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April 2, 2019

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Governor's Office of Planning & Research
APR 03 2019
STATE CLEARINGHOUSE

**Subject: Carmel River Riparian Corridor Ordinance Update (Project),
MITIGATED NEGATIVE DECLARATION (MND)
SCH # 2019029145**

Dear Mr. Hampson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the Monterey Peninsula Water Management District for the above-referenced Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through exercise of its own regulatory authority under the Fish and Game Code. Although the comment period for your request has passed, the content of the MND does not preclude the need for the District to comply with other State and federal laws pertaining to the "take" of species listed under the California Endangered Species Act (CESA), the federal Endangered Species Act (ESA), or Fish and Game Code, specifically as related to take of fully protected species and Fish and Game Code section 1600 et seq.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, construction activities resulting from the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Monterey Peninsula Water Management District (District)

Objective: The Carmel River Management Program (CRMP) includes rules to require a valid permit from the District to alter the beds or banks of the Carmel River and to remove vegetation. In addition, the CRMP provides technical assistance to property owners, funds to mitigate impacts to the environment, stream monitoring, and research to understand system dynamics and to maintain appropriate standards.

The District currently implements a program for water resources along the lower 15.4 miles of the main stem of the Carmel River (hereafter, the River). Through the Project, the District seeks to extend the program 13.4 miles upstream. The definition of the Carmel River Riparian Corridor includes an area within 25 lineal feet of the 10% chance flood line. If adopted, the District rules pursuant this ordinance would apply to all properties along this reach of the River. If the MND is approved and the District adopts an ordinance to implement a change to the District program, the District would regulate activities along the Carmel River main stem between the Pacific Ocean and the Ventana Wilderness.

The District's rules instruct staff what services the District can provide to property owners adjacent to the River and also describes regulations concerning activities within the riparian corridor. Rule concerning activities within the riparian corridor are not proposed to be changed; however, if approved by the District, property owners affected by the new ordinance will be required to secure a permit from the District for certain activities within the riparian corridor that could alter the bed or banks of the River.

To analyze environmental impacts of the Project, the District intends to rely on the previously certified 1984 Final Environmental Impact Report (EIR) for the Carmel River

Management Program to comply with CEQA, citing that circumstances are essentially the same. The existing program for the lower 15.4 miles of the River was approved by the District on October 29, 1984 (SCH No. 84032705). The primary management goal of the CRMP is "a progressive and predictable transition of the River to an equilibrium 'stable' channel for those sites below the Robles del Rio," and the MND states that this goal is still valid. The MND defines an equilibrium channel as being a single channel, as opposed to what the MND refers to as an "unstable, braided channel."

Location: The Project would extend the District's rules from River Mile (RM) 15.4 at the confluence of the main stem with Klondike Creek to the Ventana Wilderness boundary at approximately RM 28.8, which would result in an additional 13.5 miles included in the District's program. The approximate middle of the reach lies at 36.416 N, -121.709 E. The Project will impact 39 unique parcels.

Timeframe: Not specified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

The Project will impose "rules" on future development projects within the District's jurisdiction. As currently drafted, the MND does not contain any mitigation measures specific to minimize impacts to biological resources. The MND does contain mitigation measures that relate to activities that fall under the lake and streambed alteration regulatory authority of CDFW pursuant Fish and Game Code section 1600 et seq. in both the Geology and Soils and Hydrology sections of the MND; however, as currently drafted, these measures do not include Notification to CDFW, may not be enforceable, and may themselves result in violation of Fish and Game Code if CDFW is not Notified. In addition, development of future projects has the potential to result in take of CESA-listed species and species meeting the definition of rare or endangered under CEQA (CEQA Guidelines, § 15380 et seq.). Specifically, CDFW is concerned regarding the Project's impacts to the State candidate threatened foothill yellow-legged frog (*Rana boylei*); State species of special concern California red-legged frog (*Rana draytonii*) and western pond turtle (*Emys marmorata*); and special-status plant species including, but not limited to, California Rare Plant Ranked (CRPR) 1B.2 species Carmel Valley malacothrix (*Malacothrix saxatilis* var. *arachnoidea*) and Toro manzanita (*Arctostaphylos montereyensis*). CDFW advises inclusion of enforceable measures in the CEQA document prepared for this Project, as well as to any future tiered projects falling under the District's jurisdiction, to inform any potential permitting needs.

If significant environmental impacts will occur as a result of Project implementation and cannot be mitigated to less than significant levels, an MND would not be appropriate. Further, when an MND is prepared, mitigation measures must be specific, clearly defined, and cannot be deferred to a future time. When an EIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation. Regardless of whether an MND or EIR is prepared, CDFW recommends that the CEQA document provide quantifiable and enforceable measures, as needed, that will reduce impacts to less than significant levels.

I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or United States Fish and Wildlife Service (USFWS)?

COMMENT 1: Lake and Streambed Alteration

Issue: The purpose of the Project is to update an ordinance related to riparian habitat along the River. If approved, property owners will be required to secure permits from the District for certain activities within the riparian corridor that alter the bed or bank of the River or that remove vegetation. As currently drafted, the MND includes several mitigation measures in both the Geology and Soils and Hydrology sections that will result in activities that fall under the lake and streambed alteration regulatory authority of CDFW pursuant Fish and Game Code section 1600 et seq. For example, the Geology and Soils section of the MND identifies accelerated downcutting of portions of the River as a result of Project implementation. To minimize this impact the following mitigation measures are identified in the 1984 EIR and cited in the MND: (1) installation of gradient control structures within the bed of the River channel, (2) construction of a flood control dam to reduce major flood peaks, and (3) installation of gabions deep enough (4 to 6 feet) not to be undercut before the bed elevation reaches a new equilibrium. The Hydrology section of the MND states that the Project has the potential to reduce sediment supply in the lower 18.3 miles of the River, resulting in a lowered water table due to downcutting in the riverbed. This has the potential to adversely affect riparian vegetation and the habitat upon which other special-status species addressed subsequently in this letter depend on. To mitigate this impact, the MND requires that subsequent project proponents demonstrate that "no adverse downcutting of the riverbed" would result from their projects. In addition, the MND's Hydrology section states that placement of materials to protect streambanks could result in altered river flow patterns. To mitigate this impact the MND requires that subsequent projects under the District's jurisdiction use "best management practices such as revegetation with native

plantings, installation of erosion protection, and monitoring to reduce the potential of erosion or siltation." These mitigation measures may not be enforceable.

Specific impact: As acknowledged in the MND, work within stream channels has the potential to result in substantial diversion or obstruction of natural flows; substantial change or use of material from the bed, bank, or channel (including removal of riparian vegetation); deposition of debris, waste, sediment, toxic runoff or other materials into water causing water pollution and degradation of water quality. In addition, the MND states that there is evidence of adverse downcutting and scour holes exposing infrastructure in portions of the stream that the ordinance already applies to, therefore these impacts are possible further upstream following an extension of the ordinance to upstream reaches of the River.

Evidence impact is potentially significant:

Lake and Streambed Alteration

The Project will extend the existing ordinance 13.5 miles upstream and will result in the District permitting activities within the bed and bank of the River along this 13.5 miles stretch. Activities within the River are subject to CDFW's lake and streambed alteration regulatory authority. Construction activities within this feature have the potential to impact downstream waters. Streams function in the collection of water from rainfall, storage of various amounts of water and sediment, discharge of water as runoff and the transport of sediment, and they provide diverse sites and pathways in which chemical reactions take place and provide habitat for fish and wildlife species. Disruption of stream systems can have significant physical, biological, and chemical impacts that can extend into the adjacent uplands adversely effecting not only the fish and wildlife species dependent on the stream itself, but also the flora and fauna dependent on the adjacent upland habitat for feeding, reproduction, and shelter.

Water Diversion and Alteration of Flow Regimes

The MND currently includes installation of a flood control dam and flow control structures as mitigation measures. These measures have the potential to result in water diversion or the alteration of flow regimes. Prolonged low flows can cause streams to become degraded and cause channels to become disconnected from floodplains (Poff et al. 1997). This process decreases available habitat for aquatic species including fish that utilize floodplains for nursery grounds. Prolonged low flows can also increase mortality for species that rely on specific flow regimes, such as salmonids (Moyle 2002). Amphibians can also be sensitive to decreased flows. Kupferberg et al. (2012) reported that low flows were strongly correlated with early life stage mortality and decreased adult densities of California red-legged frogs, a species of special concern in California, and one with potential to occur in the Project area.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting)

CDFW recommends editing the MND to include the following measures as conditions of Project approval and conducting the following evaluation of individual project areas prior to implementation of Project activities.

Recommended Mitigation Measure 1: Notification of Lake or Streambed Alteration

Project-related activities that have the potential to change the bed, bank, and channel of streams and other waterways or alter riparian habitat, are subject to CDFW's lake and streambed alteration regulatory authority pursuant Fish and Game Code section 1600 et seq., therefore Notification is recommended. Fish and Game Code section 1600 et seq. requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of a Lake and Streambed Alteration Agreement. For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593.

Recommended Mitigation Measure 2: Water Diversion

In the event that stream diversion is necessary, CDFW advises that diversions (1) be conducted in a manner that prevents pollution and/or siltation; (2) provides flows to downstream reaches during all times that the natural flow would support aquatic life; (3) that said flows are of sufficient quality and quantity, and of appropriate temperature to support aquatic life, both above and below the diversion, and (4) that normal flows be restored to the affected stream immediately upon completion of work. With regard to cofferdams, CDFW recommends that they not be made of silt, sand and gravel, or other substances subject to erosion unless first enclosed by protective material and that the enclosure and supportive material be removed as soon as the work is completed. With regard to dewatering, CDFW recommends (1) that turbid water pumped from project sites be discharged to a location outside the wetted channel to allow sediment to drop out, (2) water be allowed to return to the stream below the project site to maintain water flow, (3) temporary diversion structures used to isolate project sites be constructed in a manner that prevents seepage into the project site, and (4) the structure, including all fill, enclosure material, and trapped sediments, be removed when the project is completed.

If it is necessary to dewater a project site, either by pump or gravity flow, CDFW recommends that the suction end of the intake pipe be fitted with fish screens meeting CDFW and National Marine Fisheries Service (NMFS) criteria, as outlined in the NMFS (1997) *Fish Screening Criteria for Anadromous Salmonids*, to prevent entrainment or impingement of small fish and other wildlife. CDFW recommends development of a wildlife removal and rescue plan and that this plan be submitted to CDFW for approval prior to the start of project activities. As part of the wildlife removal and rescue plan, CDFW recommends that a record be maintained of all wildlife rescued and moved. CDFW further advises that the record include information on the date of capture and relocation, the method of capture, location of relocation in relation to the project site, and the number and type of wildlife captured and relocated.

Please note that implementation of the above recommendations does not eliminate the need to obtain the appropriate permits prior to the start of stream diversion or dewatering activities.

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 2: Foothill Yellow-Legged Frog (FYLF)

Issue: The FYLF is known to have historically occupied the River (CDFW 2019). On July 7, 2017, the Fish and Game Commission published its acceptance of a petition for consideration and designation of the FYLF as a candidate species. Pursuant to Fish and Game Code section 2074.6, CDFW has initiated a status review report to inform the Commission's decision on whether listing of FYLF, pursuant CESA, is warranted. During the candidacy period, consistent with CEQA Guidelines, section 15380, the status of the FYLF as a threatened candidate species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. It is unlawful to import into California, export out of California or take, possess, purchase, or sell within California, FYLF and any part or product thereof, or attempt any of those acts, except as authorized pursuant to CESA. Under Fish and Game Code section 86, take means to hunt, pursue, catch, capture, or kill, or to attempt to hunt pursue, catch, capture, or kill. Consequently, take of FYLF during the status review period is prohibited unless authorization pursuant to CESA is obtained. As stated above, the MND does not identify any mitigation measures for biological resources and therefore, impacts of the Project or subsequent projects under the District's jurisdiction may result in significant impacts to the species.

Specific impact: FYLF are found in the vicinity of streams in a variety of habitats. While FYLF are considered primarily stream dwelling, the species has been documented as far as 40 meters from a stream (Borque 2008, Thomson et al. 2016). Potentially significant impacts associated with Project activities include inadvertent entrapment, destruction of eggs and oviposition sites, degradation of water quality, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact would be significant: Land use changes that result in degradation or destruction of riparian habitat, road development and use, urbanization, and water diversion are among proximate factors contributing to local declines of FYLF (Thomson et al. 2016, USDA 2016). FYLF have been estimated to be extirpated from 45% of historically occupied locations in California (Jennings and Hayes 1994 in Thomson et al. 2016). Land use changes that result in degradation or destruction of riparian habitat, road development and use, urbanization, and water diversion are among proximate factors contributing to local declines of FYLF (Thomson et al. 2016, USDA 2016). In the context of the Project and declining population trend within this portion of the FYLF range, the effect of Project development on local and regional populations of FYLF may be significant.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW recommends editing the MND to include the following measures as conditions of Project approval and conducting the following evaluation of individual project areas prior to implementation of Project activities.

Recommended Mitigation Measure 3: FYLF Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment of individual Project areas in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for FYLF.

Recommended Mitigation Measure 4: FYLF Surveys

Because take of FYLF during its candidacy period is prohibited unless authorization pursuant to CESA is obtained, if it is determined through site assessment that habitat suitable to support FYLF is present within or near project sites, CDFW recommends that focused visual encounter surveys be conducted by a qualified biologist during appropriate survey period(s) (April – October) in areas where potential habitat exists. CDFW advises that these surveys generally follow the methodology described in pages 5–7 of *Considerations for Conserving the Foothill Yellow-Legged Frog* (CDFW 2018a). In addition, CDFW advises surveyors adhere to *The Declining Amphibian Task Force Fieldwork Code of Practice* (DAPTF 1998). If any life stage of the FYLF (adult, metamorph, larvae, egg mass) is found, CDFW

recommends consulting with CDFW to develop avoidance measures and evaluate permitting needs.

Recommended Mitigation Measure 5: Reporting Survey Results

Submission of survey results to CDFW is recommended. In the event of negative findings, CDFW recommends that consultation with CDFW include documentation demonstrating FYLF are unlikely to be present in the vicinity of the project site. Information submitted may include, but is not limited to, a full habitat assessment and survey results. If any life stage of FYLF is detected, consultation with CDFW is advised to determine if an Incidental Take Permit (ITP) is necessary to comply with CESA.

Recommended Mitigation Measure 6: Take Authorization

CDFW recognizes there may be circumstances where take of FYLF during candidacy may be unavoidable. If surveys find that FYLF are occupying the project area and cannot be avoided, CDFW may issue an ITP authorizing take of FYLF, pursuant to Fish and Game Code section 2081(b). Take authorization is issued only when take is incidental to an otherwise lawful activity, the impacts of the take are minimized and fully mitigated, the applicant ensures there is adequate funding to implement any required measures, and take is not likely to jeopardize the continued existence of the species.

COMMENT 3: California red legged frog (CRLF)

Issue: CRLF are known to occur within the vicinity of the Project area (CDFW 2019). CRLF require a variety of habitats including aquatic breeding habitats and upland dispersal habitats. Breeding sites of the CRLF are in aquatic habitats including pools and backwaters within streams and creeks, ponds, marshes, springs, sag ponds, dune ponds and lagoons. Additionally, CRLF frequently breed in artificial impoundments such as stock ponds (USFWS 2002). Breeding sites are generally found in deep, still or slow-moving water (greater than 2.5 feet) and can have a wide range of edge and emergent cover amounts. CRLF can breed at sites with dense shrubby riparian or emergent vegetation, such as cattails or overhanging willows or can proliferate in ponds devoid of emergent vegetation and any apparent vegetative cover (i.e., stock ponds). CRLF habitat includes nearly any area within 1 to 2 miles of a breeding site that stays moist and cool through the summer; this includes non-breeding aquatic habitat in pools of slow-moving streams, perennial or ephemeral ponds, and upland sheltering habitat such as rocks, small mammal burrows, logs, densely vegetated areas, and even man-made structures (i.e., culverts, livestock troughs, spring-boxes, abandoned sheds) (USFWS 2017).

The MND currently does not identify any mitigation measures to reduce impacts to biological resources.

Specific impact: Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the project activities could include alteration to the natural flow regime of the adjacent streams, direct mortality effects, and indirect negative effects by altering habitat availability and quality.

Evidence impact is potentially significant: CRLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, mining, overgrazing by cattle, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to CRLF (Thomson et al. 2016, USFWS 2017). As stated above, the MND does not identify any mitigation measures for biological resources and therefore, impacts of the Project or subsequent projects under the District's jurisdiction may result in significant impacts to the species.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW recommends editing the MND to include the following measures as conditions of Project approval and conducting the following evaluation of individual project areas prior to implementation of Project activities.

Recommended Mitigation Measure 7: CRLF Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if project sites or their immediate vicinity contain suitable habitat for CRLF.

Recommended Mitigation Measure 8: CRLF Surveys

If suitable habitat is present, CDFW recommends that a qualified wildlife biologist conduct surveys for CRLF within 48 hours prior to commencing work (two night surveys immediately prior to construction or as otherwise required by the USFWS) in accordance with the USFWS *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (USFWS 2005) to determine if CRLF are within or adjacent to individual project sites.

Recommended Mitigation Measure 9: CRLF Avoidance

If any CRLF are found during preconstruction surveys or at any time during construction, CDFW recommends that construction cease and that CDFW be contacted to discuss a relocation plan for CRLF.

CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 and March 31). If ground-disturbing activities must take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activity daily.

COMMENT 4: Special-Status plants

Issue: Several special-status plant species have been documented to occur in the vicinity of the Project area (CDFW 2019). These species meet the definition of rare or endangered under CEQA § 15380. The MND currently contains no mitigation measures to minimize impacts to special-status plant species to a level that is less than significant.

Specific Impact: Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project construction include inability to reproduce and direct mortality.

Evidence impact would be significant: Carmel Valley malacothrix and Toro manzanita are narrowly distributed, endemic species which require chaparral, coastal scrub, or woodland habitats (CNPS 2019). These species are threatened by road maintenance activities (CNPS 2019) which presumably have the potential to occur through development of subsequent projects subject to the District's jurisdiction.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW recommends editing the MND to include the following measures as conditions of Project approval and conducting the following evaluation of individual project areas prior to implementation of Project activities.

Recommended Mitigation Measure 10: Special-Status Plant Habitat Assessment

CDFW recommends that a qualified botanist conduct a habitat assessment in advance of project implementation, to determine if individual Project sites or their immediate vicinity contain suitable habitat for special-status plant species.

Recommended Mitigation Measure 11: Special-Status Plant Surveys

If suitable habitat is present, CDFW recommends that the project area be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities" (CDFW 2018b). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

Recommended Mitigation Measure 12: Special-Status Plant Avoidance

CDFW recommends special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 13: State-listed Plant Take Authorization

If a plant species listed pursuant to CESA or the Native Plant Protection Act is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground-disturbing activities may be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code § 2081(b).

COMMENT 5: Western Pond Turtle (WPT)

Issue: The Project area likely supports suitable aquatic habitat for WPT. The Project area also potentially supports upland habitat for WPT, which require loose soils and/or leaf litter for nesting and occasionally overwintering. In addition, WPT are known to occur in the vicinity of the Project area (CDFW 2019). WPT are capable of nesting up to 1600 feet away from waterbodies. Nesting occurs in spring or early summer and hatching occurs in fall. Hatchlings can remain in the nest throughout the first winter, emerging the following spring. In addition, WPT are slow to reach sexual maturity, which naturally reduces the number of WPT that are recruited into a population each year (Thomson et al. 2016).

Specific impact: Without appropriate avoidance and minimization measures for WPT, potential significant impacts associated with development of subsequent

projects include nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Evidence impact would be significant: Threats to WPT include land use changes and habitat fragmentation associated with development, road mortality, as well as a decrease in suitable upland nesting/overwintering habitat (Thomson et al. 2016), all of which are potential impacts of the Project or subsequent projects under the District's jurisdiction. As a result, Project development has the potential to significantly impact the local population of WPT.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW recommends editing the MND to include the following measures as conditions of Project approval and conducting the following evaluation of individual project areas prior to implementation of Project activities.

Recommended Mitigation Measure 14: Preconstruction Surveys

CDFW recommends that a qualified wildlife biologist conduct focused surveys for WPT during the nesting season (March through August). If any nests are discovered, CDFW recommends that they remain undisturbed until the eggs have hatched and the nestlings are capable of independent survival. In addition, CDFW recommends conducting pre-construction surveys for WPT immediately prior to initiation of construction activities.

Recommended Mitigation Measure 15: Avoidance

WPT detection during surveys warrants consultation with CDFW to discuss how to implement project activities and avoid take. However, CDFW recommends that if any WPT are discovered at a site immediately prior to or during project activities they be allowed to move out of the area on their own volition. If this is not feasible, CDFW recommends that a qualified biologist who holds a Scientific Collecting Permit for the species, capture and relocate the turtle(s) out of harm's way to the nearest suitable habitat immediately upstream or downstream from the project site.

II. Editorial Comments and/or Suggestions

South-Central California Coast Distinct Population Segment (DPS) of Steelhead (*Oncorhynchus mykiss irideus* pop. 9)

Steelhead trout inhabiting the Carmel River are part of the South-Central California Coast Distinct Population Segment (SCCC DPS) as defined by NMFS. The SCCC DPS includes steelhead populations in streams from the Pajaro River (inclusive) to (but not including) the Santa Maria River. The NMFS listed steelhead trout in the SCCC DPS as

a federally threatened species effective October 17, 1997 (Federal Register Vol. 62, No. 159) and the Carmel River is designated by ESA as critical habitat for the SCCC DPS. The SCCC DPS is considered by NMFS to be distinct from the Southern California DPS to its south and the Central California Coast Evolutionarily Significant Unit (ESU) to its north. Of the runs that this DPS occupies, NMFS has identified the Carmel River run as having undergone a long-term decline, with an average decline of 50% per generation (NMFS 2016). This decline has been exacerbated by extended drought (NMFS 2016). Critical recovery actions for this ESU include alleviating threats to instream flows and impediments to fish passage. Any changes to the Carmel River's flow volumes, changes the channel sediment regime, and reductions of the groundwater (aquifer) table associated with the proposed Project or subsequent projects under the District's authority could worsen conditions for steelhead. Therefore, CDFW advises that the MND comprehensively evaluate the potential for impacts to this species, including its habitat, as a consequence of temporal differences in flow volumes as a result of the Project or subsequent projects under the District's authority.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, CRLF and SCCC DPS of steelhead. Take under the ESA is more broadly defined than CESA; take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with ESA is advised well in advance of any Project activities.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, has the potential to impact fish and/or wildlife, and assessment of filing fees may be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project

Larry Hampson, District Engineer
Monterey Peninsula Water Management District
April 2, 2019
Page 15

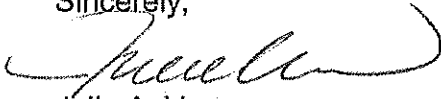
approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the District in identifying and mitigating subsequent project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to Renée Robison, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014 extension 274, or by electronic email at Renee.Robison@wildlife.ca.gov.

Sincerely,



Julie A. Vance
Regional Manager

REFERENCES

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