

Finding Of No Significant Impact (FONSI)

LC-17-21

for

Dennis Underwood Conservation Area Draft Environmental Assessment/Initial Study with a Negative Declaration and Final Negative Declaration

Boulder City, Nevada

Based on a thorough analysis of the potential environmental impacts presented in the Environmental Assessment /Initial Study with a Negative Declaration (EA/IS-ND) and Final Negative Declaration the Bureau of Reclamation (Reclamation) finds that implementation of the Proposed Action will not significantly affect the quality of the human environment within or adjacent to the project area, therefore an Environmental Impact Statement will not be prepared.

Accordingly, this FONSI is submitted to document environmental review and evaluation of the Proposed Action Alternative in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended.

Prepared: Faye Streier Date: January 3, 2019
Natural Resource Specialist

Recommended: [Signature] Date: 3 Jan 19
Manager, Environmental Compliance Group

Approved: [Signature] Date: Jan 8, 2019
Program Manager, Lower Colorado River Multi-Species Conservation
Program

Background

The Bureau of Reclamation (Reclamation) is proposing to develop the Dennis Underwood Conservation Area (Project) to create, enhance, and restore native habitat on behalf of the Lower Colorado River Multi-Species Conservation Program (LCR MSCP). The October, 2018 “Dennis Underwood Conservation Area Draft Environmental Assessment/Initial Study with a Negative Declaration (EA/IS-ND)” was prepared by Reclamation as the lead Federal agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.), and the Metropolitan Water District of Southern California (Metropolitan), as the lead State agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

The EA/IS-ND was issued by Reclamation and Metropolitan for public comment in October, 2018. In December, 2018, Metropolitan prepared the “Final Negative Declaration, Responses to Comments on the Draft EA/IS-ND” (Final Negative Declaration) in coordination with Reclamation. Reclamation hereby adopts the Final Negative Declaration. No changes were made to the EA/IS-ND as a result of the comment period, so a Final EA/IS-ND will not be produced. Further information can be found in this FONSI in the Section titled “Comments Received on the Draft EA/IS-ND”. The EA/IS-ND and Final Negative Declaration are incorporated by reference into this FONSI and are attached (Attachment A).

Alternatives Considered

A No Action Alternative and a Proposed Action/Project Alternative were considered. Under the No Action Alternative, Metropolitan would not issue an easement for conservation purposes to Reclamation. Reclamation would not develop the Conservation Area at this location to meet the goals of the LCR MSCP. The 635 acres of land would remain under the management of Metropolitan. The LCR MSCP would seek other locations in California to develop a conservation area which may not have the desired physical characteristics or size requirements.

The Proposed Action/Project

Under the Proposed Action/Project Metropolitan will grant an easement for conservation purposes to Reclamation allowing for the creation, management, and maintenance of 461 acres of cottonwood-willow and 167 acres of honey mesquite land cover types to be created by Reclamation’s LCR MSCP at the Project site. The Project site is previously irrigated agricultural land located within the Palo Verde Irrigation District (PVID), in Imperial County, California, approximately 18 miles south of Blythe, California. Reclamation will construct, operate, maintain, and monitor the Project. A detailed description of the Project can be found in Section 2 of the EA/IS-ND.

Environmental Commitments

The following measures will be implemented as part of the Proposed Action/Project to reduce or eliminate impacts to resources

Resource Area	Measures
Air Quality	<p>To reduce dust emissions:</p> <ol style="list-style-type: none"> 1. All grading activities shall be suspended when winds exceed 25 miles per hour. 2. All disturbed areas, including Bulk Material storage which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps, or other suitable material such as vegetative ground cover. 3. All on-site and off-site unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants, and/or watering. 4. All unpaved traffic areas one (1) acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emission shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering. 5. The transport of Bulk Materials shall be completely covered unless six inches of freeboard space from the top of the container is maintained with no spillage and loss of Bulk Material. In addition, the cargo compartment of all Haul Trucks is to be cleaned and/or washed at delivery site after removal of Bulk Material. 6. All Track-Out or Carry-Out will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an urban area. 7. Movement of Bulk Material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers, or by sheltering or enclosing the operation and transfer line. 8. The construction of any new Unpaved Road is prohibited within any area with a population of 500 or more unless the road meets the definition of a Temporary Unpaved Road. Any Temporary Unpaved Road shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emission by paving, chemical stabilizers, dust suppressants, and/or watering. <p>To reduce pollutant emissions:</p> <ol style="list-style-type: none"> 9. All equipment used for grading and construction must be tuned and maintained to the manufacturer's specifications to maximize efficient burning of vehicle fuel. 10. The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site Haul Trucks in order to minimize exhaust emissions from truck idling.

Resource Area	Measures
Biological Resources	<ol style="list-style-type: none"> <li data-bbox="407 317 1438 457">1. The Project Area biological education program will be provided to staff and contractors by an approved biologist. This education program includes information to aid in species identification, current status, and actions to take to avoid impacts to wildlife. <li data-bbox="407 499 1438 856">2. To reduce spread and/or introduction of noxious and invasive species, equipment used for this Proposed Action shall be thoroughly cleaned prior to entering the Project Area. The cleaning process will ensure that all dirt and debris that may harbor noxious or invasive weeds seeds are removed and disposed of at an appropriate facility. Reclamation’s <i>Inspection and Cleaning Manual for Equipment and Vehicles to Prevent the Spread of Invasive Species: 2012 Edition</i> should be referenced for inspection and cleaning activities. The manual can be found at: https://www.usbr.gov/mussels/prevention/docs/EquipmentInspectionandCleaningManual2012.pdf <li data-bbox="407 898 1438 1003">3. To ensure compliance to the LCR MSCP HCP, all applicable LCR MSCP HCP Conservation Measures will be incorporated into the design, construction, operation, and maintenance of the Proposed Action. <li data-bbox="407 1045 1438 1297">4. To the extent feasible, all work for Phases 1 and 2 shall be conducted outside the migratory bird breeding season (February 1 to September 15). If ground disturbance or vegetation clearing is needed during the breeding/nesting season for any phase, a pre-construction survey will be completed by the Project Biologist and a buffer (distance to be determined) will be enforced around all nests until the young have fledged and left the nest.
Cultural Resources	<ol style="list-style-type: none"> <li data-bbox="407 1430 1438 1682">1. In the event of an unanticipated discovery, all operations in the area of the discovery will cease and a Reclamation Lower Colorado Regional Office archaeologist will be contacted. “Discovery” means the encounter of any previously unidentified or incorrectly identified cultural resource including, but not limited to, archaeological deposits, human remains, or places reported to be associated with Native American religious beliefs and practices.
Hazardous Materials	<ol style="list-style-type: none"> <li data-bbox="407 1787 1438 1850">1. A State of California Storm Water Pollution Prevention Permit will be prepared for the Project prior to excavation activities

Resource Area	Measures
Hazardous Materials continued	<ol style="list-style-type: none"> <li data-bbox="402 254 1443 590">2. Discovered Contaminants Protections - Should contaminants be identified, activity on the site shall cease and a qualified Reclamation Hazardous Materials Specialist for the Project shall be retained to conduct the following: <ul style="list-style-type: none"> <li data-bbox="451 401 1089 436">• Obtain samples of the suspected contaminants <li data-bbox="451 443 1263 506">• Require lab analysis and access findings to identify specific contaminants <li data-bbox="451 512 1377 575">• Ensure appropriate remediation is conducted and completed in accordance to the regulations specific to the contaminants identified. <li data-bbox="402 625 1443 1178">3. Toxic Substances Protections - To ensure toxic substances are not released into the aquatic environment, the following measures shall be followed: <ul style="list-style-type: none"> <li data-bbox="451 701 1365 764">• All engine-powered equipment shall be well-maintained and free of leaks of fuel, oil, hydraulic fluid or any other potential contaminant. <li data-bbox="451 770 1419 875">• Staging areas for refueling of equipment shall be located away from the River to prevent any accidental fuel leakage from contaminating surface water. <li data-bbox="451 882 1419 1178">• A spill prevention and response plan shall be prepared in advance of the commencement of work; a spill kit with appropriate clean-up supplies shall be kept on hand during operations. <ol style="list-style-type: none"> <li data-bbox="500 995 1419 1100">a. For refueling and maintenance of mobile equipment, only approved and certified fuel cans with “no-spill” spring-loaded nozzles shall be used. <li data-bbox="500 1106 1377 1178">b. All spill cleanup materials or other liquid or solid wastes shall be securely containerized and labeled in the field. <li data-bbox="402 1213 1443 1430">4. The application and control of herbicides and pesticides shall be in accordance with the Toxic Substances Control Act (TSCA) and the U.S. Environmental Protection Agency (EPA) labeling requirements including but not limited to: <ul style="list-style-type: none"> <li data-bbox="451 1358 1052 1394">• Requiring a certified and trained applicator <li data-bbox="451 1400 1203 1430">• Application of the material in accordance with its label <li data-bbox="402 1472 1443 1766">5. A Hazardous Materials Management Plan addressing storage, use, transportation, and disposal of solid waste, hazardous material, and hazardous waste anticipated to be used or generated at the Project area shall be prepared. The plan shall identify all hazardous materials that will be used, stored, or transported at the site. It shall establish inspection procedures, storage requirements, storage quantity limits, inventory control, nonhazardous product substitutes, disposition of excess materials, and procedures for notification of emergency response authorities. <li data-bbox="402 1801 1443 1871">6. Prior to any hazardous materials being stored at the Project site, a Hazardous Materials Authorization form shall be completed and submitted

Resource Area	Measures
Hazardous Materials continued	to Reclamation’s Regional Hazardous Materials Coordinator. Only approved materials may be stored at the Project area.
Hydrology and Water Quality	
	<ol style="list-style-type: none"> <li data-bbox="407 464 1430 531">1. The design will utilize as much of the existing water related infrastructure as possible to minimize construction of new structures. <li data-bbox="407 569 1430 636">2. Detention basins will be constructed to prevent flood damage to the Project and its facilities.

Comments Received on the Draft EA/IS-ND

Metropolitan received three comment letters on the EA/IS-ND. Two of the letters were from the California Governor’s Office of Planning and Research State Clearinghouse and Planning Unit (State Clearinghouse), which coordinates the state-level review of CEQA documents. The first letter confirmed completion of the State Clearinghouse review process, the second letter transmitted the third letter; a comment letter from the California Department of Fish and Wildlife (CDFW).

The CDFW comments were: the requirement of the California Endangered Species Act Incidental Take Permit (CESA Permit) to protect established habitat in perpetuity, a request for further consultation on meeting the requirements of the CESA permit, the potential for burrowing owls to occupy the Project area, Global Positioning System (GPS) coordinates for the Project site, and whether recreational activities would be permitted at the Project site.

The response to these comments clarifies the perpetuity requirement in the CESA Permit and confirms the availability of Metropolitan, Reclamation and other interested permittees to consult with CDFW. The response explains that potential impacts to burrowing owls were addressed in the LCR MSCP Final Programmatic Environmental Impact Statement/Environmental Impact Report, from which the Draft EA/IS-ND is tiered, and that burrowing owl surveys will be conducted. Construction of the Project will begin in February, 2018. Burrowing owl and other migratory bird surveys will be conducted prior to construction of the Project, and appropriate avoidance measures implemented. The burrowing owl surveys will be conducted in accordance with the 1993 Burrowing Owl Survey Protocol and Mitigation Guidelines. The response also thanks CDFW for the GPS information and confirms that the Project site is not currently open for public access or recreation, and will not be open for these uses when the Project site is developed. No changes were made to the document as a result of these comments and no significant issues were identified.

The letters, and full responses to comments can be found in the Final Negative Declaration.

Environmental Impacts and Findings

Implementation of the Proposed Action/Project will not result in significant impacts to any of the resources evaluated in the EA/IS-ND. The reasons for this determination are summarized by resource below.

Aesthetics/Visual Resources

The Project will not degrade the visual character of the site or surrounding areas and will enhance the visual character once it is developed. No negative cumulative impacts are anticipated.

Agricultural Resources

The Project site includes Prime Farmland and Farmland of Statewide importance as defined by the Farmland Protection Policy Act (FPPA). An evaluation conducted using the California Land Evaluation and Site Assessment Model concluded that alternate sites for the Project do not need to be considered. The Project will be in compliance with the FPPA, the Williamson Act, and Imperial County plans and rules. No cumulative impacts were identified.

Air Quality

Air pollutant emissions generated by the implementation of the Project during construction and operations will not exceed the daily and annual emission thresholds established by the Imperial County Air Pollution Control District. No measurable cumulative impacts were identified.

Biological Resources

This project is consistent with the LCR MSCP goal to create two-thirds of the LCR MSCP habitat on agricultural lands. This site-specific analysis is consistent with the goals and analysis in the LCR MSCP Environmental Impact Statement /Environmental Impact Report (LCR MSCP EIS/EIR). No substantial adverse effects to candidate, sensitive or special status species are anticipated. No riparian or wetland habitat will be impacted. Cumulative impacts to biological resources from implementation of the LCR MSCP program were disclosed and analyzed in the LCR MSCP EIS/EIR. No long-term adverse cumulative impacts were identified. Beneficial cumulative impacts were identified.

Cultural and Paleontological Resources

No cultural resources have been identified in the Project area. Reclamation consulted with the California State Historic Preservation Officer (SHPO) on a “no historic properties affected” determination. The SHPO concurred with this determination. Reclamation also consulted with appropriate tribes and no potential impacts were identified by the tribes. No paleontological resources have been identified at the Project site.

Geology and Soils

No adverse impacts to geology and soils were identified. Beneficial impacts to soils were identified because restoration of habitat will provide stability to the topsoil and reduce erosion. No cumulative impacts were identified.

Greenhouse Gas Emissions

Construction of the Project will generate temporary GHG emissions as a result of equipment operations. There are no GHG thresholds established for NEPA analysis but the potential emissions calculated for the Project were well below the threshold used for CEQA analysis.

Hazards and Hazardous Materials

No hazardous substances have been identified at the Project location. The Project will incorporate numerous design measures to prevent release of hazardous materials. No adverse impacts from hazards or hazardous materials have been identified. No cumulative impacts have been identified.

Hydrology and Water Quality

The Project will be in compliance with California and Palo Verde Valley irrigation water discharge requirements. No water quality standards will be violated. Irrigation water for the Project will come from Palo Verde Irrigation District's surface water delivery system, no depletion of groundwater will occur. No adverse impacts to hydrology and water quality were identified. No cumulative impacts have been identified.

Land Use Planning

No impacts to communities or conflicts with applicable land use plans, policies, or regulations were identified. No cumulative impacts have been identified.

Mineral Resources

There will be no direct, indirect, or cumulative impacts to mineral resources as none have been identified at the Project site.

Noise

There may be an increase in the ambient noise at the Project site during construction but there are no sensitive receptors (residences, schools, hospitals etc.) that will be affected. No negative impacts from noise are anticipated. No measurable cumulative impacts were identified.

Population and Housing

The Project will not induce population growth or require the construction of new housing. No direct, indirect, or cumulative impacts to population and housing are anticipated.

Public Services

There are no structures or new facilities associated with the Project, so there will be no direct, indirect, or cumulative impacts to public services.

Recreation

There will be no direct, indirect, or cumulative impacts to recreation as the Project area is currently private property with no recreation facilities, and none are planned as part of the Project.

Transportation/Traffic

The Project will generate minor amounts of traffic but will not cause a change in traffic patterns, or increase traffic hazards. There will be no negative impacts to transportation and traffic. No cumulative impacts have been identified.

Utilities and Service Systems

The Project will be in compliance with California and Palo Verde Valley irrigation water discharge requirements. No new water, wastewater, or stormwater facilities will be constructed. There will be no direct, indirect, or cumulative impacts to utilities and service systems.

Indian Trust Assets (ITA)

ITAs have not been identified in the project area, therefore no direct, indirect or cumulative impacts to ITAs are anticipated.

Indian Sacred Sites

No Indian sacred sites have been identified in the Project area, therefore no direct, indirect or cumulative impacts to Indian sacred sites are anticipated.

Environmental Justice

The Proposed Action will not result in disproportionately high and adverse human health or environmental effects on minority and low-income populations

**Attachment A to
FONSI LC-17-21**

Dennis Underwood Conservation Area

Final Negative Declaration

Responses to Comments on the Draft Environmental Assessment/Initial Study
with a Negative Declaration

SCH #2018101009

Bureau of Reclamation, Lower Colorado Region
Lower Colorado River Multi-Species Conservation Program
EA LC-17-21

The Metropolitan Water District of Southern California
MWD No. 1574

December 2018



**U.S. Department of the Interior
Bureau of Reclamation**



The Metropolitan Water District of Southern California

Mission Statements

The Department of the Interior conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

The mission of The Metropolitan Water District of Southern California is to provide its service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way.

Cover photo: Proposed Site of Dennis Underwood Conservation Area (Bureau of Reclamation photo)

INTRODUCTION

The Negative Declaration (ND) for the Dennis Underwood Conservation Area (Project) was circulated for public review from October 8 through November 8, 2018. The Metropolitan Water District of Southern California (Metropolitan) is the lead agency for the proposed project under the California Environmental Quality Act (CEQA) and also is the proposed state project proponent.

This Final ND includes comments received during the public review period and Metropolitan's responses to those comments. Comments on the ND were received from the following public agencies:

1. California Governor's Office of Planning and Research State Clearinghouse and Planning Unit (letter dated November 6, 2018)
2. California Governor's Office of Planning and Research State Clearinghouse and Planning Unit (letter dated November 13, 2018)
3. California Department of Fish and Wildlife (letter dated November 9, 2018)

The comments and responses to the comments follow this Introduction.

No revisions have been made to the text of the Draft Environmental Assessment/Initial Study with a Negative Declaration based on the comments received.

The Metropolitan Board of Directors will consider, among other things, the information in the ND and will determine the adequacy of the environmental documents under CEQA. Should the Board of Directors elect to adopt the ND and approve the proposed project, Metropolitan will file a Notice of Determination with the Imperial County Clerk within five working days of the project approval. The Metropolitan Board of Directors will consider the ND and project at its regularly scheduled meeting scheduled for:

January 8, 2019 at 12:00 p.m.
The Metropolitan Water District of Southern California Headquarters
700 N. Alameda Street
Los Angeles, CA 90012

This meeting is open to agencies and members of the public.



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

November 6, 2018

Vikki Dee Bradshaw
Metropolitan Water District of Southern California
700 North Alameda St
Los Angeles, CA 90013

Subject: Dennis Underwood Conservation Area Project
SCH#: 2018101009

Dear Vikki Dee Bradshaw:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. The review period closed on November 5, 2018, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely

Scott Morgan
Director, State Clearinghouse

Comment Letter 1

November 6, 2018, Comment Letter from the Governor's Office of Planning and Research

Response: This comment letter from the State of California, Governor's Office of Planning and Research, State Clearinghouse confirms completion of the State Clearinghouse review process for the Draft EA/IS with ND.



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

November 13, 2018

Vikki Dee Bradshaw
Metropolitan Water District of Southern California
700 North Alameda St
Los Angeles, CA 90013

Subject: Dennis Underwood Conservation Area Project
SCH#: 2018101009

Dear Vikki Dee Bradshaw:

The enclosed comment (s) on your Negative Declaration was (were) received by the State Clearinghouse after the end of the state review period, which closed on November 5, 2018. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2018101009) when contacting this office.

Sincerely,

A handwritten signature in black ink that reads "Scott Morgan".

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

Comment Letter 2

November 13, 2018, Comment Letter from the Governor's Office of Planning and Research

Response: This comment letter from the State of California, Governor's Office of Planning and Research, State Clearinghouse transmits a late comment letter from the California Department of Fish and Wildlife (CDFW), regarding their review of the Draft EA/IS with ND, which has been included as Comment Letter 3. Although CEQA does not require the Lead Agency to respond to late comments, Metropolitan has decided to provide responses to the comments submitted by the California Department of Wildlife and consider these comments prior to taking final action on the proposed project.

COMMENT LETTER 3



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
17041 S Lovekin Blvd.
Blythe, CA 92225
www.wildlife.ca.gov

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



November 9, 2018

Vikki Dee Bradshaw
Team Manager, Environmental Planning Section
The Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054

Dear Ms. Bradshaw:

Dennis Underwood Conservation Area (Project)
NEGATIVE DECLARATION (ND)
SCH# 2018101009

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an ND from The Metropolitan Water District of Southern California (MWD) for the 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 the exercise of its own regulatory authority under the Fish and Game Code.

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 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.

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.

Vikki Dee Bradshaw, Team Manager
The Metropolitan Water District
November 9, 2018
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PROJECT DESCRIPTION SUMMARY

Proponent: MWD

Objective: The proposed project involves creating and maintaining 635 acres of cottonwood-willow and mesquite land cover types in compliance with conservation measures described in the Lower Colorado River Multi-Species Conservation Plan (LCR MSCP). The U.S. Bureau of Reclamation (USBR) would enter into an easement for conservation purposes with MWD for the 635 acres of Metropolitan-owned land. USBR would design, operate, and maintain approximately 461 acres of cottonwood-willow and 167 acres of honey mesquite habitat land cover types.

Location: The proposed Project is located in the Palo Verde Valley along the Colorado River in Imperial County, CA. The Project site is approximately 18 miles south of Blythe, CA. Latitude: 33.359981°, Longitude: -114.706794°

Timeframe: January 2019 – April 2020

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist MWD 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.

I. Project Description and Related Impact Shortcoming

COMMENT 1:

Section 2.1, Page 7

Issue: This section states that "development of this Project will satisfy both a portion of the LCR MSCP habitat requirements and a portion of the CESA Incidental Take Permit No. 2081-2005-008-06". Pursuant to CESA Incidental Take Permit No. 2081-2005-008-06 (CESA Permit), "Habitat established within California as mitigation required under this permit shall be protected in perpetuity" (section 3, subdivision (a)(vi).) Without a transfer of Fee Title to CDFW or a title or easement granted to a CDFW approved and qualified non-profit organization, CDFW cannot confirm that the Project will satisfy the requirements of the CESA Permit.

COMMENT 2:

Section 2.3.1, Page 8

Issue: MWD describes a phase of the Project in which USBR “would enter into an easement for conservation purposes” with MWD for the 635 acres of MWD owned land.

CDFW requests further consultation with MWD, USBR and any interested Permittees of the LCR MSCP in regard to this project, to determine what is specifically required to fulfill the CESA Permit.

II. Environmental Setting and Related Impact Shortcoming

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 3:

Section 3.4, Page 38

Issue: There is no discussion of the western burrowing owl (*Athene cunicularia*) in the Biological Resources section. Burrowing owl are a California Species of Special Concern and are protected under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13) and Sections 3503, 3503.5, and 3513 of the Fish and Game Code, which prohibit take of all birds and their nests.

Why impact would occur: There is a potential for western burrowing owls to occur on the Project site and Project activities may impact burrows, disturb nesting season, or cause direct take. There is no evidence of any surveys or consideration of impacts to this species within the ND.

Evidence impact would be significant: Western burrowing owls occupy different habitat types throughout the western United States. Several studies have shown that they can be associated with agriculture and nest in higher densities near agriculture in some areas (Rich 1986, Conway et al. 2006, Moulton et al. 2006, Bartok and Conway 2010). Therefore, there is a potential for significant impacts to the species from Project activities.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

Mitigation Measure 1:

To reduce impacts to less than significant: Conduct an analysis and include a discussion to determine if western burrowing owls will be impacted by the Project. More information on survey protocols and mitigation guidelines can be found at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>.

III. Editorial Comments and/or Suggestions

COMMENT 4:

Section 1.1, Page 1

In the Project Location section there are no GPS coordinates provided for the site. CDFW recommends including the GPS coordinates in decimal degree format, to enable the general public to easily locate the site.

COMMENT 5:

There is no description of future recreational opportunities for the Project. For completeness and transparency, CDFW recommends including an explanation of whether there will be any public access or recreational activities permitted at the Project site once developed.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which 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 (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination

Vikki Dee Bradshaw, Team Manager
The Metropolitan Water District
November 9, 2018
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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 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 ND to assist MWD in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Richard Kim, Environmental Scientist, at Richard.Kim@wildlife.ca.gov.

Sincerely,



David Vigil
Senior Environmental Scientist

ec: Richard Kim
Environmental Scientist
Richard.Kim@wildlife.ca.gov

Vikki Dee Bradshaw, Team Manager
The Metropolitan Water District
November 9, 2018
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REFERENCES

- Bartok, N. D., and C. J. Conway (2010). Factors affecting the presence of nesting Burrowing Owls in an agricultural landscape. *Journal of Raptor Research* 44:286-293.
- California Department of Fish and Game. 2005 LCR MSCP, California Endangered Species Act. Incidental Take Permit No. 2081-2005-008-06
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Comment Letter 3

November 9, 2018, Comment Letter from California Department of Fish and Wildlife (CDFW)

Comment 1: This section states that “development of this Project will satisfy both a portion of the LCRMSCP habitat requirements and a portion of the CESA Incidental Take Permit No. 2081-2005-008-06”. Pursuant to CESA Incidental Take Permit No. 2081-2005-008-06 (CESA Permit), “Habitat established within California as mitigation required under this permit shall be protected in perpetuity” (section 3, subdivision (a)(vi)). Without a transfer of Fee Title to CDFW or a title or easement granted to a CDFW approved and qualified non-profit organization, CDFW cannot confirm that the Project will satisfy the requirements of the CESA Permit

Response: The California Endangered Species Incidental Take Permit No. 2081-2005-008-06, Conditions of Approval, Section (3)(a)(vi), states “*Habitat established within California as mitigation required under this permit shall be protected in perpetuity.*” However, the Permit imposes no stipulation that perpetuity must be met through “a transfer of Fee Title to CDFW or a title or easement granted to a CDFW approved and qualified non-profit organization.

In accordance with the Permit conditions, Metropolitan and Reclamation have committed to protecting the Dennis Underwood Conservation Area in perpetuity. Under the proposed action, Metropolitan would grant an Easement for Conservation Purposes to the Bureau of Reclamation for the time period of the LCR MSCP and any subsequent ESA compliance program. If the LCR MSCP expires, the California Permittees will be responsible for ensuring that the site would be managed as habitat in perpetuity. This commitment is documented in the EA/IS with ND through reference to Restoration Development and Monitoring Plan submitted to CDFW on December 3, 2018. Metropolitan believes that reasonable assurance has been demonstrated that the proposed Dennis Underwood Conservation Area will be maintained as native habitat in perpetuity.

Comment 2: MWD describes a phase of the Project in which USBR “would enter into an easement for conservation purposes” with MWD for the 635 acres of MWD owned land.

CDFW requests further consultation with MWD, Reclamation, and any interested Permittees of LCR MSCP in regard to this project, to determine what is specifically required to meet the CESA Permit

Response: Metropolitan, Reclamation as the implementing agency for the LCR MSCP, and other Permittees, as necessary, will be available to consult with CDFW upon its request.

Comment 3: There is no discussion of the western burrowing owl (*Athene cunicularia*) in the Biological Resources section. Burrowing owl are a California Species of Special Concern and are protected under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13) and Sections 3503, 3503.5, and 3513 of the Fish and Game Code, which prohibit take of all birds and their nests.

There is a potential for western burrowing owls to occur on the Project site and Project activities may impact burrows, disturb nesting season, or cause direct take. There is no evidence of any surveys or consideration of impacts to this species within the ND”

Response: The EA/IS with ND is tiered to and incorporates by reference the Final Programmatic Environmental Impact Statement/Environmental Impact Report (LCR MSCP EIS/EIR). As stated in the EA/IS with ND on page 42, impacts from conversion of agricultural land to habitat, creating habitat for cottonwood-willow and honey mesquite associated covered species, and maintenance activities for the LCR MSCP program can be found on pages 3.4-31 to 3.4-38 of the LCR MSCP EIS/EIR. This includes analysis of potential impacts to burrowing owls. Conversion of agricultural lands associated with implementation of the Conservation Plan was found to have a less than significant impact on all non-covered sensitive species, including burrowing owls.

The EA/IS with ND also addresses the potential for impacts to special status species during the habitat management, operations, and maintenance phase and concluded that there would be no substantial adverse effects to candidate, sensitive, or special status species due to implementation of the LCR MSCP HCP conservation measures.

Finally, as stated in Section 2.3.4 of the EA/IS with ND preconstruction surveys for migratory birds, including burrowing owls will be conducted, and appropriate avoidance measures implemented. The burrowing owl surveys will be in accordance with the 1993 Burrowing Owl Survey Protocol and Mitigation Guideline prepared by the California Burrowing Owl Consortium. This section also states that all applicable Lower Colorado River Multi-Species Conservation Program Habitat Conservation Plan (LCR MSCP HCP) Conservation Measures will be incorporated into the design, construction, operation, and maintenance of the Proposed Action.

Comment 4: In the Project Location section there are no GPS coordinates provided for the site. CDFW recommends including the GPS coordinates in decimal degree format, to enable the general public to easily locate the site.

Response: Thank you for providing the GPS coordinates of Latitude 33.359981 degrees, Longitude -114.70694 degrees in your letter. The location of the Project Area is described on page 1 of the EA/IS with ND and a location map provided on page 9 of the document.

Comment 5: There is no description of future recreational opportunities for the Project. For completeness and transparency, CDFW recommends including an explanation of whether there will be any public access or recreational activities permitted at the Project site once developed.

Response: The proposed Project site is agricultural land held in fee title by Metropolitan. It does not contain any recreational facilities, and is not open for public access or recreation. As stated in Section 3.15.2 of the EA/IS with ND, the Project involves restoration of native habitat and does not include recreational facilities or construction or expansion of recreational facilities.