kangaroo rat	<i>Dipodomys merriami parvus</i>	1,743.6	67.4
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	758.3	95.8

**Source:** USFWS 2017.

**Notes:** N/A = not applicable.

<sup>a</sup> Based on habitat assessments conducted for the proposed program as described in Appendix E (BTR). ~~N/A indicates that a habitat assessment was not conducted for that species.~~

<sup>b</sup> Habitat assessments not required by resource agencies due to availability of data for these species and lack of direct impacts.

##### *Plant Species*

A literature review identified 28 special-status plant species documented in the Valley Region (see Appendix E to this EIR, Table E-1). Of these 28 species, 6 either are confirmed present within the proposed program area or have a moderate to high potential to occur; 3 are federally and state-listed endangered and 3 are non-listed special-status species: Nevin's barberry (*Berberis nevinii*) (FE/SE/CRPR 1B.1), Santa Ana River woollystar (FE/SE/1B.1), slender-horned spineflower (FE/SE/CRPR 1B.1), Parry's spineflower (*Chorizanthe parryi* var. *parryi*)

(CRPR 1B.1), Sanford's arrowhead (*Sagittaria sanfordii*) (CRPR 1B.2), and white-bracted spineflower (*C. xanti* var. *leucotheca*) (CRPR 1B.2).

### ***Wildlife Species***

~~A literature review identified a~~ A total of 40 special-status animal species ~~have been~~ documented in the Valley Region (see Appendix E to this EIR, Table E-2). Three species that are federally listed or ~~state-listed~~ state listed as endangered or threatened (including candidate species) are known to be present or have a high potential to occur within the proposed program area: least Bell's vireo, Santa Ana sucker (*Catostomus santaanae*), and San Bernardino kangaroo rat. The federally endangered Delhi ~~sands~~ sands flower-loving fly has a moderate potential to occur in the proposed program area, limited to those areas with Delhi sands. Three listed bird species have a low potential to occur in the proposed program area, including tricolored blackbird, coastal California gnatcatcher, and southwestern willow flycatcher (*Empidonax traillii extimus*). One state fully protected species, white-tailed kite, has a low potential to nest within riparian woodlands in the proposed program area, particularly in the Prado area.

### **Page 4.3-17**

### ***Conservation Plans***

Several regional habitat conservation plans (HCPs) have been prepared or are in development within the Valley Region including the North Fontana Conservation Program, Upper Santa Ana River HCP, Upper Santa Ana Wash Land Management and Habitat Conservation Plan Wash Plan (Wash Plan), and Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The District will only be a Permittee under the Wash Plan ~~and is proposed as a Permittee for the Upper Santa Ana River HCP (which is in development)~~. Under CEQA, the District must confirm that the proposed program is not in conflict with existing plans.

There are two facilities that fall within the boundary of the North Fontana Conservation Program: Hawker-Crawford Channel (Facility No. 1-806-1A) and San Sevaine Spreading Grounds – East Levee (Facility No. 1-802-5D); however, they are not within proposed conservation areas.

The entire Valley Region falls within the boundary of the Upper Santa Ana River HCP. ~~Based on the Final Phase 1 Report (ICF 2014), the Upper Santa Ana River HCP will include District routine maintenance activities within the HCP area.~~ Because this plan is still in development, it is provided for informational purposes only.

The Wash Plan will primarily cover expanded gravel mining in an area downstream of the Seven Oaks Dam, in the southern extent of the City of Highland and the northern extent of the City of Redlands. Implementation of the fee schedule and avoidance and minimization measures within the Wash Plan for the District's routine maintenance activities will compensate for impacts to species covered under the Wash Plan. Finalization of all documents in relation to the Wash Plan, including the Implementation Agreements, is currently scheduled for ~~2018~~ 2019.

#### **Page 4.3-21**

##### ***Critical Habitat***

USFWS has designated critical habitat for southwestern willow flycatcher, San Bernardino kangaroo rat, and Sana Ana sucker. The acreage of critical habitat in the proposed program area in the Mountain Region is summarized in Table 4.3-4. The geographic extent of critical habitat within the Mountain Region and its location relative to the program area is provided on Figure 5-3 of the BTR (Appendix E). It is important to note that San Bernardino kangaroo rat does not historically occur within the Mountain Region; however, a small portion of critical habitat for this species is mapped within the lower-elevation region of the foothill reaches of Lytle Creek in the Mountain Region. Due to this overlap, this species is being analyzed in the Mountain Region as well as the Valley Region.

#### **Page 4.3-22**

##### ***Plant Species***

A literature review identified 89 special-status plant species documented within the Mountain Region, 30 of which have a moderate potential to occur within the proposed program area in the Mountain Region (see Appendix E to this EIR, Table E-3). Of those 30 species, 5 are federally and/or state-listed species with a moderate potential to occur: ash-gray paintbrush (FT/None/CRPR 1B.2), San Bernardino bluegrass (*Poa atropurpurea*) (FE/None/CRPR 1B.2), California dandelion (*Taraxacum californicum*) (FE/None/CRPR 1B.1), bird-foot checkerbloom (*Sidalcea pedata*) (FE/SE/CRPR 1B.1), and slender-petaled thelypodium (*Thelypodium stenopetalum*) (FE/SE/CRPR 1B.1).

#### **Page 4.3-23**

##### ***Wildlife Species***

A literature review identified a A total of 42 special-status animal species ~~have been~~ documented in the Mountain Region (see Appendix E to this EIR, Table E-4). No listed species have a high potential to occur in the proposed program area in the Mountain Region. The only listed species with moderate potential to occur in the proposed program area is the state-listed threatened

southern rubber boa. Listed species with low potential to occur are the southwestern willow flycatcher and the state endangered and state fully protected bald eagle.

#### **Page 4.3-24**

##### ***Conservation Plans***

The southwestern portion of the Mountain Region falls within the boundary of the Upper Santa Ana River HCP. ~~Based on the Final Phase 1 Report (ICF 2014), the Upper Santa Ana River HCP will include District routine maintenance activities within the HCP area. Because this plan is still in development, it is provided for informational purposes only.~~

#### **Page 4.3-28**

##### ***Critical Habitat***

Within the proposed program area in the Desert Region, the USFWS has designated critical habitat for two federally threatened and endangered species: desert tortoise and southwestern willow flycatcher. The acreage of critical habitat in the Desert Region is summarized in Table 4.3-6. The geographic extent of critical habitat within the Desert Region and its location relative to the program area is provided on Figure 6-3 of the BTR (Appendix E).

#### **Page 4.3-29, top**

##### ***Plant Species***

A literature review identified 46 special-status plant species documented in the Desert Region, of which a total of 25 have potential to occur within the proposed program area in the Desert Region (see Appendix E to this EIR, Table E-5).

#### **Page 4.3-29, bottom**

##### ***Wildlife Species***

A literature review identified a ~~A~~ total of 54 special-status animal species ~~have been~~ documented in the Desert Region (see Appendix E to this EIR, Table E-5). Listed species with a high potential to occur in the proposed program area include Mohave ground squirrel, desert tortoise, least Bell's vireo, and southwestern willow flycatcher. Tricolored blackbird, a state endangered species, has a moderate potential to occur. Arroyo toad, a federal endangered species, has a low potential to occur in the proposed program area; however, it has been documented in the Mojave River immediately upstream of the Mojave Forks Dam and approximately 0.5 miles downstream of the southern extent of the proposed program area. Yellow-billed cuckoo (*Coccyzus americanus*), a listed

species, although not documented in the proposed program area, has been reported as a migrant in the proposed program area.

### Page 4.3-30 and 4.3-31

#### *Conservation Plans*

Several regional HCPs have been prepared within the Desert Region. The District is not a Permittee under any of these plans; however, under CEQA the District must confirm that the proposed program is not in conflict with existing plans. Conservation plans within the Desert Region include the ~~Town of Apple Valley MSHCP/Natural Community Conservation Plan (NCCP)~~, Desert Renewable Energy Conservation Plan (DRECP), and the Lower Colorado River Multi-Species Conservation Program (MSCP).

The military installations within the Desert Region (e.g., Twentynine Palms Marine Corps Air Ground Combat Center, Fort Irwin National Training Center) have adopted Integrated Natural Resource Management Plans that govern conservation of species and habitats on those installations; however, they do not include any preservation or other conservation activities outside the boundaries of the military installations.

~~The Apple Valley MSHCP/NCCP is an ongoing planning effort to develop an MSHCP for the Town of Apple Valley and its sphere of influence. It proposes conservation to benefit 21 sensitive natural communities. At this time the MSHCP/NCCP's conservation strategy has not been made public, but the Planning Agreement between Apple Valley, the USFWS, and the CDFW states that the MSHCP/NCCP proposes to conserve approximately 44,400 acres of identified wildlife linkages connecting to existing preserved land in the Mojave Desert.~~

#### **4.3.5 Standard Operating Procedures (only SOPs that include changes are provided in this section)**

**SOP-BIO-1 Least Bell's Vireo.** To avoid direct harm to least Bell's vireo (*Vireo bellii pusillus*), maintenance activities within suitable riparian areas occur outside the typical nesting period for this species (approximately March 15–August 15). If maintenance activities in riparian areas must be conducted during this period, a pre-activity survey is conducted by a qualified biologist within 3 days of the start of the activity. If a least Bell's vireo nest or territorial individuals are identified, a minimum 300-foot activity-free buffer is established to avoid direct and indirect impacts. A qualified biologist monitors maintenance activities as needed to confirm that activities are not impacting the active nest. If the qualified biologist determines that maintenance activities are adversely affecting the nest,

maintenance activities immediately cease until the nest is no longer active or additional measures have been put in place to avoid impacts to the active nest.

**SOP-BIO-2 Coastal California Gnatcatcher.** To avoid direct harm to coastal California gnatcatcher (*Polioptila californica californica*), maintenance activities within suitable sage scrub areas occur outside the typical nesting period for this species (approximately February 15–August 31). If maintenance activities are required in suitable habitat for coastal California gnatcatcher during the nesting period, a pre-activity survey is conducted by a qualified biologist within 3 days prior to the activity. If coastal California gnatcatcher nests are identified, a minimum 300-foot buffer is established where no maintenance activities could occur to avoid potential indirect impacts. A qualified biologist monitors maintenance activities as needed to confirm that activities are not impacting active nests. If the qualified biologist determines that maintenance activities are adversely affecting nests, maintenance activities immediately cease until the nests are no longer active or additional measures have been put in place to avoid impacts to active nests.

**SOP-BIO-3 Southwestern Willow Flycatcher.** To avoid impacts to southwestern willow flycatcher (*Empidonax traillii extimus*), maintenance activities within suitable riparian habitat occur outside the typical nesting period for this species (approximately May 1–August 31). If maintenance activities in suitable riparian areas are required during the nesting period, a pre-activity survey is conducted by a qualified biologist within 3 days of the start of the activity. If southwestern willow flycatcher nests are identified, a minimum 1,000-foot buffer is established where no maintenance activities may occur to avoid potential direct and indirect impacts. A qualified biologist monitors maintenance activities as needed to confirm that activities are not impacting active nests. If the qualified biologist determines that maintenance activities are adversely affecting nests, maintenance activities immediately cease until the nests are no longer active or additional measures have been put in place to avoid impacts to active nests.

To determine southwestern willow flycatcher presence or absence within suitable habitat, protocol focused surveys for southwestern willow flycatcher are conducted prior to maintenance events within suitable habitat or as determined by the proposed program’s resource agency permits.

**SOP-BIO-7 Bat Roosts.** Maintenance activities in suitable bat roost habitat, including bridges and mature riparian forests and woodlands, generally occur outside the bat maternity season (generally between April 1 and July 31). ~~or pre-activity surveys are conducted to confirm absence of bat roosts.~~ If maintenance activities must

occur during the bat maternity season, pre-activity surveys are conducted by a qualified biologist to confirm absence of bat roosts. If bat roosts are present, a qualified biologist implements avoidance measures including establishing an avoidance buffer, monitoring the roost, and stopping or adjusting maintenance activities in coordination with the operations supervisor to ensure that impacts do not occur to the roost.

**SOP-BIO-10 Desert Tortoise.** Within 24 hours prior to initiation of maintenance activities in desert tortoise (*Gopherus agassizii*) habitat, a pre-activity survey is conducted by a qualified desert tortoise biologist. Any occupied or potentially suitable desert tortoise burrows are flagged and avoided. If individuals or other sign of desert tortoise are observed during the pre-activity survey, a biological monitor is present at all times during all maintenance activities unless exclusion fencing is utilized. The biological monitor stops maintenance activities as needed to avoid impacts to desert tortoise.

**SOP-BIO-11 Mojave Fringe-Toed Lizard.** To reduce the potential for any impacts to Mojave fringe-toed lizard (*Uma scoparia*) or their eggs or hibernating individuals, maintenance activities in desert dune habitat are scheduled to occur in April, or between August and October, when individuals are most likely to be active on the surface. If maintenance activities are required in suitable habitat from April to October, a qualified biologist familiar with Mojave fringe-toed lizard conducts a pre-activity survey no more than 24 hours prior to the maintenance activity. If individuals or sign of Mojave fringe-toed lizard are detected during the survey, biological monitoring of the maintenance activity is conducted to reduce the potential for direct harm. The biological monitor stops maintenance activities as needed to avoid impacts to Mojave fringe-toed lizard.

**SOP-BIO-12 Western Pond Turtle.** Prior to the initiation of any maintenance activities, areas where ponded waters occur and have the potential to support western pond turtle (*Actinemys marmorata*) on the Mojave River are mapped and documented by a qualified biologist as described in the Maintenance Plan. For maintenance activities within documented ponded areas, a qualified biological monitor is present to ensure that the pond is first drained and that any western pond turtles that may be present are able to leave the area that is to be maintained.

**SOP-BIO-14 Special-Status Plants Pre-Activity Surveys and Avoidance.** Prior to maintenance activities within facilities that provide suitable habitat for special-status plant species, the District completes pre-activity surveys for special-status plant species during the blooming period prior to the anticipated maintenance

activity. For facilities within the Narrow Endemic Plant Species Survey Area of the Western Riverside County Multiple Species Habitat Conservation Plan, pre-activity surveys include the narrow endemic plants as target species. Due to the program's proposed maintenance schedule of maintenance occurring on average at 30% of facilities each year, special-status plant surveys are anticipated approximately every 3 years for facilities supporting suitable habitat.

Surveys are conducted by a qualified botanist during a time when the plant species with potential to occur are identifiable (i.e., during their blooming period for annual species) within the maintenance area that would be subject to direct or indirect impacts. Surveys conform to the California Native Plant Society Botanical Survey Guidelines (CNPS 2001), Protocols for Surveying and Evaluating Impacts to Special Status Native Populations and Natural Communities (CDFG 2009), and the Endangered Species Recovery Program's General Rare Plant Survey Guidelines (Cypher 2002) or the most current accepted protocol. Plant species encountered during the field surveys are identified to subspecies or variety, if applicable, to determine sensitivity status.

Populations and individuals of any special-status plant species found during pre-activity surveys are mapped with GPS and documented in accordance with the Maintenance Plan. Mapped populations of listed species are avoided unless take authorization has been obtained from the respective resource agency. Non-listed special-status plants are avoided during maintenance activities as practicable. Installation of protective fencing and erosion and sediment control measures, as appropriate, is implemented to protect special-status plant populations found near maintenance sites.

**SOP-BIO-15 Worker Environmental Awareness Program.** If special-status biological resources are determined to potentially occur within or immediately adjacent to any of the maintenance activities during the environmental compliance review described in the Maintenance Plan, the following steps are implemented. A qualified biologist conducts a pre-activity survey for special-status species. The pre-activity survey includes all maintenance activity areas and an appropriate buffer (i.e., 300–500 feet for nesting birds, 100 feet for kit fox and badger). The a qualified biologist conducts a training/education session for operations staff members and/or District contractors. The biologist addresses any resources that could occur within avoided habitat and measures to minimize adverse impacts to avoided habitat areas. The biologist gives direction outlining actions to be taken should any special-status species or community be observed within or adjacent to maintenance areas. As applicable, the biologist reviews and/or designates the vegetation management area

in the field with maintenance personnel. When there is a high potential for special-status species to be present during maintenance activities, as determined by the pre-activity review and the pre-activity survey, the qualified biologist monitors maintenance activities and moves wildlife out of harm's way as appropriate. The qualified biologist stops maintenance activities as needed to avoid harm to special-status species. If kit fox dens are present, dens are identified as inactive, potentially active, or definitely active and coordination is undertaken with CDFW prior to collapsing dens. The biologist discusses with maintenance personnel that any vehicles or equipment driven and/or operated adjacent to natural open space areas is to be checked and maintained daily to prevent leaks of materials/liquids into these areas. When working in areas with potential to support special-status wildlife, maintenance vehicles travel at no more than 15 miles per hour.

**SOP-BIO-17 Monitoring.** As described in the Maintenance Plan, qualified District staff (or their designee) confirm implementation of SOPs and other relevant mitigation measures and permit conditions as described in the Maintenance Plan. The District submits occurrences of special-status species to the California Natural Diversity Database.

### 4.3.6.2 Analysis

#### Impact BIO-1

##### Page 4.3-40

In advance of anticipated consultation under Section 7 of the federal ESA, the District has undertaken a preliminary review of potential impacts to critical habitat to determine whether there would be significant impacts to suitable or occupied habitat for each species within respective designated critical habitat. There is no suitable habitat for Santa Ana sucker within the maintenance footprint; therefore, the proposed program would not result in direct impacts to Santa Ana sucker critical habitat, ~~would not result in adverse effects to this species.~~ Potential indirect effects to Santa Ana sucker critical habitat outside the program area and downstream of maintenance activities are discussed in more detail below, in the Special-Status Wildlife Species impacts analysis section (see "Santa Ana Sucker"). Potential indirect effects to Santa Ana sucker critical habitat would be less than significant. For southwestern willow flycatcher, there are approximately 16 acres of habitat suitable for this species within designated critical habitat. Removal of this habitat would be significant. Implementation of MM-BIO-8 (Mitigation for Southwestern Willow Flycatcher) and MM-BIO-10 (Compensation for Special-Status Vegetation Communities in the Valley Region) would reduce potential impacts to less than significant. Approximately 2.7 acres of coastal California gnatcatcher critical habitat would be impacted; however, only 0.05 acres of this area is composed of coastal sage scrub and approximately half of

that is disturbed. Due to the small area of coastal sage scrub removed, impacts to coastal California gnatcatcher habitat would be less than significant. Approximately 1.6 acres of habitat suitable for least Bell's vireo would be impacted within designated critical habitat. Removal of this habitat would be significant. Implementation of MM-BIO-8 (Mitigation for Southwestern Willow Flycatcher) and MM-BIO-10 (Compensation for Special-Status Vegetation Communities in the Valley Region) would reduce potential impacts to less than significant. Approximately 79.8 acres of San Bernardino kangaroo rat habitat would be impacted within critical habitat. Removal of this habitat would be significant. Implementation of MM-BIO-4 (Mitigation for San Bernardino Kangaroo Rat) and MM-BIO-10 (Compensation for Special-Status Vegetation Communities in the Valley Region) would reduce potential impacts to less than significant.

#### **Page 4.3-42, Special-Status Plant Species**

Special-status plant species could be directly impacted during ground-disturbing activities associated with implementation of the proposed program. Direct impacts could include removal of individual plants, changes in plant substrate, removal of cryptogamic crusts that stabilize the soils, and other changes in the microhabitats that support special-status plants. For the purpose of this analysis, ground-disturbing direct impacts are considered to be permanent for special-status plants. The District implements avoidance and minimization measures for special-status plants as described in SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys and Avoidance); however, permanent direct impacts to more than 10% of a special-status plant species that could not be avoided population within or adjacent to maintained facilities would be significant absent mitigation. Implementation of MM-BIO-3 (Mitigation for Special-Status Plants) would reduce impacts to special-status plants to less than significant.

#### **Page 4.3-44, Special-Status Wildlife Species**

##### ***Program Impacts Not Within LOPPs***

Ground-disturbing activities under the proposed program would result in direct impacts to San Bernardino kangaroo rat, a federally endangered species, on 87.0 acres of potentially suitable habitat as detailed in Table 4.3-9. These impacts would be significant because this species is not regionally widespread and is critically imperiled in the state. Implementation of MM-BIO-4 would reduce impacts to less than significant.

#### **Page 4.3-56, Special-Status Plant Species**

Special-status plant species could be directly impacted during non-ground-disturbing activities (herbicide vector control) associated with implementation of the proposed program. Application of herbicide to special-status plant species could be a potentially significant impact. Implementation of SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys and Avoidance)

would avoid and minimize direct impacts to special-status plants. However, without mitigation, permanent direct impacts to more than 10% of a special-status plant species population within or adjacent to maintained facilities would be significant. Implementation of MM-BIO-3 (Mitigation for Special-Status Plants) would reduce impacts to special-status plants to less than significant.

**Page 4.3-63, Special-Status Plant Species**

Special-status plant species could be directly impacted during ground-disturbing activities associated with implementation of the proposed program. Direct impacts could include removal of individual plants, changes in plant substrate, removal of cryptogamic crusts that stabilize the soils, and other changes in the microhabitats that support special-status plants. For purposes of this analysis, ground-disturbing direct impacts are considered to be permanent impacts to special-status plants. Permanent direct impacts to potentially occurring special-status plant species would be significant absent mitigation. The District implements avoidance and minimization measures for special-status plants as described in SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys and Avoidance). Impacts to more than 10% of a special-status plants population within or adjacent to maintained facilities ~~that could not be avoided~~ would be significant. Implementation of MM-BIO-3 (Mitigation for Special-Status Plants), described in Section 4.3.7, would reduce impacts to special-status plants to less than significant.

**Page 4.3-71, Special-Status Plant Species**

Special-status plant species could be directly impacted during non-ground-disturbing activities (herbicide vector control) associated with implementation of the proposed program. Application of herbicide to special-status plant species could be a significant impact. Implementation of SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys and Avoidance) would avoid and minimize direct impacts to special-status plants. However, without mitigation, permanent direct impacts to more than 10% of a special-status plant species population within or adjacent to maintained facilities would be significant. Implementation of MM-BIO-3 (Mitigation for Special-Status Plants) would reduce impacts to special-status plants to less than significant.

**Page 4.3-75, Special-Status Plant Species**

Special-status plant species could be directly impacted during ground-disturbing activities associated with implementation of the proposed program. Direct impacts could include removal of individual plants, changes in plant substrate, removal of cryptogamic crusts that stabilize the soils, and other changes in the microhabitats that support special-status plants. For purposes of this analysis, ground-disturbing direct impacts are considered to be permanent for special-status plants. Permanent direct impacts to potentially occurring special-status plant species would be significant absent mitigation. The District implements avoidance and minimization measures for special-status plants as described in SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys

and Avoidance); however, permanent direct impacts to more than 10% of a special-status plant species that could not be avoided population within or adjacent to maintained facilities would be significant absent mitigation. Implementation of MM-BIO-3 (Mitigation for Special-Status Plants) would reduce impacts to special-status plants to less than significant.

**Page 4.3-90, Special-Status Plant Species**

Special-status plant species could be directly impacted during non-ground-disturbing activities (herbicide vector control) associated with implementation of the proposed program. Twenty-five special-status plants have a moderate potential to occur (or low potential to occur for the two federally listed plants) within the proposed program area in the Desert Region. Application of herbicide to special-status plant species could be a significant impact. Implementation of SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys and Avoidance) would avoid and minimize direct impacts to special-status plants. However, without mitigation, permanent direct impacts to more than 10% of a special-status plant species population within or adjacent to maintained facilities would be significant. Implementation of MM-BIO-3 (Mitigation for Special-Status Plants) would reduce impacts to special-status plants to less than significant.

**Impact BIO-3**

**Page 4.3-114**

**Table 4.3-36  
Program Ground-Disturbing Activity Impacts  
to Waters of the United States in the Valley Region Within LOPPs**

LOPP Name	Facility Type	Permanent Impacts (Acres)		Temporary Impacts (Acres)	
		Wetland WOUS (USACE/SWRCB/CDFW)	Non-Wetland WOUS (USACE/SWRCB/CDFW)	Wetland WOUS (USACE/SWRCB/CDFW)	Non-Wetland WOUS (USACE/SWRCB/CDFW)
El Niño Maintenance Area	Natural channel	0	0	0	6.65
	Trapezoid engineered channel	0	0	0	8.82
<i>El Niño Maintenance Area subtotal</i>		<i>0</i>	<i>0</i>	<i>0</i>	<i>15.48</i>
First Line of Defense	Basin	0	<del>0.99</del> 0	2.42	<del>93.29</del> 94.28
	Spreading grounds	0	<del>0.52</del> 0	1.60	<del>75.27</del> 75.79
<i>First Line of Defense subtotal</i>		<i>0</i>	<i><del>1.51</del> 0</i>	<i>4.02</i>	<i><del>168.56</del> 170.07</i>
Wash Plan	Trapezoid engineered channel	0	0	0.21	19.50
	Natural channel	0	0	0	2.94
	Spreading grounds	0	0	0	0.39
<i>Wash Plan subtotal</i>		<i>0</i>	<i>0</i>	<i>0.21</i>	<i>22.83</i>

**Notes:** LOPP = local overlapping permitting process; WOUS = Waters of the United States; USACE = U.S. Army Corps of Engineers; SWRCB = State Water Resources Control Board; CDFW = California Department of Fish and Wildlife.

**Pages 4.3-115 and 4.3-116, Program Impacts Outside of LOPPs***Waters of the United States and State Direct Impacts*

~~Ingress/egress and stockpiles~~ Stockpiles have the potential to result in permanent direct impacts to waters of the United States and state. However, all permanent stockpiles have been placed outside waters of the United States. ~~Ingress/egress involves the repair and maintenance of existing access roads, and grading of roads has the potential to result in placement of native earth within existing waters of the United States.~~ Stockpiles Temporary stockpiles consist of placement of native earth and would constitute fill of waters of the United States; however, temporary stockpiles are generally situated outside waters of the United States as described in SOP-BIO-20 (Jurisdictional Waters Avoidance).

The remaining ground-disturbing activities would result in temporary direct impacts to waters of the United States and state. Ingress/egress involves the repair and maintenance of existing access roads; the grading of roads has the potential to result in placement of native earth within existing waters of the United States. Maintenance activities would occur within existing roads, which cross waters of the United States; therefore, while fill may occur, it would not result in the permanent loss of functions or values to waters of the United States and would therefore result in temporary impacts to waters of the United States. Federal maintenance and vegetation management could result in temporary disturbances due to ground disturbance associated with mowing and disking. Mechanized land clearing involves the creation of a centerflow through clearing sediment and vegetation within the center of the channel or clearing sediment and vegetation from the bottom of a basin and does not involve placement of fill. This activity would result in temporary disturbances to waters of the United States. Bank repair would typically occur on the banks of the streambed outside waters of the United States. It includes placement of dirt on the banks for erosion control, as well as incidental riprap and gabion placement and/or repair. This activity also includes removal of excess sediment or sand from channel or basin bottoms and applying it to the banks, which could result in temporary impacts to waters of the United States.

Table 4.3-38 quantifies the permanent and temporary direct impacts to waters of the United States and state that would occur as a result of implementation of ground-disturbing maintenance activities in the Valley Region.

**Table 4.3-38  
Program Ground-Disturbing Activity Impacts  
to Waters of the United States and State in the Valley Region**

Facility Type	Permanent Impacts (Acres) <sup>a,b</sup>		Temporary Impacts (Acres) <sup>a,b</sup>	
	Wetland WOUS (USACE/SWRCB/ CDFW)	Non-Wetland WOUS (USACE/SWRCB/ CDFW)	Wetland WOUS (USACE/SWRCB/ CDFW)	Non-Wetland WOUS (USACE/SWRCB/ CDFW)
Spreading ground	0	4.1	0.03	<del>50.89</del> <u>54.99</u>
Basin	0	11.75	9.61	<del>696.04</del> <u>707.76</u>
Natural channel	0	1.16	1.01	<del>64.96</del> <u>66.12</u>
Cross walls	0	0.45	0	<del>0</del> <u>0.45</u>
Levee	0	0	0	3.71
Trapezoid engineered channel	0	0.29	1.21	<del>561.92</del> <u>562.21</u>
Rectangular engineered channel	0	1.00	0.08	<del>270.35</del> <u>271.35</u>
<b>Total</b>	<b>0</b>	<b>18.75</b>	<b>11.95</b>	<b><del>1,647.84</del> <u>1,666.59</u></b>

**Notes:** WOUS = Waters of the United States; USACE = U.S. Army Corps of Engineers; SWRCB = State Water Resources Control Board; CDFW = California Department of Fish and Wildlife.

<sup>a</sup> Acreages may not sum due to rounding.

<sup>b</sup> Total acreage of impacts would be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time based on a programmatic level of review. Mitigation would be completed as determined by actual impact acreages.

**Page 4.3-120**

**Table 4.3-40  
Program Ground-Disturbing Activity Impacts  
to Waters of the United States in the Mountain Region Within LOPPs**

LOPP Name	Facility Type	Permanent Impacts (Acres)		Temporary Impacts (Acres)	
		Wetland WOUS (USACE/ SWRCB/CDFW)	Non-Wetland WOUS (USACE/ SWRCB/CDFW)	Wetland WOUS (USACE/ SWRCB/CDFW)	Non-Wetland WOUS (USACE/ SWRCB/CDFW)
First Line of Defense	Basin	0	<del>0.27</del> <u>0</u>	0	<del>24.32</del> <u>24.59</u>
<i>First Line of Defense subtotal</i>		0	<del>0.27</del> <u>0</u>	0	<del>24.32</del> <u>24.59</u>

**Notes:** LOPP = local overlapping permitting process; WOUS = waters of the United States; USACE = U.S. Army Corps of Engineers; SWRCB = State Water Resources Control Board; CDFW = California Department of Fish and Wildlife.

**Page 4.3-121, Program Impacts Not Within LOPPs**

***Waters of the United States and State Direct Impacts***

~~Ingress/egress and stockpiles~~ Stockpiles have the potential to result in permanent direct impacts to waters of the United States and state. However, all permanent stockpiles have been placed outside waters of the United States. Ingress/egress involves the repair and maintenance of existing access roads, and grading of roads has the potential to result in placement of native earth

~~within existing waters of the United States. Stockpiles~~ Temporary stockpiles consist of placement of native earth and would constitute fill of waters of the United States; ~~Within the Mountain Region, these activities do not occur within waters of the United States; therefore, there would be no permanent impacts to waters of the United States in the Mountain Region.~~ however, temporary stockpiles are generally situated outside waters of the United States as described in SOP-BIO-20 (Jurisdictional Waters Avoidance).

The remaining ground-disturbing activities would result in temporary direct impacts to waters of the United States and state. Ingress/egress involves the repair and maintenance of existing access roads; the grading of roads has the potential to result in placement of native earth within existing waters of the United States. Maintenance activities would occur within existing roads, which cross waters of the United States; therefore, while fill may occur, it would not result in the permanent loss of functions or values to waters of the United States and would therefore result in temporary impacts to waters of the United States. Federal maintenance and vegetation management could result in temporary disturbances due to ground disturbance associated with mowing and disking. Mechanized land clearing involves the creation of a centerflow through clearing sediment and vegetation within the center of the channel or clearing sediment and vegetation from the bottom of a basin and does not involve placement of fill. This activity would result in temporary disturbances to waters of the United States. Bank repair would typically occur on the banks of the streambed outside waters of the United States. It includes placement of dirt on the banks for erosion control, as well as incidental riprap and gabion placement and/or repair. This activity also includes removal of excess sediment or sand from channel or basin bottoms and applying it to the banks, which could result in temporary impacts to waters of the United States.

#### **Page 4.3-125, Program Impacts Not Within LOPPs**

##### ***Waters of the United States and State Direct Impacts***

~~Ingress/egress and stockpiles~~ Stockpiles have the potential to result in permanent direct impacts to waters of the United States and state. However, all permanent stockpiles have been placed outside waters of the United States. ~~Ingress/egress involves the repair and maintenance of existing access roads, and grading of roads has the potential to result in placement of native earth within existing waters of the United States.~~ Stockpiles Temporary stockpiles consist of placement of native earth and would constitute fill of waters of the United States; however, temporary stockpiles are generally situated outside waters of the United States as described in SOP-BIO-20 (Jurisdictional Waters Avoidance).

The remaining ground-disturbing activities would result in temporary direct impacts to waters of the United States and state. Ingress/egress involves the repair and maintenance of existing access

roads; the grading of roads has the potential to result in placement of native earth within existing waters of the United States. Maintenance activities would occur within existing roads, which cross waters of the United States; therefore, while fill may occur, it would not result in the permanent loss of functions or values to waters of the United States, and impacts to waters of the United States would be temporary. Federal maintenance and vegetation management could result in temporary disturbances due to ground disturbance associated with mowing and disking. Mechanized land clearing involves the creation of a centerflow through clearing sediment and vegetation within the center of the channel or clearing sediment and vegetation from the bottom of a basin and does not involve placement of fill. This activity would result in temporary disturbances to waters of the United States. Bank repair would typically occur on the banks of the streambed outside waters of the United States. It includes placement of dirt on the banks for erosion control, as well as incidental riprap and gabion placement and/or repair. This activity also includes removal of excess sediment or sand from channel or basin bottoms and applying it to the banks, which could result in temporary impacts to waters of the United States.

Tables 4.3-46 and 4.3-47 quantify the permanent and temporary direct impacts to waters of the United States and state that would occur as a result of implementation of ground-disturbing maintenance activities in the Desert Region.

**Table 4.3-46  
Program Ground-Disturbing Activity Impacts  
to Waters of the United States in the Desert Region**

Facility Type	Permanent Impacts (Acres) <sup>a,b</sup>		Temporary Impacts (Acres) <sup>a,b</sup>	
	Wetland WOUS (USACE/SWRCB/ CDFW)	Non-Wetland WOUS (USACE/SWRCB/ CDFW)	Wetland WOUS (USACE/SWRCB/ CDFW)	Non-Wetland WOUS (USACE/SWRCB/ CDFW)
Basin	0	<del>0.05</del> 0	0	<del>44.22</del> 14.27
Natural channel	0	<del>1.81</del> 0	24.24	<del>1,145.28</del> 1,147.09
Levee	0	<del>0.18</del> 0	0	<del>40.40</del> 10.28
Trapezoid engineered channel	0	<del>0.25</del> 0	0.11	<del>92.84</del> 93.09
Rectangular engineered channel	0	0	0	2.11
<b>Total</b>	<b>0</b>	<b><del>2.29</del> 0</b>	<b>24.35</b>	<b><del>1,264.55</del> 1,266.84</b>

**Notes:** WOUS = Waters of the United States; USACE = U.S. Army Corps of Engineers; SWRCB = State Water Resources Control Board; CDFW = California Department of Fish and Wildlife.

<sup>a</sup> Acreages may not sum due to rounding.

<sup>b</sup> Total acreage of impacts would be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time based on a programmatic level of review. Mitigation would be completed as determined by actual impact acreages.

**Table 4.3-47  
Program Ground-Disturbing Activity Impacts  
to Waters of the State in the Desert Region**

Facility Type	Permanent Impacts (Acres) <sup>a,b</sup>		Temporary Impacts (Acres) <sup>a,b</sup>	
	Wetland WOS (SWRCB/CDFW)	Non-Wetland WOS (SWRCB/CDFW)	Wetland WOS (SWRCB/CDFW)	Non-Wetland WOS (SWRCB/CDFW)
Spreading ground	0	0	0	11.18
Basin	0	0.120	0	7.187.30
Natural channel	0	0	0	2.21
Trapezoid engineered channel	0	0.030	0	95.9395.96
Rectangular engineered channel	0	0	0	1.64
<b>Total</b>	<b>0</b>	<b>0.150</b>	<b>0</b>	<b>118.14118.29</b>

**Notes:** WOS = waters of the state; SWRCB = State Water Resources Control Board; CDFW = California Department of Fish and Wildlife.

<sup>a</sup> Acreages may not sum due to rounding.

<sup>b</sup> Total acreage of impacts would be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time based on a programmatic level of review. Mitigation would be completed as determined by actual impact acreages.

**Impact BIO-5**

**Page 4.3-133**

***Town of Apple Valley MSHCP***

~~The Town of Apple Valley MSHCP/NCCP is still in development. Therefore, it is not possible to identify any conflicts with the plan at this time. However, Covered Activities under the Apple Valley MSHCP/NCCP are proposed to be limited to land uses over which the Town has land use authority and will include planning authorizations within its Sphere of Influence; therefore, District maintenance activities would not be in conflict with this MSHCP/NCCP.~~

**Page 4.3-134**

***Desert Renewable Energy Conservation Plan***

The Desert Region overlaps the DRECP, which amended the California Desert Conservation Area plan and established Conservation Management Actions that apply to activities on BLM lands. Appendix D of the Maintenance Plan (provided as Appendix A to this EIR) provides measures applicable to facilities that occur on BLM land implemented by the District. With implementation of these measures, the program would be consistent with the DRECP.

~~Although the DRECP area includes the Desert Region, the DRECP currently only applies to renewable energy projects and would not be applicable to the proposed program. It is possible that renewable energy projects could compete with the proposed program for mitigation lands;~~

however, that possibility exists regardless of the DRECP. The proposed program is not in conflict with the goals and policies of the DRECP.

## Impact BIO-6

Pages 4.3-133 and 4.3-134

### *Mountain Region*

There are no approved plans that overlap the Mountain Region; therefore, the proposed program would not conflict with any approved plans in the Mountain Region. As described in the following paragraphs, the proposed program would not conflict with adopted or approved local, regional, or state HCPs and impacts would be less than significant.

#### *All Program Activities*

~~The Upper Santa Ana River HCP is the only HCP that overlaps the Mountain Region. This HCP is currently in development. Although the Upper Santa Ana River HCP will include District routine maintenance activities within the HCP area, the proposed program would cover impacts to maintenance activities located within the HCP boundaries while the HCP is still in the planning stages. Because the District is part of the HCP team, the District will have input on the HCP; therefore, the proposed program would be consistent with the HCP through this collaborative effort and proposed program impacts would be less than significant.~~

### *Desert Region*

#### *All Program Activities*

The proposed program would not impede the achievement of the biological goals and measurable objectives of existing or future conservation plans in the Desert Region. Proposed program impacts to the ~~three~~ two plans already adopted ~~or in development~~ within the Desert Region are described below and would be less than significant.

#### ~~Town of Apple Valley MSHCP~~

~~The Town of Apple Valley MSHCP/NCCP is still in development. Therefore, it is not possible to identify any conflicts with the plan at this time. However, Covered Activities under the Apple Valley MSHCP/NCCP are proposed to be limited to land uses over which the Town has land use authority and will include planning authorizations within its Sphere of Influence; therefore, District maintenance activities would not be in conflict with this MSHCP/NCCP.~~

### 4.3.7 Mitigation Measures

**MM-BIO-3 Mitigation for Special-Status Plants.** In cases where significant impacts to special-status plant species cannot be avoided during implementation of SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys and Avoidance), the following mitigation shall be implemented. For species federally and/or state listed as threatened or endangered, prior to maintenance activities that would occur within occupied habitat and that may affect the respective species, a mitigation and monitoring plan shall be submitted to and approved by USFWS (for federally listed plants) and/or the California Department of Fish and Wildlife (CDFW) (for state-listed plants). Upon approval, the plan shall be implemented by the District or its designee. For non-listed plant species, prior to maintenance activities occurring within occupied habitat, if greater than 10% of a special-status plant population within or adjacent to maintained facilities would be impacted, District Ecological Resource Specialists shall determine potential impacts would be significant to the long term viability of the local population of that plant species. For significant impacts, the District shall develop and implement a mitigation translocation plan for that species. The mitigation plan will include relocating the species to a suitable area for conservation and/or collection of seeds to be salvaged at a reputable seed bank. The mitigation plan shall detail relocation methods suitable for the species impacted, location of mitigation site, and conservation of the mitigation site.

The mitigation and monitoring plan for the transplanted special-status plant(s) shall describe the following as needed based on plant species: (1) the location of mitigation sites; (2) site preparation measures as needed such as topsoil treatment, soil decompaction, erosion control, temporary irrigation systems, or removal of non-native species; (3) a schedule and action plan to maintain and monitor the mitigation areas; (4) adaptive management measures such as replanting, weed control, or erosion control to be implemented if habitat improvement/restoration efforts are not successful; (5) success criteria; and (6) annual monitoring and reporting requirements.

Take of any listed species, or collection and transplantation of any individuals and populations of any listed species, will require approval by the USFWS and/or CDFW and issuance of an ITP.

**MM-BIO-12 Mitigation for Mohave Ground Squirrel.** Compensatory mitigation ratios for Mohave ground squirrel shall be at a ratio of 2:1-1:1 for permanent direct impacts to Good quality habitat and 3:1-1.5:1 for permanent direct impacts to Excellent quality

habitat or as otherwise required by applicable resource agency permits. Mitigation shall be a combination of habitat preservation, enhancement, and/or creation and shall be coordinated with CDFW as part of the ITP.

Prior to impacts of potentially occupied Mohave ground squirrel habitat, the District shall receive authorization from the CDFW through CESA Sections 2081(b) and (c). Any measures determined to be necessary through the ITP process to offset impacts to Mohave ground squirrel may supersede measures provided in this document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.

### 4.3.9 Cumulative Impacts

#### Page 4.3-150

For biological resources, the list of projects was reviewed for those projects within the County that affect waterways and projects with impacts to similar biological resources as those potentially affected by the proposed program. Cumulative projects were reviewed by region because biological resources vary between the regions and impacts could be cumulatively considerable within one region while potentially not being cumulatively considerable when viewed at the County level. From the list of projects, the following were determined to meet the criteria in the Valley Region: Harmony Specific Plan, Pepper Avenue Specific Plan, ~~North Eastern Sphere Annexation Proposal (NESAP)~~ Etiwanda Heights Neighborhood and Conservation Plan, and Renaissance Specific Plan. Two projects were identified in the Desert Region: Bandicoot Basin and Oak Hills Basin. The proposed program would have limited impacts to biological resources in the Mountain Region. No projects were identified in the Mountain Region that, when combined with the proposed program, would contribute to cumulatively considerable impacts to biological resources in the Mountain Region; therefore, cumulative impacts in the Mountain Region are not further analyzed in this section. ~~NESAP~~ Etiwanda Heights Neighborhood and Conservation Plan

#### Page 4.3-151

The ~~NESAP~~ Etiwanda Heights Neighborhood and Conservation Plan contains approximately 4,115 acres of land proposed for annexation to the City of Rancho Cucamonga. Based on the description in the City of Rancho Cucamonga Staff Report to the Planning Commission dated October 25, 2017, the initial design proposes 2,915 acres in the northern portion of ~~NESAP~~ the Etiwanda Heights Neighborhood and Conservation Plan as a Conservation Priority Area and the southern 1,200 acres as Development Priority Area (City of Rancho Cucamonga 2017). The Development Priority Area also includes conservation areas as depicted on Exhibit B of the Staff Report. Environmental documents are not yet available for the ~~NESAP~~ Etiwanda Heights

Neighborhood and Conservation Plan; however, the majority of the project site is designated as Flood Control and Public Utilities Land on the City of Rancho Cucamonga General Plan and portions are pre-zoned by the Etiwanda North Specific Plan as Flood Control, Resource Conservation, and Hillside Residential. Based on a review of Google Earth aerials, the project site sits on a historic flood plain and supports potentially jurisdictional waters and RAFSS habitat. The proposed conservation area within the Development Priority Area would conserve a substantial portion of these resources. According to the Staff Report, focused surveys were conducted for San Bernardino kangaroo rat and were negative. It is reasonable to assume that any impacts to RAFSS habitat as a result of this project would be mitigated in a similar fashion as other approved projects and would involve a minimum of 1:1 mitigation ratio of preservation and enhancement of existing RAFSS.

#### **4.8.2 Regulatory Framework, page 4.8-2**

##### **Federal Clean Water Act**

Alteration of drainages and/or discharge of fill material to a surface water may require a Clean Water Act, Section 401 water quality certification for impacts to federal waters (waters of the U.S.), which would be issued by the State Water Resources Control Board for the program. Section 401 of the Clean Water Act requires that an applicant for any federal permit (e.g., a U.S. Army Corps of Engineers (USACE) Section 404 permit) obtain certification from the state that the discharge would comply with other provisions of the act and with state water quality standards. Water quality certification under Section 401 of the Clean Water Act, and the associated requirements and terms, is required to minimize or eliminate the potential water quality impacts associated with the action(s) requiring a federal permit.

Section 404 of the Clean Water Act requires permits for the discharge of dredged or fill material into waters of the United States, including wetlands. However, certain activities are exempt from permit requirements under Section 404(f)(1), including maintenance (but not construction) of drainage ditches and structures such as dams, dikes, and levees.

##### **California Porter-Cologne Water Quality Control Act**

Alteration of drainages and/or discharge of fill material to a surface water may require a fill waste discharge requirements for impacts to non-federal waters, which would be issued by the State Water Resources Control Board for the program. Additionally, the RWQCBs regulate urban runoff discharges under NPDES permit regulations. NPDES permitting requirements cover runoff discharged from point sources (e.g., industrial outfall discharges) and non-point sources (e.g., stormwater runoff). The California SWRCB requires dischargers whose projects disturb 1 acre of soil or more to obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction

General Permit; Water Quality Order 2009-0009-DWQ). Construction activity subject to this permit includes clearing, grading, and ground disturbances such as trenching, stockpiling, or excavation. However, the Construction General Permit specifically exempts routine maintenance activities conducted by utility service providers as long as the original line and grade, hydraulic capacity, or original purpose of the facility is maintained (Water Quality Order 2009-0009-DWQ). The proposed program would thus be exempt from requiring coverage under the Construction General Permit, and preparation and implementation of a stormwater pollution prevention plan (SWPPP) would not be required by law, provided that such activities remain within the District’s existing facilities and right-of-way.

Although a SWPPP would not be required for routine maintenance activities, the District has incorporated SOPs into the proposed program consistent with typical BMPs as defined by EPA. EPA defines BMPs as “schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the United States.” BMPs include “treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage” (40 CFR 122.2).

Water diversion and/or dewatering activities may be subject to discharge and monitoring requirements under either NPDES General Permit, Limited Threat Discharges to Surface Waters, Board Order R6T-014-0049, or General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality, WQO 2003-0003-DWQ, both issued by the Lahontan RWQCB.

## **4.8.9 Cumulative Impacts**

### **Water Quality**

#### **Pages 4.8-66 and 4.8-67**

With regard to the proposed program’s potential effects on total dissolved solids, heavy metals, and/or fuels, the proposed program, along with other projects occurring within the same watersheds, would be required to comply with applicable federal, state, and local water quality regulations. Other projects that would have the highest potential to contribute to cumulative water quality impacts include projects located within the same primary waterways (i.e., Mojave River, Santa Ana River, and other major tributary creeks) that include a substantial amount of ground disturbance. Examples of cumulative projects with potentially the most water quality impacts include the Harmony Specific Plan, Renaissance Specific Plan, Pepper Avenue Specific Plan, and ~~North Eastern Sphere Annexation Proposal (NESAP)~~ Etiwanda Heights Neighborhood and Conservation Plan, as summarized below.

**Page 4.8-69****North Eastern Sphere Annexation Proposal Etiwanda Heights Neighborhood and Conservation Plan**

The NESAP Etiwanda Heights Neighborhood and Conservation Plan area contains a total of approximately 4,300 acres in the County that would be annexed by the City of Rancho Cucamonga. Initial design considerations maintain the northern approximately 3,000 acres as a conservation priority area, with approximately 1,200 acres of development priority area in the southern portion, generally located between Milliken Avenue and Day Creek Avenue, north of Banyan Street. As discussed for the Renaissance Specific Plan, the Santa Ana RWQCB adopted NPDES Permit No. CAS618036 for the San Bernardino County MS4 Permit, including the City of Rancho Cucamonga. In addition, a project-specific NPDES permit, including a SWPPP and associated BMPs, would be implemented in association with development under the NESAP Etiwanda Heights Neighborhood and Conservation Plan. Compliance with these NPDES permits and watershed monitoring program would reduce adverse water quality impacts such that the project would not make a considerably cumulative contribution to significant water-quality-related impacts.

**Hydrology and Flooding****Page 4.8-71**

Downstream or upstream cumulative projects located in proposed program watersheds could similarly increase runoff as a result of increased impermeable surfaces. The cumulative effect would be that peak flows within the watershed drainages would be greater in magnitude, shorter in duration, and more responsive to storm events, because a greater portion of precipitation is carried by surface runoff rather than percolated into the soil. As previously discussed, examples of cumulative projects with potentially the most drainage-related impacts include the Harmony Specific Plan, Renaissance Specific Plan, Pepper Avenue Specific Plan, and NESAP Etiwanda Heights Neighborhood and Conservation Plan, as summarized below.

**Page 4.8-72****North Eastern Sphere Annexation Proposal Etiwanda Heights Neighborhood and Conservation Plan**

A conceptual drainage plan has not been prepared for the proposed NESAP Etiwanda Heights Neighborhood and Conservation Plan area; however, the City of Rancho Cucamonga General Plan, Public Facilities and Infrastructure Element (City of Rancho Cucamonga 2010) indicates that the City of Rancho Cucamonga and the District coordinate the preparation of drainage plans

and review development projects using design criteria established by the District. Similar to the two existing master drainage plans for the east and west portions of the community, the NESAP Etiwanda Heights Neighborhood and Conservation Plan would likely incorporate a master drainage plan for the NESAP Etiwanda Heights Neighborhood and Conservation Plan area. The City of Rancho Cucamonga's drainage plans provide a drainage system consisting of regional mainline, secondary regional, and master plan facilities that would adequately convey a 100-year storm event. Implementation of a NESAP Etiwanda Heights Neighborhood and Conservation Plan master drainage design, similar to the existing city master drainage plans, would reduce adverse drainage-related impacts such that the NESAP Etiwanda Heights Neighborhood and Conservation Plan would not make a considerably cumulative contribution to significant hydrology-related impacts.

## 4.9.2 Regulatory Framework

### Page 4.9-1

#### *Federal*

~~No federal regulations, plans, or policies are applicable to the analysis of land use and planning as it pertains to the proposed program.~~

#### *Federal Land Policy and Management Act of 1976*

The Federal Land Policy and Management Act of 1976, as amended, establishes public lands policy and management guidelines on public lands managed by the Bureau of Land Management (BLM). The act includes land use planning, range management, rights-of-way, and designated management areas.

The California Desert Conservation Area (CDCA) Plan was approved in 1980 in accordance with the Federal Land Policy and Management Act. The CDCA Plan provides for multiple use management of approximately 25 million acres, of which 10 million acres are managed by the BLM, falling within San Bernardino County and six other counties. The CDCA Plan has been amended numerous times, and is based on the concepts of multiple use, sustained yield, and maintenance of environmental quality. The CDCA Plan aims to protect biological, geological, paleontological, scenic, and cultural resources while allowing for a variety of land uses and activities.

Several major amendments to the CDCA Plan have been made in San Bernardino County, including the BLM Northern and Eastern Colorado Desert Coordinated Management Plan, BLM Northern and Eastern Mojave Desert Management Plan, the BLM West Mojave Plan, and the Desert Renewable Energy Conservation Plan (DRECP) Land Use Plan Amendment.

*U.S. Forest Service*

The San Bernardino National Forest lies in southwest San Bernardino County, dividing the Desert and Valley Regions. The U.S. Forest Service (USFS) has jurisdiction over these lands and manages them conservatively to ensure their long-term sustainability. The land management strategy employed by USFS follows their “multiple use” doctrine, and includes suitable commodity and commercial uses. Uses and actions proposed on national forest lands ultimately occur at the discretion of USFS. The Land and Resource Management Plan for the San Bernardino National Forest emphasizes sustainable use through the delineation of “land use zones” that identify allowable activities by zone, demonstrating the intent of multiple use management. USFS manages Angeles National Forest, which edges into San Bernardino County, in a similar fashion.

**Pages 4.9-2, 4.9-3*****Town of Apple Valley MSHCP***

~~An ongoing planning effort is underway to develop a multi-species habitat conservation plan (MSHCP) for the Town of Apple Valley and its sphere of influence. The website for this effort provides a map of the plan area that includes the Town’s limits, the sphere of influence limits, and a sphere of influence “planning extension” that would include County jurisdiction (Town of Apple Valley 2010). Currently, no information is provided on covered activities or projects, or on what species may be covered for take (harm).~~

***Upper Santa Ana River HCP***

The Upper Santa Ana River HCP is a collaborative effort among the water resource agencies of the Santa Ana River Watershed, in partnership with USFWS, CDFW, and several other government agencies and stakeholder organizations. The Upper Santa Ana River HCP is in the development phase with an HCP team consisting of nine participating water resource agencies (including the District) and wildlife agencies. The purpose of the Upper Santa Ana River HCP is to enable the water resource agencies to continue to provide and maintain a secure source of water for the residents and businesses in the watershed, and to conserve and maintain natural rivers and streams that provide habitat for a diversity of unique and rare species in the watershed. The covered projects span the majority of the Valley Region of the County as well as the eastern portion of San Bernardino National Forest. The goal is to ensure the conservation of the covered species, particularly the Santa Ana sucker (*Catostomus santaanae*), while still allowing for increased water conservation through new infrastructure for infiltration and increased effluent recycling. This HCP is currently in development; ~~however, routine maintenance activities are proposed to be covered by this HCP~~ and is provided for informational purposes.

**Pages 4.9-3 and 4.9-4*****Wash Plan***

According to the San Bernardino Valley Water Conservation District's (the Wash Plan's lead agency) website, progress toward finalizing the Wash Plan has been steady. The Wash Plan includes an HCP, a California Environmental Quality Act (CEQA)/National Environmental Quality Act (NEPA) joint EIR and Environmental Impact Statement, and two Implementing Agreements that include Memoranda of Understanding between the Task Force and participating stakeholders (SBVWCD 2017). One Implementing Agreement is specific to the District. The HCP draft is complete, and the CEQA/NEPA draft environmental documents are currently being finalized. The HCP and environmental documents are currently pending publication in the Federal Register, which will be followed by a 90-day public comment period. Finalization of all documents, including the Implementation Agreements, is currently scheduled for ~~2018~~ 2019.

**4.9.4 Existing Conditions****Page 4.9-8*****Desert Region******Town of Apple Valley MSHCP/NCCP***

~~The Town of Apple Valley is currently developing an MSHCP and NCCP. Covered Activities under the Apple Valley MSHCP/NCCP will be limited to land uses over which the Town of Apple Valley has land use authority and will include planning authorizations within its Sphere of Influence. The Apple Valley MSHCP/NCCP would include the entire incorporated area of Apple Valley (48,150 acres) and 173,030 acres of unincorporated County lands. The plan area for the Apple Valley MSHCP/NCCP would be entirely within the Desert Region.~~

~~As of June 2017, the Apple Valley MSHCP/NCCP proposes coverage for 50 species, including 16 plants and 34 wildlife species. The Apple Valley MSHCP/NCCP also proposes conservation to benefit 21 sensitive natural communities. At this time the MSHCP/NCCP's conservation strategy has not been made public, but the Planning Agreement between Apple Valley, the USFWS, and the CDFW states that the MSHCP/NCCP proposes to conserve approximately 44,400 acres of identified wildlife linkages connecting to existing preserved land in the Mojave Desert.~~

## 4.9.6.2 Analysis

Page 4.9-12

### *Desert Region*

#### *All Program Activities*

The proposed program would not impede the achievement of the biological goals and measurable objectives of existing or future conservation plans in the Desert Region. The proposed program's impacts to the ~~three~~ two plans already adopted or in development within the Desert Region are described below.

#### ~~Town of Apple Valley MSHCP~~

~~The Town of Apple Valley MSHCP/NCCP is still in development. Therefore, it is not possible to identify any conflicts with the plan at this time. However, Covered Activities under the Apple Valley MSHCP/NCCP are proposed to be limited to land uses over which the Town of Apple Valley has land use authority and will include planning authorizations within its Sphere of Influence; therefore, District maintenance activities are not expected to be in conflict with this MSHCP/NCCP.~~

#### Desert Renewable Energy Conservation Plan

The Desert Region overlaps the DRECP, which amended the CDCA plan and established Conservation Management Actions that apply to activities on BLM lands. Appendix D of the Maintenance Plan (provided as Appendix A to this EIR) provides measures applicable to facilities that occur on BLM land implemented by the District. With implementation of these measures, the program would be consistent with the DRECP.

~~Although the DRECP area includes the Desert Region, the DRECP currently only applies to renewable energy projects and would not be applicable to the proposed program. It is possible that renewable energy projects could compete with the proposed program for mitigation lands; however, that possibility exists regardless of the DRECP. The proposed program is not in conflict with the goals and policies of the DRECP.~~

### 4.10.5 Standard Operating Procedures

**SOP-NOI-1 Avoidance of Impacts to Noise-Sensitive Receptors during Earthworks.** In order to minimize noise at nearby noise-sensitive receptors, proposed program activities implement the following earthwork considerations, as applicable:

- Noise-generating maintenance activities are restricted to the daytime, generally 7:00 a.m. to 7:00 p.m. Monday through Friday, or to the applicable local permitted hours if the work is located within a jurisdictional boundary in the program area, except for urgent or emergency situations. As necessary, the District coordinates with the applicable local jurisdiction regarding activities that are not consistent with local ordinances to avoid/minimize impacts.
- When a maintenance activity within the City of Rancho Cucamonga (City) boundaries or Sphere of Influence is located within 660 feet of a residential use and/or zone, the District will inform the City planning department prior to commencement of the maintenance activity. For maintenance activities that require the use of the City’s right-of-way for hauling excavated material, the District will provide a map of the route that will be used by haul vehicles.
- Electrically powered equipment is used instead of pneumatic or internal-combustion-powered equipment, where feasible.
- Temporary material stockpiles and mobile equipment staging and parking are located as far as practicable from noise-sensitive receptors.

### 4.11 Public Services, Table 4.11-1

**Table 4.11-1  
Fire Jurisdiction Summary**

Fire Departments	Jurisdiction	Region	Address
Apple Valley Fire Protection District	City of Apple Valley	Desert	22400 Headquarters Drive Apple Valley, California 92307
Barstow Fire Protection District	City of Barstow	Desert	220 East Mountain View Street, Suite A, Barstow, California 92311
Big Bear Lake Fire Protection District	City of Big Bear Lake	Mountain	39707 Big Bear Boulevard PO Box 10000 Big Bear Lake, California 92315
Chino Valley Fire District	City of Chino, City of Chino Hills	Valley	14011 City Center Drive Chino Hills, California 91709
Colton Fire Department	City of Colton	Valley	303 East E Street Colton, California 92324
CAL FIRE/Riverside County Fire Department	City of Eastvale, City of Jurupa Valley	Valley <sup>a</sup>	210 West San Jacinto Avenue Perris California 92570

**Table 4.11-1  
Fire Jurisdiction Summary**

Fire Departments	Jurisdiction	Region	Address
CAL FIRE/San Bernardino Unit	City of Yucaipa	Valley	3800 North Sierra Way San Bernardino, California 92405
Highland Fire Department	City of Highland	Valley	27215 Base Line Highland, California 92346
Loma Linda Fire Department	City of Loma Linda	Valley	25541 Barton Road Loma Linda, California 92354
Montclair Fire Department	City of Montclair	Valley	5111 Benito Street Montclair, California 91763
Ontario Fire Department	City of Ontario	Valley	425 East B Street Ontario, California 91764
Rancho Cucamonga Fire Protection District	City of Rancho Cucamonga	Valley	10500 Civic Center Drive Rancho Cucamonga, California 91730
Redlands Fire Department	City of Redlands	Valley	35 Cajon Street Redlands, California 92373
Rialto Fire Department	City of Rialto	Valley	150 South Palm Avenue Rialto, California 92376
San Bernardino County Fire Department	City of Adelanto, City of Fontana, City of Grand Terrace, City of Hesperia, City of Needles, City of San Bernardino, City of Twentynine Palms, City of Upland, City of Victorville, Town of Yucca Valley, and unincorporated San Bernardino County	Desert, Mountain, Valley	157 West Fifth Street, 2nd floor San Bernardino, California 92415-0451

#### 4.12.5 Standard Operating Procedures

**SOP-REC-1 Agency Coordination.** During scheduling of maintenance activities, the District reaches out to the applicable agencies (e.g., agency with jurisdiction over parks and recreational resources, California Department of Fish and Wildlife, Bureau of Land Management, U.S. Forest Service, utility and water agencies) to ensure that scheduled maintenance would not ~~conflict with other closures by the agency~~ be in conflict with the goals, responsibilities, and existing infrastructure of agencies with overlapping jurisdiction, including other closures planned by the agencies, maintenance of existing infrastructure, or applicable goals and policies of the respective agencies.

#### 5.2.2 Agricultural Agriculture and Forestry Resources

The IS determined that impacts associated with ~~agricultural~~ agriculture and forestry resources would be less than significant, and no additional analysis in the EIR would be required. For a

detailed discussion on less than significant impacts regarding ~~agricultural~~ agriculture and forestry resources, see Appendix B.

### **Cumulative Impacts on Agriculture and Forestry Resources**

As analyzed in the IS, the proposed program would experience less than significant impacts related to all agriculture and forestry resource issue areas. Considering the proposed program would not impact farmland or forestland, the proposed program would not combine with cumulative projects resulting in a significant impact to an agricultural or forestry resource. Therefore, impacts to agriculture and forestry resources would not be cumulatively considerable.

### **5.2.11 Mineral Resources**

The IS determined that less than significant impacts associated with mineral resources would occur, and no additional analysis in the EIR would be required. For a detailed discussion regarding mineral resources, see Appendix B.

### **Cumulative Impacts on Mineral Resources**

As analyzed in the IS, the proposed program would experience less than significant impacts related to all mineral resource issue areas. Considering the proposed program would not be located within the vicinity of a known mineral resource or a locally important mineral resource recovery site, the proposed program would not combine with cumulative projects resulting in a significant impact to mineral resources. Therefore, impacts to mineral resources would not be cumulatively considerable.

### **5.2.13 Population and Housing**

The IS determined that no impacts associated with population growth and housing would occur, and no additional analysis in the EIR would be required. For a detailed discussion regarding population and housing, see Appendix B.

### **Cumulative Impacts on Population and Housing**

Maintenance activities would not involve the expansion of existing or construction of new facilities. Because the capacity of existing facilities and drainage features would stay the same with the implementation of the proposed maintenance activities, no indirect stimulus to growth would occur. No homes or employment opportunities are proposed that would directly facilitate population growth. Proposed maintenance activities would occur within existing facilities and would not displace any people. These proposed maintenance activities would not disrupt or displace substantial numbers of people or housing requiring the construction of replacement housing elsewhere. The proposed program would not combine with other projects to result in cumulative impacts.

### 3.3 CHANGES TO APPENDICES

The following is a summary of changes made to the Appendices of the Draft EIR.

#### Appendix A

Appendix A has been revised to be consistent with changes made to the Draft EIR. An updated version of Appendix A is provided in this Final EIR. The following changes have been made to Appendix A:

- Clarification has been added regarding the process for activities in facilities occurring on federal lands.
- Standard operating procedures have been updated to match changes made to SOPs in the Draft EIR as described in this chapter.
- An annual work plan has been added to the annual reporting section.
- Two columns have been added to Appendix A, Facility Maintenance Matrix: *Hydraulic Analysis Conducted* and *Rationale for Not Conducting Hydraulic Analysis*.

#### Appendix E, Biological Technical Report, page 212

The Biological Technical Report (BTR; Appendix E to the Draft EIR) has been revised to be consistent with changes made to the Draft EIR. An updated version of the BTR is provided as Appendix C to this Final EIR. The following changes have been made to the BTR:

- References to the Upper Santa Ana River HCP have been modified to be consistent with the changes provided in this chapter of the Final EIR.
- SOPs have been updated to be consistent with the changes made herein.
- Appendix E of the BTR has been updated to denote which special-status species are designated as sensitive species by BLM and/or USFS.
- In addition, the following correction has been made:

#### 6.1.6 Special-Status Species

Appendix ~~G~~ E provides a summary of the special-status species that have been documented in the Desert Region of San Bernardino County, and includes information on status, distribution, habitat associations, and likelihood of occurrence within the study area. A brief summary of those species potentially occurring in the Valley Region is described in this section with further details provided for those species that are federally listed and/or state listed.

### **3.4 REFERENCES**

14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.

## **CHAPTER 4 MITIGATION MONITORING AND REPORTING PROGRAM**

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### **4.1 MITIGATION MONITORING AND REPORTING PROGRAM**

The California Environmental Quality Act (CEQA; California Public Resources Code, Section 21000 et seq.), requires that, upon certification of an environmental impact report (EIR), “the public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation” (California Public Resources Code, Section 21081.6).

A mitigation monitoring and reporting program (MMRP) is required to ensure that adopted mitigation measures (MMs) are successfully implemented for the proposed Master Storm Water System Maintenance Program (proposed program). The San Bernardino County Flood Control District (District) is the lead agency for the proposed program and is responsible for implementation of the MMRP. The MMRP will be active through all maintenance activities associated with the proposed program. The District must adopt this MMRP, or an equally effective program, if it approves the proposed program with the mitigation measures that were adopted or made conditions of program approval. This MMRP has been developed in compliance with CEQA, Section 21081.6, and the CEQA Guidelines, Section 15097 (14 CCR 15000 et seq.).

Table 4-1 identifies the mitigation program to be implemented by the District for the proposed program. Table 4-1 includes the following information:

- A list of mitigation measures
- The responsible party who must ensure that each mitigation measure is implemented and that monitoring and reporting activities occur
- The timing for implementation of the mitigation measures relative to maintenance activities under the proposed program
- The entity responsible for implementing each mitigation measure

As part of the MMRP, monitoring compliance forms for each mitigation measure will be developed for the activities under the proposed program. These forms will be completed to document implementation of all measures. Once all measures have been completed, the compliance monitor will sign off on the measure to indicate that the required mitigation measure has been completed.

**Table 4-1**  
**Mitigation Monitoring and Reporting Program for the**  
**San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party
<i>Biological Resources</i>			
<p><b>MM-BIO-1: Minimization of Impacts under LOPPs.</b> Maintenance activities shall not occur within areas covered by local overlapping permitting processes (LOPPs) (including the Wash Plan, First Line of Defense (FLOD) project area, El Niño project area, and Lenwood facilities) until the relevant permits and environmental clearance have been obtained for these LOPPs. Any measures (including mitigation measures in California Environmental Quality Act (CEQA) documents, conditions in permits for impacts to jurisdictional waters, and conditions in federal and/or state Incidental Take Permits (ITPs)) from the LOPPs shall be incorporated into the Maintenance Plan for implementation with other standard operating procedures (SOPs), mitigation measures, and permit conditions as applicable to reduce any impacts due to adverse modification to critical habitat to below USFWS thresholds. Should the District decide to conduct maintenance activities within LOPP areas in advance of environmental clearance being obtained through the LOPPs, the District shall implement mitigation measures and obtain relevant permits as described in this EIR for impacts within the LOPPs.</p>	District	Prior to and during maintenance activities	District
<p><b>MM-BIO-2: Minimization of Impacts to Critical Habitat and Mitigation for Loss of Habitat.</b> Maintenance activities shall not occur within areas designated by U.S. Fish and Wildlife Service (USFWS) as critical habitat until the District receives confirmation from USFWS that either (1) the action may affect, but is not likely to adversely affect, critical habitat or (2) the District will receive authorization from USFWS for adverse modification to critical habitat through an informal consultation, a Biological Opinion under the federal Endangered Species Act (ESA), a habitat conservation plan, or other suitable mechanism. All conditions from USFWS for potential adverse modification to critical habitat shall be incorporated into the Maintenance Plan and implemented with other SOPs and mitigation measures of this proposed program. The plan shall include all methods, conditions, practices, and mitigation required by USFWS. Permanent impacts to occupied habitat and/or designated critical habitat shall include off-site acquisition and preservation of occupied habitat or designated critical habitat per the species-specific mitigation measures MM-BIO-4 through MM-BIO-9 and MM-BIO-12 through MM-BIO-16, or as otherwise required by USFWS to reduce any impacts due to adverse modification to critical habitat to below USFWS thresholds.</p>	District	Prior to and during maintenance activities	District

**Table 4-1  
Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party
<p><b>MM-BIO-3: Mitigation for Special-Status Plants.</b> In cases where significant impacts to special-status plant species cannot be avoided during implementation of SOP-BIO-14 (Special-Status Plants Pre-Activity Surveys and Avoidance), the following mitigation shall be implemented. For species federally and/or state listed as threatened or endangered, prior to maintenance activities that would occur within occupied habitat and that may affect the respective species, a mitigation and monitoring plan shall be submitted to and approved by USFWS (for federally listed plants) and/or the California Department of Fish and Wildlife (CDFW) (for state-listed plants). Upon approval, the plan shall be implemented by the District or its designee. For non-listed plant species, prior to maintenance activities occurring within occupied habitat, if greater than 10% of a special-status plant population within or adjacent to maintained facilities would be impacted, the District shall develop and implement a translocation plan for that species. <u>The mitigation plan will include relocating the species to a suitable area for conservation and/or collection of seeds to be salvaged at a reputable seed bank. The mitigation plan shall detail relocation methods suitable for the species impacted, location of mitigation site, and conservation of the mitigation site.</u></p> <p>The mitigation and monitoring plan for the transplanted special-status plant(s) shall describe the following as needed based on plant species: (1) the location of mitigation sites; (2) site preparation measures as needed such as topsoil treatment, soil decompaction, erosion control, temporary irrigation systems, removal of non-native species; (3) a schedule and action plan to maintain and monitor the mitigation areas; (4) adaptive management measures such as replanting, weed control, or erosion control to be implemented if habitat improvement/restoration efforts are not successful; (5) success criteria; and (6) annual monitoring and reporting requirements.</p> <p>Take of any listed species, or collection and transplantation of any individuals and populations of any listed species, will require approval by the USFWS and/or CDFW and issuance of an ITP.</p>	District	Prior to and during maintenance activities	District
<p><b>MM-BIO-4: Mitigation for San Bernardino Kangaroo Rat.</b> Compensatory mitigation ratios for San Bernardino kangaroo rat shall be at 1:1 for low-quality habitat, 2:1 for moderate-quality habitat, and 3:1 for high-quality habitat or as otherwise required by the applicable resource agency permits. Mitigation shall be a combination of habitat preservation, enhancement, and/or creation and shall be coordinated with the USFWS as part of the ITP.</p> <p>Prior to direct impacts to suitable habitat for San Bernardino kangaroo rat, the District shall receive authorization from the USFWS through the ESA ITP process, including the preparation of a Biological Assessment, for take of San Bernardino kangaroo rat and adverse modification of designated critical habitat. Any measures determined to be necessary through the Incidental Take Permit process to offset impacts to San Bernardino kangaroo rat may supersede measures provided in this CEQA document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p>	District	Prior to and during maintenance activities	District

**Table 4-1  
Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures				Responsible Party	Timing of Implementation	Implementing Party
<b>Proposed Mitigation Ratios and Estimated Mitigation Acreage for San Bernardino Kangaroo Rat Habitat in the Valley Region</b>						
<b>Habitat Quality</b>	<b>Impacts (Acres)<sup>a</sup></b>	<b>Mitigation Ratio<sup>b</sup></b>	<b>Total Mitigation (Acres)<sup>a</sup></b>			
Low quality	47.0	1:1	47			
<b>Habitat Quality</b>	<b>Impacts (Acres)<sup>a</sup></b>	<b>Mitigation Ratio<sup>b</sup></b>	<b>Total Mitigation (Acres)<sup>a</sup></b>			
Moderate quality	28.2	2:1	56.4			
High quality	11.8	3:1	35.4			
<b>Total</b>	<b>87</b>	<b>—</b>	<b>138.8</b>			
<sup>a</sup> Total acreage of impacts and mitigation shall be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time. Mitigation would be completed as determined by actual impact acreages.						
<sup>b</sup> Mitigation ratios may be modified by the applicable resource agency permit.						
<b>MM-BIO-5: Mitigation for Least Bell's Vireo.</b> Compensatory mitigation ratios for least Bell's vireo shall be at 1:1 for low-quality habitat, 2:1 for moderate-quality habitat, and 3:1 for high-quality habitat or as otherwise required by applicable resource agency permits. Mitigation shall be a combination of habitat preservation, enhancement, and/or creation and shall be coordinated with the USFWS as part of the ITP.				District	Prior to and during maintenance activities	District
<b>Mitigation Ratios and Acreage for Least Bell's Vireo Habitat in the Valley Region</b>						
<b>Habitat Quality</b>	<b>Impacts (Acres)<sup>a</sup></b>	<b>Mitigation Ratio<sup>b</sup></b>	<b>Total Mitigation (Acres)<sup>a</sup></b>			
Low quality	15.4	1:1	15.4			
Moderate quality	9.5	2:1	19			
High quality	41.1	3:1	123.3			
<b>Total</b>	<b>66.0</b>	<b>—</b>	<b>157.7</b>			
<sup>a</sup> Total acreage of impacts and mitigation shall be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time. Mitigation shall be completed as determined by actual impact acreages.						
<sup>b</sup> Mitigation ratios may be modified by the applicable resource agency permit.						

**Table 4-1  
Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party
<p>Prior to removal of suitable least Bell's vireo habitat, the District shall receive authorization from the USFWS through the ESA ITP process and from the CDFW through the California Endangered Species Act (CESA) Sections 2081(b) and (c). The USFWS shall issue a Biological Opinion under the ESA that will authorize harm to least Bell's vireo and adverse modification of designated critical habitat as applicable. Any measures determined to be necessary through the Incidental Take Permit process may supersede measures provided in this CEQA document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p>			
<p><b>MM-BIO-6: Mitigation for Delhi Sands Flower-Loving Fly.</b> The District shall compensate for impacts to Delhi sands flower-loving fly habitat through replacement ratios of 1:1 for low-quality habitat and 2:1 for moderate-quality habitat or as otherwise required by applicable resource agency permits.</p> <p>Prior to impacting suitable habitat for Delhi sands flower-loving fly, the District shall receive authorization from the USFWS through the ESA ITP process. The USFWS shall issue a Biological Opinion under the ESA that will authorize harm to Delhi sands flower-loving fly. Any conditions required by the ITP may supersede measures provided in this CEQA document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p>	District	Prior to and during maintenance activities	District
<p><b>MM-BIO-7: Mitigation for Coastal California Gnatcatcher.</b> The District shall compensate impacts to up to three coastal California gnatcatcher breeding territories by preserving and/or enhancing 25.2 acres of sage scrub habitat or as otherwise required by the applicable resource agency permits.</p> <p>Prior to impacting suitable habitat for California gnatcatcher, the District shall receive authorization from the USFWS through the ESA ITP process. The USFWS shall issue a Biological Opinion under the ESA that will authorize harm to California gnatcatcher. Any measures determined to be necessary through the ITP process may supersede measures provided in this CEQA document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p>	District	Prior to and during maintenance activities	District
<p><b>MM-BIO-8: Mitigation for Southwestern Willow Flycatcher.</b> Prior to removal of suitable habitat for southwestern willow flycatcher, the District shall receive authorization from the USFWS through the ESA ITP process and from the CDFW through CESA Sections 2081(b) and (c). The USFWS shall issue a Biological Opinion under the ESA that will authorize adverse modification of designated critical habitat. Any conditions required by the ITP may supersede mitigation measures provided in this CEQA document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p>	District	Prior to and during maintenance activities	District

**Table 4-1  
Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party																			
<p><b>MM-BIO-9: Mitigation for Tricolored Blackbird.</b> If suitable nesting habitat for tricolored blackbird is present in Wineville Basin, Jurupa Basin, Chris Basin, portions of the lower Cucamonga Spreading Grounds, or other identified habitat to be removed, three breeding surveys for tricolored blackbird shall be conducted in April and May, separated by a minimum of 10 days, to determine whether a breeding colony is present prior to any maintenance activities being conducted.</p> <p>If the results of the survey are positive, avoidance of 100% of the occupied habitat and adjacent habitat suitable for nesting shall be avoided. If 100% avoidance is not feasible due to flood protection requirements, consultation with the CDFW shall be initiated prior to implementation of any activities that may impact habitat occupied by tricolored blackbird. The District shall submit a 2081 application to the CDFW for any maintenance activities that impact tricolored blackbird breeding habitat.</p>	District	Prior to and during maintenance activities	District																			
<p><b>MM-BIO-10: Compensation for Special-Status Vegetation Communities in the Valley Region.</b> Direct impacts to special-status vegetation communities shall be mitigated at the ratios included in the following table or as otherwise required in applicable resource agency permits. Mitigation shall include preservation, creation, enhancement and/or rehabilitation or restoration of impacted vegetation communities. Mitigation for species may overlap with mitigation for sensitive communities and will be included as part of the total mitigation obligation for sensitive communities such that the District is not mitigating twice for the same resource. A final mitigation plan shall be prepared for special-status vegetation communities that includes the following elements: (1) the mitigation type (e.g., preservation, creation); (2) location of mitigation; (3) evaluation of how the functions and values of the impacted vegetation communities will be mitigated; (4) an implementation plan; (5) maintenance requirements; (6) monitoring requirements; (7) reporting requirements; (8) contingency measures; (9) long-term management; and (10) funding assurances.</p> <p align="center"><b>Proposed Mitigation Ratios for Special-Status Vegetation Communities in the Valley Region</b></p> <table border="1" data-bbox="191 1187 1346 1406"> <thead> <tr> <th data-bbox="191 1187 464 1279">Generalized Habitat Type (CDFG 2010)</th> <th data-bbox="464 1187 919 1279">Alliance (CDFG 2010) Land Cover Type</th> <th data-bbox="919 1187 1062 1279">Permanent (Acres)<sup>a</sup></th> <th data-bbox="1062 1187 1192 1279">Mitigation Ratio<sup>b</sup></th> <th data-bbox="1192 1187 1346 1279">Mitigation Required (Acres)<sup>a</sup></th> </tr> </thead> <tbody> <tr> <td data-bbox="191 1279 464 1373" rowspan="2">Coastal scrub</td> <td data-bbox="464 1279 919 1312">Brittle bush scrub alliance</td> <td data-bbox="919 1279 1062 1312">5.7</td> <td data-bbox="1062 1279 1192 1312">1:1</td> <td data-bbox="1192 1279 1346 1312">5.7</td> </tr> <tr> <td data-bbox="464 1312 919 1373">California sagebrush–California buckwheat scrub alliance</td> <td data-bbox="919 1312 1062 1373">134.4</td> <td data-bbox="1062 1312 1192 1373">1:1</td> <td data-bbox="1192 1312 1346 1373">134.4</td> </tr> <tr> <td colspan="2" data-bbox="191 1373 919 1406"><i>Coastal scrub subtotal</i></td> <td data-bbox="919 1373 1062 1406"><i>140.1</i></td> <td data-bbox="1062 1373 1192 1406"><i>1:1</i></td> <td data-bbox="1192 1373 1346 1406"><i>140.1</i></td> </tr> </tbody> </table>	Generalized Habitat Type (CDFG 2010)	Alliance (CDFG 2010) Land Cover Type	Permanent (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Mitigation Required (Acres) <sup>a</sup>	Coastal scrub	Brittle bush scrub alliance	5.7	1:1	5.7	California sagebrush–California buckwheat scrub alliance	134.4	1:1	134.4	<i>Coastal scrub subtotal</i>		<i>140.1</i>	<i>1:1</i>	<i>140.1</i>	District	Prior to and during maintenance activities	District
Generalized Habitat Type (CDFG 2010)	Alliance (CDFG 2010) Land Cover Type	Permanent (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Mitigation Required (Acres) <sup>a</sup>																		
Coastal scrub	Brittle bush scrub alliance	5.7	1:1	5.7																		
	California sagebrush–California buckwheat scrub alliance	134.4	1:1	134.4																		
<i>Coastal scrub subtotal</i>		<i>140.1</i>	<i>1:1</i>	<i>140.1</i>																		

**Table 4-1  
Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures					Responsible Party	Timing of Implementation	Implementing Party
Oak woodlands and forests	Coast live oak woodland alliance	2.5	1:1	2.5			
	Disturbed coast live oak woodland alliance	2.6	1:1	2.6			
<i>Oak woodlands and forests subtotal</i>		<i>5.1</i>	<i>1:1</i>	<i>5.1</i>			
Generalized Habitat Type (CDFG 2010)	Alliance (CDFG 2010) Land Cover Type	Permanent (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Mitigation Required (Acres) <sup>a</sup>			
Riparian forest and woodland	Black willow thickets alliance	4.3	1:1	4.3			
	California sycamore woodlands alliance	1.1	1:1	1.1			
	Fremont cottonwood forest alliance	28.6	1:1	28.6			
	Red willow thickets alliance	<0.05	1:1	<0.05			
<i>Riparian forest and woodland subtotal</i>		<i>34.0</i>	<i>1:1</i>	<i>34.0</i>			
Riversidean alluvial fan sage scrub	Scale broom scrub alliance	297.1	1:1	297.1			
<i>Riversidean alluvial fan sage scrub subtotal</i>		<i>297.1</i>	<i>2:1</i>	<i>297.1</i>			
<b>Total</b>		<b>476.3</b>	<b>—</b>	<b>476.3</b>			
<p><sup>a</sup> Total acreage of impacts and mitigation shall be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time. Mitigation shall be completed as determined by actual impact acreages.</p> <p><sup>b</sup> Mitigation ratios may be modified by the applicable resource agency permit.</p>							
<p><b>MM-BIO-11: Compensation for Special-Status Vegetation Communities in the Mountain Region.</b> Direct impacts to special-status vegetation communities in the Mountain Region shall be mitigated at the ratios included in the following table or as otherwise required in applicable resource agency permits. Mitigation shall include preservation, creation, enhancement, and/or rehabilitation or restoration of impacted vegetation communities. Mitigation for species may overlap with mitigation for sensitive communities and will be included as part of the total mitigation obligation for sensitive communities such that the District is not mitigating twice for the same resource. A final mitigation plan shall be prepared for special-status vegetation communities that includes the following elements: (1) mitigation type (e.g., preservation, creation), (2) location of mitigation, (3) evaluation of how the functions and values of the impacted vegetation communities will be mitigated, (4) an implementation plan, (5) maintenance requirements, (6) monitoring requirements, (7) reporting requirements, (8) contingency measures, (9) long-term management, and (10) funding assurances.</p>					District	Prior to and during maintenance activities	District

**Table 4-1  
Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party																
<p><b>MM-BIO-12: Mitigation for Mohave Ground Squirrel.</b> Compensatory mitigation ratios for Mohave ground squirrel shall be at a ratio of 1:1 for permanent direct impacts to Good quality habitat and 1.5:1 for permanent direct impacts to Excellent quality habitat or as otherwise required by applicable resource agency permits. Mitigation shall be a combination of habitat preservation, enhancement, and/or creation and shall be coordinated with CDFW as part of the ITP.</p> <p>Prior to impacts of potentially occupied Mohave ground squirrel habitat, the District shall receive authorization from the CDFW through CESA Sections 2081(b) and (c). Any measures determined to be necessary through the ITP process to offset impacts to Mohave ground squirrel may supersede measures provided in this document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p> <p align="center"><b>Proposed Mitigation Ratios and Estimated Mitigation Acreage for Mohave Ground Squirrel in the Desert Region</b></p> <table border="1" data-bbox="191 824 1341 959"> <thead> <tr> <th>Habitat Quality</th> <th>Impacts (Acres)<sup>a</sup></th> <th>Mitigation Ratio<sup>b</sup></th> <th>Total Mitigation (Acres)<sup>a</sup></th> </tr> </thead> <tbody> <tr> <td>Good</td> <td align="center">28.7</td> <td align="center">1:1</td> <td align="center">28.7</td> </tr> <tr> <td>Excellent</td> <td align="center">0.8</td> <td align="center">1.5:1</td> <td align="center">1.2</td> </tr> <tr> <td align="right"><b>Total</b></td> <td align="center"><b>29.5</b></td> <td align="center">—</td> <td align="center"><b>29.9</b></td> </tr> </tbody> </table> <p><sup>a</sup> Total acreage of impacts and mitigation shall be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time. Mitigation shall be completed as determined by actual impact acreages.</p> <p><sup>b</sup> Mitigation ratios may be modified by the applicable resource agency permit.</p>	Habitat Quality	Impacts (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Total Mitigation (Acres) <sup>a</sup>	Good	28.7	1:1	28.7	Excellent	0.8	1.5:1	1.2	<b>Total</b>	<b>29.5</b>	—	<b>29.9</b>	District	Prior to and during maintenance activities	District
Habitat Quality	Impacts (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Total Mitigation (Acres) <sup>a</sup>																
Good	28.7	1:1	28.7																
Excellent	0.8	1.5:1	1.2																
<b>Total</b>	<b>29.5</b>	—	<b>29.9</b>																
<p><b>MM-BIO-13: Mitigation for Desert Tortoise.</b> Compensatory mitigation ratios for desert tortoise shall be at a ratio of 0.5:1 for permanent direct impacts to moderate-quality habitat and 1:1 for permanent direct impacts to high-quality habitat or as otherwise required by applicable resource agency permits. Mitigation shall be a combination of habitat preservation, enhancement, and/or creation and shall be coordinated with the USFWS and CDFW as part of the ITP.</p> <p>Prior to impacts of potentially occupied desert tortoise habitat, the District shall receive authorization from the USFWS through the ESA ITP process and from the CDFW through CESA Sections 2081(b) and (c). The USFWS shall issue a Biological Opinion under the ESA that will authorize removal of desert tortoise habitat and adverse modification of designated critical habitat. Any measures determined to be necessary through the ITP process to offset impacts to desert tortoise may supersede measures provided in this document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p>	District	Prior to and during maintenance activities	District																

**Table 4-1  
Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures				Responsible Party	Timing of Implementation	Implementing Party																				
<p align="center"><b>Proposed Mitigation Ratios and Estimated Mitigation Acreage for Desert Tortoise in the Desert Region</b></p> <table border="1"> <thead> <tr> <th>Habitat Quality</th> <th>Impacts (Acres)<sup>a</sup></th> <th>Mitigation Ratio<sup>b</sup></th> <th>Total Mitigation (Acres)<sup>a</sup></th> </tr> </thead> <tbody> <tr> <td>Moderate</td> <td align="center">78.7</td> <td align="center">0.5:1</td> <td align="center">39.4</td> </tr> <tr> <td>High</td> <td align="center">209.1</td> <td align="center">1:1</td> <td align="center">209.1</td> </tr> <tr> <td align="right"><b>Total</b></td> <td align="center"><b>287.8</b></td> <td align="center"><b>—</b></td> <td align="center"><b>248.5</b></td> </tr> </tbody> </table> <p><sup>a</sup> Total acreage of impacts and mitigation shall be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time. Mitigation shall be completed as determined by actual impact acreages.</p> <p><sup>b</sup> Mitigation ratios may be modified by the applicable resource agency permit.</p>				Habitat Quality	Impacts (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Total Mitigation (Acres) <sup>a</sup>	Moderate	78.7	0.5:1	39.4	High	209.1	1:1	209.1	<b>Total</b>	<b>287.8</b>	<b>—</b>	<b>248.5</b>							
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<p><b>MM-BIO-14: Mitigation for Least Bell's Vireo Habitat in the Desert Region.</b> Compensatory mitigation ratios for least Bell's vireo shall be at 1:1 for low-quality habitat, 2:1 for moderate-quality habitat, and 3:1 for high-quality habitat or as otherwise required by applicable resource agency permits. Mitigation shall be a combination of habitat preservation, enhancement, and/or creation and shall be coordinated with the USFWS as part of the ITP.</p> <p align="center"><b>Proposed Mitigation Ratios and Acreage for Least Bell's Vireo Habitat in the Desert Region</b></p> <table border="1"> <thead> <tr> <th>Habitat Quality</th> <th>Impacts (Acres)<sup>a</sup></th> <th>Mitigation Ratio<sup>b</sup></th> <th>Total Mitigation (Acres)<sup>a</sup></th> </tr> </thead> <tbody> <tr> <td>Low quality</td> <td align="center">5.4</td> <td align="center">1:1</td> <td align="center">5.4</td> </tr> <tr> <td>Moderate quality</td> <td align="center">4.2</td> <td align="center">2:1</td> <td align="center">8.4</td> </tr> <tr> <td>High quality</td> <td align="center">17.1</td> <td align="center">3:1</td> <td align="center">51.3</td> </tr> <tr> <td align="right"><b>Total</b></td> <td align="center"><b>26.7</b></td> <td align="center"><b>—</b></td> <td align="center"><b>65.1</b></td> </tr> </tbody> </table> <p><sup>a</sup> Total acreage of impacts and mitigation shall be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time. Mitigation shall be completed as determined by actual impact acreages.</p> <p><sup>b</sup> Mitigation ratios may be modified by the applicable resource agency permit.</p> <p>Prior to removal of suitable least Bell's vireo habitat, the District shall receive authorization from the USFWS through the ESA ITP process and from the CDFW through CESA Sections 2081(b) and (c). The USFWS shall</p>				Habitat Quality	Impacts (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Total Mitigation (Acres) <sup>a</sup>	Low quality	5.4	1:1	5.4	Moderate quality	4.2	2:1	8.4	High quality	17.1	3:1	51.3	<b>Total</b>	<b>26.7</b>	<b>—</b>	<b>65.1</b>	District	Prior to and during maintenance activities	District
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Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party
<p>issue a Biological Opinion under the ESA that will authorize harm to least Bell's vireo, including adverse modification of designated critical habitat as applicable. Any measures determined to be necessary through the ITP process may supersede measures provided in this document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p>			
<p><b>MM-BIO-15: Mitigation for Southwestern Willow Flycatcher and Yellow-Billed Cuckoo in the Desert Region.</b> Due to the presence of moderately suitable southwestern willow flycatcher and yellow-billed cuckoo habitat within the Mojave River maintenance footprint, focused protocol surveys shall be completed for these species prior to initiation of maintenance activities in this area and repeated every 5 years to determine the presence/absence of these species.</p> <p>If the results of the survey are positive, occupied areas shall be avoided to the maximum extent practicable. If 100% avoidance is not feasible due to flood protection requirements, consultation with USFWS and CDFW shall be initiated prior to implementation of any activities that may impact occupied habitat, directly or indirectly.</p> <p>Authorization for removal of occupied southwestern willow flycatcher and/or yellow-billed cuckoo habitat and critical habitat shall be obtained from USFWS through the ESA ITP process and from CDFW through CESA Sections 2081(b) and (c) prior to initiating maintenance activities in occupied areas. Any conditions required by the ITP process may supersede mitigation measures provided in this document and shall be incorporated into the Maintenance Plan for implementation with other SOPs and mitigation measures.</p>	District	Prior to and during maintenance activities	District
<p><b>MM-BIO-16: Mitigation for Mojave River Vole.</b> Prior to implementation of maintenance activities in suitable Mojave River vole habitat upstream and downstream of I-15, a Mojave River vole management plan shall be prepared, submitted, and approved by CDFW. At a minimum, the Mojave River vole management plan shall address methodologies and timing to phase removal of occupied habitat so that suitable patches are sustained through time, as well as height of mowing to achieve flood protection goals. In addition, it will analyze the feasibility of relocating Mojave River vole from removal areas to areas confirmed to be unoccupied. The Mojave River vole management plan will include a process for identifying and confirming potentially unoccupied sites (such as areas downstream of Victor Valley or areas downstream of the Mojave Dam), need and timing of trapping surveys, relocation techniques, monitoring, and reporting.</p>	District	Prior to and during maintenance activities	District

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Mitigation Measures					Responsible Party	Timing of Implementation	Implementing Party																																																									
<p><b>MM-BIO-17: Compensation for Special-Status Vegetation Communities in the Desert Region.</b> Direct impacts to special-status vegetation communities shall be mitigated at the ratios included in the following table or as otherwise determined in applicable resource agency permits. Mitigation shall include preservation, creation, enhancement and/or rehabilitation or restoration of impacted vegetation communities. Mitigation for species may overlap with mitigation for sensitive communities and will be included as part of the total mitigation obligation for sensitive communities such that the District is not mitigating twice for the same resource. A final mitigation plan shall be prepared for special-status vegetation communities that includes the following elements: (1) the mitigation type (e.g., preservation, creation, etc.); (2) location of mitigation; (3) evaluation of how the functions and values of the impacted vegetation communities will be mitigated; (4) an implementation plan; (5) maintenance requirements; (6) monitoring requirements; (7) reporting requirements; (8) contingency measures; (9) long-term management; and (10) funding assurances.</p> <p align="center"><b>Proposed Mitigation Ratios for Special-Status Vegetation Communities in the Desert Region</b></p> <table border="1"> <thead> <tr> <th align="center">Generalized Habitat Type (CDFG 2010)</th> <th align="center">Alliance (CDFG 2010) Land Cover Type</th> <th align="center">Permanent (Acres)<sup>a</sup></th> <th align="center">Mitigation Ratio<sup>b</sup></th> <th align="center">Mitigation (Acres)<sup>a</sup></th> </tr> </thead> <tbody> <tr> <td rowspan="2">Desert dry wash woodland</td> <td>Desert willow woodland alliance</td> <td align="center">9.6</td> <td align="center">1:1</td> <td align="center">9.6</td> </tr> <tr> <td>Mesquite bosque, mesquite thicket alliance</td> <td align="center">—</td> <td></td> <td align="center">—</td> </tr> <tr> <td align="center" colspan="2"><i>Desert dry wash woodland subtotal</i></td> <td align="center">9.6</td> <td></td> <td align="center">9.6</td> </tr> <tr> <td rowspan="2">Desert dunes</td> <td>Desert panic grass patches</td> <td align="center">6.0</td> <td align="center">1:1</td> <td align="center">6.0</td> </tr> <tr> <td>North American warm desert dunes and sand flats</td> <td align="center">2.2</td> <td align="center">1:1</td> <td align="center">2.2</td> </tr> <tr> <td align="center" colspan="2"><i>Desert dunes subtotal</i></td> <td align="center">8.2</td> <td></td> <td align="center">8.2</td> </tr> <tr> <td>Desert sink scrub</td> <td>Bush seepweed scrub alliance</td> <td align="center">0.2</td> <td align="center">1:1</td> <td align="center">0.2</td> </tr> <tr> <td align="center" colspan="2"><i>Desert sink scrub subtotal</i></td> <td align="center">0.2</td> <td></td> <td align="center">0.2</td> </tr> <tr> <td rowspan="2">Joshua tree woodland</td> <td>Disturbed Joshua tree woodland</td> <td align="center">0.6</td> <td align="center">1:1</td> <td align="center">0.6</td> </tr> <tr> <td>Joshua tree woodland</td> <td align="center">1.7</td> <td align="center">1:1</td> <td align="center">1.7</td> </tr> <tr> <td align="center" colspan="2"><i>Joshua tree woodland subtotal</i></td> <td align="center">2.3</td> <td></td> <td align="center">2.3</td> </tr> </tbody> </table>					Generalized Habitat Type (CDFG 2010)	Alliance (CDFG 2010) Land Cover Type	Permanent (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Mitigation (Acres) <sup>a</sup>	Desert dry wash woodland	Desert willow woodland alliance	9.6	1:1	9.6	Mesquite bosque, mesquite thicket alliance	—		—	<i>Desert dry wash woodland subtotal</i>		9.6		9.6	Desert dunes	Desert panic grass patches	6.0	1:1	6.0	North American warm desert dunes and sand flats	2.2	1:1	2.2	<i>Desert dunes subtotal</i>		8.2		8.2	Desert sink scrub	Bush seepweed scrub alliance	0.2	1:1	0.2	<i>Desert sink scrub subtotal</i>		0.2		0.2	Joshua tree woodland	Disturbed Joshua tree woodland	0.6	1:1	0.6	Joshua tree woodland	1.7	1:1	1.7	<i>Joshua tree woodland subtotal</i>		2.3		2.3	District	Prior to and during maintenance activities	District
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Generalized Habitat Type (CDFG 2010)	Alliance (CDFG 2010) Land Cover Type	Permanent (Acres) <sup>a</sup>	Mitigation Ratio <sup>b</sup>	Mitigation (Acres) <sup>a</sup>			
Riparian forest and woodland	Fremont cottonwood forest alliance	14.3	1:1	14.3			
	Red willow thickets alliance	1.1	1:1	1.1			
<i>Riparian forest and woodland subtotal</i>		15.5		15.5			
Riversidean alluvial fan sage scrub	Scale broom scrub alliance	12.6	1:1	12.6			
	<i>Riversidean alluvial fan sage scrub subtotal</i>		12.6				
Sonoran and Mojavean desert scrub	California joint fir scrub alliance	0.4	1:1	0.4			
	Disturbed Mojave yucca scrub alliance	0.5	1:1	0.5			
	Mojave yucca scrub alliance	1.2	1:1	1.2			
<i>Sonoran and Mojavean desert scrub subtotal</i>		2.1		2.1			
<b>Total</b>		<b>50.5</b>	—	<b>50.5</b>			
<p><sup>a</sup> Total acreage of impacts and mitigation shall be calculated and reported annually as described in the Maintenance Plan (Appendix A); therefore, these acreages are provided as best estimates at this time. Mitigation shall be completed as determined by actual impact acreages.</p> <p><sup>b</sup> Mitigation ratios may be modified by the applicable resource agency permit.</p>							
<p><b>MM-BIO-18: Compensation for Jurisdictional Waters.</b> Significant permanent direct impacts to waters of the United States and state shall be mitigated at a 1:1 ratio or as otherwise determined in applicable resource agency permits. Permanent direct impacts to riparian vegetation associated with jurisdictional streambeds shall be mitigated at a 1:1 ratio or as otherwise determined in applicable resource agency permits. Mitigation for special-status vegetation communities may overlap with mitigation for jurisdictional waters and will be included as part of the total mitigation obligation for jurisdictional waters such that the District is not mitigating twice for the same resource. Mitigation shall include preservation, creation, enhancement, and/or rehabilitation or restoration in kind of jurisdictional waters. Mitigation shall be completed through use of an agency-approved in lieu fee program, a mitigation bank, or applicant-proposed mitigation. For the latter, a Habitat Mitigation and Monitoring Plan shall be prepared in accordance with USACE and State Water Resources Control Board guidelines and approved by the agencies in accordance with the proposed program permits.</p>					District	Prior to and during maintenance activities	District

**Table 4-1  
Mitigation Monitoring and Reporting Program for the  
San Bernardino County Flood Control District Master Storm Water System Maintenance Program**

Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party
<i>Cultural Resources</i>			
<p><b>MM-CR-1: Pre-Activity Review/Phase I Cultural Resources Survey.</b> For maintenance activities in areas not already previously disturbed or surveyed, a pre-activity review shall be performed prior to future ground-disturbing activities associated with maintenance activities. For each location where these activities will take place, the proposed program footprint will first be examined by San Bernardino County Flood Control District (District) staff to determine whether the proposed ground-disturbing activities will be confined to the area of previous disturbance or if there is a potential for additional ground disturbance within intact native sediments. If it is determined that the proposed activities have the potential to impact undisturbed native sediments, then a Phase I cultural resource survey or implementation of a monitoring program, depending on the activity, will be required. The purpose of the field surveys will be to visually inspect the ground surface for evidence of archaeological remains, and to assess the flood control facility for its potential to be a historic age built environment resource requiring evaluation. All archaeological resources observed during the course of fieldwork that have the potential to be impacted by the proposed activity shall be adequately recorded at the time of discovery, observing standard documentation procedures.</p>	District	Prior to and during maintenance activities	District
<p><b>MM-CR-2: Protective Measures for Cultural Resources near Work Areas.</b> For future ground-disturbing maintenance activities in areas not previously disturbed and found to be in the vicinity of an archaeological or built environment resource or paleontological resource, protective measures for significant resources in close proximity to a proposed program work area shall be implemented. If the pre-activity review (MM-CR-1) identifies a known cultural or paleontological resource within a proposed program work area, the following protective measures are required as warranted:</p> <ul style="list-style-type: none"> <li>• Exclusion fencing and flagging shall be established around any significant or potentially significant cultural or paleontological resource located within a proposed program work area.</li> <li>• A qualified archaeologist or paleontologist, as appropriate, shall monitor ground-disturbing activities in proposed program work areas with significant or potentially significant resources.</li> </ul>	District	Prior to and during maintenance activities	District
<p><b>MM-CR-3: Phase II Cultural Resources Evaluation.</b> For future ground-disturbing maintenance activities in areas not previously disturbed where cultural or paleontological resources cannot be avoided by implementation of MM-CR-2, development of a Phase II resources evaluation program shall be implemented by a qualified archaeologist, architectural historian, or paleontologist, as appropriate. The findings of the cultural or paleontological resources evaluation program shall be presented in a technical report or reports to be submitted to the District (and the federal lead agency, if applicable) for review and approval.</p>	District	Prior to maintenance activities	District

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Mitigation Monitoring and Reporting Program for the  
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Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party
<p><b>MM-CR-4: Phase III Cultural Resources Mitigation Plan.</b> For those cultural resources determined to be eligible for listing in the California Register of Historical Resources and/or the National Register of Historic Places and that cannot be avoided, a Phase III mitigation plan shall be prepared by a qualified archaeologist or architectural historian prior to the onset of mitigation activities. The plan shall detail the field, laboratory, and archival methods that will be used during the mitigation program; the curation of archaeological or archival materials at an appropriate facility for future research; and provisions for a report detailing the findings and significance of the cultural resources. The plan shall be submitted the District for review and approval prior to the commencement of mitigation investigations. Results of the Phase III mitigation plan shall be presented in a technical report submitted to the District for review and approval prior to the commencement of ground-disturbing activities. A final version of the report shall be submitted to the regional California Historic Resources Information System repository.</p>	District	Prior to maintenance activities	District
<p><b>MM-CR-5: Paleontological Mitigation and Monitoring Plan.</b> In the event that an unanticipated discovery is made during routine maintenance activities extending into areas containing previously undisturbed sedimentary deposits, the District shall implement a Paleontological Mitigation and Monitoring Plan that may require one or more of the following:</p> <ul style="list-style-type: none"> <li>• A paleontological principal investigator will provide and supervise a trained paleontological monitor who will be present during ground-disturbing activities at identified facilities with fossiliferous sediments. The monitor will be empowered to temporarily halt or redirect ground-disturbing activities to ensure avoidance of adverse impacts to paleontological resources. The monitor will be equipped to rapidly remove any large fossil specimens encountered during maintenance activities. During monitoring, samples shall be collected and processed to recover microvertebrate fossils. Processing shall include wet screen washing and microscopic examination of the residual materials to identify small vertebrate remains.</li> <li>• Upon encountering a large deposit of bone, salvage of bone in the area shall be conducted with additional field staff and in accordance with modern paleontological techniques.</li> <li>• All fossils collected during maintenance will be prepared to a reasonable point of identification. Excess sediment or matrix will be removed from the specimens to reduce the bulk and cost of storage. Itemized catalogs of the material collected and identified shall be provided to the museum repository along with the specimens.</li> <li>• A report documenting the results of the monitoring and salvage activities and the significance of the fossils shall be prepared.</li> <li>• All fossils collected during this work, along with the itemized inventory of these specimens, will be deposited in a museum repository for permanent curation and storage.</li> </ul>	District	Prior to and during maintenance activities	District

**Table 4-1  
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Mitigation Measures	Responsible Party	Timing of Implementation	Implementing Party
<i>Hazards and Hazardous Materials</i>			
<p><b>MM-HAZ-1: Hazardous Materials Contingency Plan.</b> A hazardous materials contingency plan shall be prepared for the proposed program prior to ground-disturbing activities at San Bernardino County Flood Control District facilities that have an “open” or “active” regulatory case listing at the facility or immediately adjacent to it. Air monitoring shall be performed to limit worker exposure to potential hazardous chemicals in the subsurface. The hazardous materials contingency plan will identify areas with known hazardous materials concerns; include procedures for managing hazardous materials; prescribe sampling, if necessary; and include a health and safety plan. The health and safety plan will provide guidance to maintenance crews who may manage/handle hazardous material (e.g., fuels, solvents) and encounter previously unknown soil or groundwater contaminants. This plan will include information about potential contaminants, protocols for reporting suspected contaminants, authority to stop work, protocol for conducting further study, and other necessary information.</p>	District	Prior to and during maintenance activities	District

## 4.2 REFERENCES

14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.

California Public Resources Code, Sections 21000–21177. California Environmental Quality Act (CEQA), as amended.