Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

August 11, 2025

Wendy Pierce, Senior Environmental Scientist
State Water Resources Control Board
P.O. Box 100 16th Floor
Sacramento, CA, 95812-0100

Dear Wendy Pierce:

YEAGER WELL REPLACEMENT (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2025070681

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the State Water Resources Control Board 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.

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, 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Golden State Water Company

Objective: The Project proposes to construct a potable water supply well at the Yeager-Vale Plant that will be designated as Yeager Well 4. The Project will decommission the existing Yeager Well 2 following the construction and operation of Yeager Well 4. The Project will remove mesquite thickets and one mature cottonwood tree for ground leveling for Project construction.

Location: The Project is located at 11083 Vale Drive, within the unincorporated community of Morongo Valley, San Bernardino Couty, State of California. The Project site is located on Assessor's Parcel Numbers: 0583-261-07-0000 and 0583-261-08-0000.

[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.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

Timeframe: Project construction is proposed to begin August 2025 and will take approximately five to six months to complete. Drilling is proposed to occur for approximately 150 days.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the State Water Resources Control Board 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. Specific Comments

COMMENT 1: Nesting Birds

Issue: The Project may have impacts on nesting birds, including CESA-listed birds, CDFW Species of Special Concern (SSC), and migratory and non-migratory birds that are subject to Fish and Game Code Sections 3503, 3503.5, and 3513, and the Migratory Bird Treaty Act of 1918.

Specific impact: Mitigation measure BIO-2 states that surveys for nesting birds will only be conducted during the nesting bird season. CDFW would like to clarify that a pre-construction nesting bird survey is needed prior to construction regardless of the time of year to ensure that impacts to nesting birds are avoided. This is considering that the timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). As stated in the MND, the Big Morongo Canyon Preserve is located approximately 0.03 miles east of the Project site and is known to provide habitat for numerous special status species, including birds. The Project site contains mesquite thickets and cottonwoods that could provide habitat for bird species as well. According to the California Natural Diversity Database (CNDDB), numerous special status bird species have been observed within the Project vicinity, such as but not limited to: least Bell's vireo (*Vireo bellii pusillus*), yellow warbler (*Setophaga petechia*), summer tanager (*Piranga rubra*), long-eared owl (*Asio otus*), vermilion flycatcher (*Pyrocephalus rubinus*), brown-crested flycatcher (*Myiarchus tyrannulus*), Cooper's hawk (*Accipiter cooperii*), and yellow-breasted chat (*Icteria virens*). Furthermore, the Biological Resources Assessment conducted on August 18th, 2023, identified a yellow warbler, a migratory CDFW SSC, outside of the Project site and adjacent to the Big Morongo Canyon Preserve.

Why impact would occur: BIO-2 limits pre-construction surveys for nesting birds only during February 1st to August 31st. However, studies have shown that migratory bird species arrive earlier in the season partially in response to higher temperatures influenced by climate change (Usui et. al., 2016).[2] In addition, in response to warming, birds have been reported to breed earlier and CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance to occupied nests of non-migratory passerine birds, migratory birds, and raptors within the Project site and surrounding area be avoided any time birds are nesting onsite. Thus, if surveys for nesting birds are not conducted immediately prior to the commencement of Project activities (e.g., 3 days prior) regardless of time of year, then impacts to nesting birds may be significant if nesting birds are present on site and not detected.

Project activities could result in temporary as well as long-term loss of suitable nesting and foraging habitats. Construction while birds are nesting could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from road use, generators, and heavy equipment may disrupt nesting bird mating calls or

[2] Usui, T., Butchart, S.H.M., and Philmore A.B., (2016). Temporal Shifts and Temperature Sensitivity of Avian Spring Migratory Phenology: a Phylogenetic Meta-analysis. *Journal of Animal Ecology* 86(2): 250-261.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

songs, which could impact reproductive success.[3,4] Noise has also been shown to reduce the density of nesting birds[5] and songbirds.

Evidence impact would be significant: It is the Project Proponent's responsibility to avoid take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto.

Recommended potentially feasible mitigation measure to reduce impacts to less than significant: Considering all of the above, CDFW recommends inclusion of the following changes to BIO-2 in the Final MND (edits are in ~~strikethrough~~ and additions are in **bold**):

Mitigation Measure: BIO-2

BIO-2 Pre-Construction Nesting Bird Survey. To avoid disturbance of nesting and special-status birds, or migratory bird species protected by Sections 3503, 3503.5, and 3513 of the CFGC and the MBTA, activities related to project construction, including but not limited to vegetation and/or tree removal, should occur outside of the bird breeding season (February 1 through August 31). **Regardless of the time of year,** ~~If ground disturbance, vegetation and tree removal, or heavy equipment work must begin in the breeding season, then~~ a pre-construction nesting bird survey shall be conducted no more than three days prior to the initiation of **Project** ~~construction~~ activities. The survey shall be conducted at the appropriate time of day, during appropriate weather conditions, no more than three days prior to the initiation of Project activities such as vegetation removal and/or initial ground disturbance. The survey shall encompass the **entire** Project Site and a 250-foot buffer for passerines and a 500-foot buffer for raptors. The survey shall be conducted by a qualified **avian** biologist familiar with the identification of avian species known to occur in the region. An additional survey shall be conducted following any lapse in construction activity of seven or more days **regardless of the time of year** ~~during the bird breeding season~~. The survey shall cover all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration should take into consideration the size of the Project Site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and it shall be sufficient to ensure the data collected is complete and accurate. The survey should be conducted by a qualified **avian** biologist experienced in identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures. If no nesting birds are observed during the survey, Project Site preparation and construction activities may begin. **If a nest is suspected, but not confirmed, the qualified avian biologist shall establish a disturbance-free buffer until additional surveys can be completed prior to the commencement of ground disturbing Project activities. The qualified avian biologist shall not risk failure of the nest to determine the exact location or status and shall make every effort to limit the nest to potential predation as a result of the survey/monitoring efforts (e.g., limit number of surveyors, limit time spent at/near the nest, scan the site for**

[3] Patricelli, G. L., and Blickley, J. L. (2006). Avian Communication in Urban Noise: Causes and Consequences of Vocal Adjustment. *The Auk*, 123(3), 639–649.
[4] Halfwerk, W., et al. (2011). Negative Impact of Traffic Noise on Avian Reproductive Success. *Journal of Applied Ecology* 48:210–219.
[5] Francis, C.D., Ortega C.P., and Cruz, A. (2009). Noise Pollution Changes Avian Communities and Species Interactions. *Current Biology* 19:1415–1419.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

potential nest predators before approaching, immediately depart nest area if indicators of stress or agitation are displayed). If a nest is observed, but thought to be inactive, the qualified avian biologist shall monitor the nest for one hour (four hours for raptors) prior to approaching the nest to determine status. The qualified avian biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate. If active nests are found, a qualified **avian** biologist shall establish a suitable avoidance buffer around the nest, with specific buffer widths to be determined by a qualified **avian** biologist. The buffer shall be delineated and flagged, and no construction activity shall occur within the buffer area until a qualified **avian** biologist determines the nestlings have fledged and/or the nest is no longer active, the nest has failed, or the nest has otherwise been determined inactive. The buffer shall be established to ensure nesting activity is not disturbed by construction activity and determined by the qualified **avian** biologist based on the species' known tolerances, the proposed work activity, and existing disturbances associated with land uses outside of the Project Site. The buffer(s) shall be demarcated by the **qualified avian** biologist and the boundary marked with bright construction fencing, flagging, construction lathe, or other means. **The buffer shall not be marked in a manner that attracts unwanted predator attention.** All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone **while the nest remains active as determined by the qualified avian biologist** ~~during the nesting season~~. **The qualified avian biologist shall be the only authorized employee on behalf of the Project Proponent that may encroach into the buffer zone to monitor and determine the status of the active nest.** ~~Encroachment into the buffer shall occur only at the discretion of a qualified biologist and with monitoring of the active nest to ensure construction activities are not disrupting nesting behavior.~~ If a qualified **avian** biologist determines that such Project activities may be causing an adverse reaction, the qualified **avian** biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. Work can resume within these avoidance areas when no other active nests are found, or the nest is determined to be inactive **as determined by the qualified avian biologist**.

COMMENT 2: Crotch's Bumble Bee (*Bombus crotchii*)

Issue: The Project may impact suitable habitat for Crotch's bumble bee (*Bombus crotchii*), a CESA candidate species, and has the potential for take of Crotch's bumble bee pursuant to Fish & G. Code, § 2081(b). 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".

Specific impact: The Project may result in temporal or permanent loss of suitable nesting and foraging habitat for Crotch's bumble bee. In fact, the MND recognizes that suitable habitat for Crotch's bumble bee is present within the mesquite thickets on the Project Site and that small mammal burrows provide suitable nesting and overwintering habitat while flowering resources such as golden bush and California croton provide foraging habitat. Project ground-disturbing activities may cause death or injury of adults, eggs, and larva; burrow collapse; nest abandonment; and reduced nest success.

Why impact would occur: The MND proposes to avoid and minimize impacts to Crotch's bumble bee through BIO-3. BIO-3 proposes the implementation of avoidance buffers if Crotch's bumble bee is present on-site but does not require focused surveys for Crotch's bumble bee to occur prior to ground disturbing activities. CDFW is concerned that the proposed buffers will not fully avoid impacts to Crotch's bumble bee and therefore the Project may result in take of the species. CDFW is aware that Crotch's Bumble Bee has been observed approximately 0.37 miles east of the Project area. Furthermore, as mentioned previously, the Biological Resources Assessment identified suitable habitat on-site for Crotch's bumble bee consisting of mesquite thickets, small burrows, and floral resources.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

Evidence impact would be significant: The California Fish and Game Commission accepted a petition to list Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Crotch's bumble bee is granted full protection of a threatened or endangered species under CESA. Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). In addition, BIO-3 seems to only apply if Crotch's bumble bee is CESA-listed and does not consider that Crotch's bumble bee has a State ranking of S1/S2. This means that the Crotch's bumble bee is considered critically imperiled and extremely rare (often 5 or fewer populations). Additionally, Crotch's bumble bee is listed as an invertebrate of conservation priority under the California Terrestrial and Vernal Pool Invertebrates of Conservation Priority.[6] For these reasons, and because the Project is scheduled to begin in 2025 and last only 6 months and Crotch's bumble bee is likely to remain a CESA candidate species during this time, CDFW proposes that BIO-3 fully avoids impacts to Crotch's bumble bee. If take of Crotch's bumble bee cannot be avoided either during Project activities or over the life of the Project, the Project Proponent should obtain appropriate take authorization from CDFW pursuant to Fish & G. Code, § 2081 subdivision (b).

Recommended potentially feasible mitigation measure to reduce impacts to less than significant: In consideration of the above, CDFW recommends inclusion of the following changes to BIO-3 in the Final MND (edits are in ~~strikethrough~~ and additions are in **bold**):

Mitigation Measure: BIO-3

BIO-3 Pre-Construction Crotch Bumble Bee Survey. ~~If the Crotch bumble bee is no longer a Candidate or formally Listed species under the California ESA at the time ground-disturbing activities occur, then no additional protection measures are proposed for the species. If the Crotch bumble bee is legally protected under the California ESA as a Candidate or Listed species at the time ground-disturbing activities are scheduled to occur, it is recommended pre-construction surveys be conducted in accordance with the established survey protocol provided by CDFW. If no such protocol is available and ground-disturbing activities are scheduled to occur during the Crotch bumble bee flight season (February 16 through October 31), then it is recommended a minimum of two Crotch bumble bee pre-construction surveys are conducted by a qualified biologist experienced in identifying the species prior to ground disturbing activities (including vegetation and tree removal).~~ **Focused surveys for Crotch bumble bee shall be conducted prior to initiation of Project activities in accordance with the *2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*[7].** The surveys shall be conducted ~~no more than 14 days and three (3) days~~ prior to ground-disturbing activities and vegetation clearing activities **consistent with the *2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*** ~~that are to occur during the flight season~~. Should vegetation removal or ground-disturbing activities be scheduled to begin during the overwintering season (**late fall through early spring** ~~November 1 to February 15~~), when Crotch**'s** bumble bee are not detectable aboveground, then four (4) focused surveys shall be conducted **consistent with the 2023 CDFW Survey Considerations** at least three (3) weeks apart during the peak flight season (late March through August) immediately prior to start of construction**.** If Crotch bumble bee is determined to occur within the Project Site at any time, coordination with CDFW shall be required prior to the initiation of Project activities. Additionally, if Crotch's bumble bee is present, the qualified biologist shall identify the location of nests in in the survey area **and the Project Proponent shall fully avoid impacts to Crotch's bumble bee or should obtain a CESA ITP**~~, to the extent feasible. If nests are identified, the qualified biologist shall determine the need to establish a no disturbance buffer around the nest, where feasible, to reduce the risk of~~

[6] California Department of Fish and Wildlife (CDFW). (2017). California Terrestrial and Vernal Pool Invertebrates of Conservation Priority.
[7] California Department of Fish and Wildlife (CDFW).2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

~~disturbance or accidental take. The buffer shall provide at least 50 feet (15 meters) of clearance around active nest entrances. If Project component activities may result in disturbance or potential take, the qualified biologist, in coordination with CDFW, shall expand the buffer zone as necessary to prevent disturbance or take. If establishment of a no-disturbance buffer is feasible, activities shall not occur within the buffer until a qualified biologist determines the colony is no longer active (i.e., no Crotch's bumble bees are seen flying in or out of the nest for three consecutive days, indicating the colony has completed its nesting season and the next season's queens have dispersed from the colony). Once the nest has been determined to be inactive, construction activities within the no-disturbance buffer(s) shall be allowed to resume. Otherwise, the no-disturbance buffer shall be maintained for the duration of Project component construction activities in each work area and shall be removed only after the conclusion of all grading, clearing, and construction activities at each construction site~~.

COMMENT 3: Least Bell's Vireo (*Vireo bellii pusillus*)

Issue: The MND does not adequately analyze Project impacts on least bell's vireo (*Vireo bellii pusillus*), a CESA listed endangered species. Furthermore, the MND states that no suitable riparian habitat is present within the Project site for the species. This is of concern to CDFW, since the Project site contains riparian-like woodlands (due to a high-water ground table), cottonwoods, mesquite thickets, and dense brush, which least Bell's vireo is known to occupy.

Specific impact: The MND does not propose specific avoidance and minimization measures for least Bell's vireo. Furthermore, the Biological Resources Assessment states that the Project site does not support suitable riparian habitat despite the presence of cottonwoods, mesquite thickets and dense brush. CNDDB records show that the Big Morongo Canyon Preserve, which is adjacent to the Project site approximately 0.03 miles east, supports highly suitable habitat for least Bell's vireo consisting of cottonwood, mesquite, willow, and arrow weed vegetation communities. This is important because the Biological Resources Assessment reports that cottonwood, honey mesquite, and arrow weed have been observed within the Project site.

Why impact would occur: The MND does not propose any specific mitigation measures for least Bell's vireo or protocol surveys for the species. Without any avoidance, minimization, or mitigation measures, the Project may result in significant impacts to least Bell's vireo, including take of the species and habitat thereof. The Project proposes to remove vegetation, including a large cottonwood tree. Removal of vegetation should not occur during the least Bell's vireo breeding season from March 15 through July 15 to avoid take of least Bell's vireo birds, nestlings, or their eggs.

Vegetation removal degrades the habitat by creating openings that are less attractive to bird species like least Bell's vireo, which prefers dense vegetation for refuge and nesting. In addition, removal of native vegetation results in habitat fragmentation thus creating edge effects and a patchy landscape that is more easily colonized by nonnative invasive plant species. The Project will result in moderate to high levels of noise and may disrupt least Bell's vireo mating calls or songs which could impact reproductive success, and the implementation of sound barriers may not be sufficient enough to reduce impacts to less than significant. Furthermore, increased anthropogenic noise from Project construction may have various impacts to species behavior (Barber et al. 2009)[8] (Quinn et al. 2017)[9] (Rabin et al. 2006)[10]. Project impacts on least Bell's vireo would be potential significant if not avoided and minimized to a level below significant.

[8] Barber, J.R., Crooks, K.R., and Fristrup, K.M. (2009). The cost of chronic noise exposure for terrestrial organisms. *Trends in Ecology and Evolution*, 25(3), 180-189.
[9] Quinn, J.L., et al. (2017). Noise, predation risk compensation and vigilance in the chaffinch Fringilla coelebs. *Journal of Avian Biology*, 37(6) 601-608.
[10] Rabin, L. A., Coss, R. G., and Owings, D. H. (2006). The effects of wind turbines on antipredator behavior in California ground squirrels (*Spermophilus beecheyi*). *Biological Conservation, 131*, 410–420.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

Evidence impact would be significant: Consistent with CEQA Guidelines, Section 15380, the status of the least Bell's vireo as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (Fish & G. Code, § 2050 *et seq.*) qualifies it as an endangered, rare, or threatened species under CEQA. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

Recommended potentially feasible mitigation measure to reduce impacts to less than significant: In consideration of the above, CDFW recommends the adoption of mitigation measure BIO-5 in the Final MND.

Mitigation Measure: BIO-5 (NEW)

BIO-5 Least Bells Vireo (NEW). Removal of vegetation shall not occur during the least Bell's vireo breeding season from March 15 through July 15 to the greatest extent feasible to avoid take of least Bell's vireo birds, nestlings, or their eggs. Prior to any Project activities occurring from March 15 through July 15, a qualified avian biologist shall conduct protocol surveys for least Bell's vireo consistent with the UFWS 2001 Least Bell's Vireo Survey Guidelines[11]. If least Bell's vireo is found on the Project site at any time, the Project Proponent shall immediately halt Project activities, contact CDFW, and fully avoid impacts to least Bell's vireo. If the Project cannot fully avoid impacts to least Bell's vireo, the Project Proponent should obtain a CESA ITP.

COMMENT 4: Sensitive Plant Species

Issue: The MND does not adequately analyze Project impacts to sensitive plant species and does not propose specific avoidance and minimizations measures for sensitive plant species.

Specific impact: The Project may have impacts to sensitive plant species if floristic botanical surveys are not conducted to adequately detect sensitive plant species within the Project area and avoid and minimize impacts to sensitive plant species.

Why impact would occur: The Biological Resource Assessment states that vegetation communities were *mapped* according to the CDFW 2018 Protocols for Surveying (2018 Protocols) and Evaluating Impacts to Special Status native Plant Populations and Natural Communities[12]. However, the Biological Resource Assessment does clearly indicate that surveys for sensitive plant species were conducted according to the 2018 Protocols. The 2018 Protocols state that more than one field visit is necessary to adequately capture the floristic diversity of a Project area and surveys should be conducted at specific times of the year to capture floristic diversity (e.g., in early, mid, and late-season). The Biological Resource Assessment states that two surveys were conducted on August 18, 2023 and March 12, 2025; however, these surveys were conducted over a year apart and one survey was conducted in August when plants are unlikely evident and identifiable. Therefore, CDFW is concerned that the floristic diversity within the Project area was not assessed correctly. Furthermore, the Project site supports mesquite thickets, which is a CDFW Sensitive Natural Community (Rank 3) and Cal Flora records for Latimer's woodland gilia (*Saltugilia latimeri*) show a recent observation from 2019 located approximately 0.30 miles southeast of the Project area. Latimer's woodland gilia is listed as a California Rare Plant and is ranked 1B.2. Species with a 1B rank are classified as rare, threatened, or endangered in California and elsewhere.

Evidence impact would be significant: Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Likewise, CDFW considers State listed communities to be imperiled habitats

[11] United Stated Fish and Wildlife (USFWS). 2001. Least Bell's Survey Guidelines.
[12] California Department of Fish and Wildlife (2018). Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level.

Recommended potentially feasible mitigation measure to reduce impacts to less than significant: In consideration of the above, CDFW recommends the adoption of mitigation measure BIO-6 in the Final MND**.**

Mitigation Measure: BIO-6 (NEW)

BIO-6 Sensitive Plant Species Surveys (NEW). Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the Project Proponent shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging).

Editorial Comments and/or Suggestions

Invasive and Special Status Species Awareness Education Program
Through the implementation of the Project, invasive species may be introduced to the Project site and surrounding undeveloped areas and may encroach on native plant species. Therefore, CDFW suggests the incorporation of information regarding invasive species as well as special status species that occur or may occur on site, and any measures required to address these species if found in the worker awareness education program to educate everyone prior to working on the Project site.

Species Connectivity

The Project site is located adjacent to the Big Morongo Canyon Preserve which is designated by the Bureau of Land Management as an Area of Critical Environmental Concern (ACEC) and is recognized as an important wildlife corridor that serves as a linkage between the San Gorgonio Wilderness area, the San Bernardino National Forest, and Joshua Tree National Park. The Final MND should analyze the Project impacts on the adjacent ACEC, address edge effects, and mitigate for any loss in wildlife connectivity.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database 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 (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.**ENVIRONMENTAL DOCUMENT FILING FEES**

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is 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 environmental document filing 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 MND to assist the State Water Resources Control Boards in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Emily Leon, Environmental Scientist, at Emily.Leon@wildlife.ca.gov or at (760) 644-5976.

Sincerely,

DocuSigned by:
Alisa Ellsworth
84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
State.clearinghouse@lci.ca.gov

Omar Tinoco, Project Applicant
Golden State Water Company-Barstow
Omar.tinoco@gswater.com

ATTACHMENTS

Attachment A: Mitigation Monitoring Reporting Plan

REFERENCES

Barber, J.R., Crooks, K.R., and Fristrup, K.M. (2009). The cost of chronic noise exposure for terrestrial organisms. *Trends in Ecology and Evolution*, 25(3), 180-189.

California Department of Fish and Wildlife (CDFW). (2017). California Terrestrial and Vernal Pool Invertebrates of Conservation Priority.

California Department of Fish and Wildlife (CDFW). 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species.

California Department of Fish and Wildlife (CDFW). 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.

Francis, C.D., Ortega C.P., and Cruz, A. (2009). Noise pollution changes avian communities and species interactions. *Current Biology* 19:1415–1419.

Halfwerk, W., et al. (2011). Negative impact of traffic noise on avian reproductive success. *Journal of Applied Ecology* 48:210–219.

Patricelli, G. L., and Blickley, J. L. (2006). Avian communication in urban noise: causes and consequences of vocal adjustment. *The Auk*, 123(3), 639–649.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

Quinn, J.L., et al. (2017). Noise, predation risk compensation and vigilance in the chaffinch Fringilla coelebs. *Journal of Avian Biology*, 37(6) 601-608.

Usui, T., Butchart, S.H.M., andl Philmore A.B. (2016). Temporal shifts and temperature sensitivity of avian spring migratory phenology: a phylogenetic meta-analysis. *Journal of Animal Ecology* 86(2): 250-261.

Rabin, L. A., Coss, R. G., and Owings, D. H. (2006). The effects of wind turbines on antipredator behavior in California ground squirrels (*Spermophilus beecheyi*). *Biological Conservation, 131*, 410–420.

United Stated Fish and Wildlife (USFWS). 2001. Least Bell's Survey Guidelines.

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

Attachment A

Mitigation Monitoring and Reporting Plan

Biological Resources (BIO)		
Mitigation Measure	**Implementation Schedule**	**Responsible Party**
BIO-2 Pre-Construction Nesting Bird Survey To avoid disturbance of nesting and special-status birds, or migratory bird species protected by Sections 3503, 3503.5, and 3513 of the CFGC and the MBTA, activities related to project construction, including but not limited to vegetation and/or tree removal, should occur outside of the bird breeding season (February 1 through August 31). Regardless of the time of year, a pre-construction nesting bird survey shall be conducted no more than three days prior to the initiation of Project activities. The survey shall be conducted at the appropriate time of day, during appropriate weather conditions, no more than three days prior to the initiation of Project activities such as vegetation removal and/or initial ground disturbance. The survey shall encompass the entire Project Site and a 250-foot buffer for passerines and a 500-foot buffer for raptors. The survey shall be conducted by a qualified avian biologist familiar with the identification of avian species known to occur in the region. An additional survey shall be conducted following any lapse in construction activity of seven or more days regardless of the time of year. The survey shall cover all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration should take into consideration the size of the Project Site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and it shall be sufficient to ensure the data collected is complete and accurate. The survey should be conducted by a qualified avian biologist experienced in identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures. If no nesting birds are observed during the survey, Project Site preparation and construction activities may begin. If a nest is suspected, but not confirmed, the qualified avian biologist shall establish a disturbance-free buffer until additional surveys can be completed prior to the commencement of ground disturbing Project activities. The qualified avian biologist shall not risk failure of the nest to determine the	Prior to initiation of all ground disturbing activities	Project proponent and Qualified Avian Biologist

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

exact location or status and shall make every effort to limit the nest to potential predation as a result of the survey/monitoring efforts (e.g., limit number of surveyors, limit time spent at/near the nest, scan the site for potential nest predators before approaching, immediately depart nest area if indicators of stress or agitation are displayed). If a nest is observed, but thought to be inactive, the qualified avian biologist shall monitor the nest for one hour (four hours for raptors) prior to approaching the nest to determine status. The qualified avian biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate. If active nests are found, a qualified avian biologist shall establish a suitable avoidance buffer around the nest, with specific buffer widths to be determined by a qualified avian biologist. The buffer shall be delineated and flagged, and no construction activity shall occur within the buffer area until a qualified avian biologist determines the nestlings have fledged and/or the nest is no longer active, the nest has failed, or the nest has otherwise been determined inactive. The buffer shall be established to ensure nesting activity is not disturbed by construction activity and determined by the qualified avian biologist based on the species' known tolerances, the proposed work activity, and existing disturbances associated with land uses outside of the Project Site. The buffer(s) shall be demarcated by the qualified avian biologist and the boundary marked with bright construction fencing, flagging, construction lathe, or other means. The buffer shall not be marked in a manner that attracts unwanted predator attention. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone while the nest remains active as determined by the qualified avian biologist. The qualified avian biologist shall be the only authorized employee on behalf of the Project Proponent that may encroach into the buffer zone to monitor and determine the status of the active nest. If a qualified avian biologist determines that such Project activities may be causing an adverse reaction, the qualified avian biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. Work can resume within these avoidance areas when no other active nests are found, or the nest is determined to be inactive as determined by the qualified avian biologist.		
<u>BIO-3 Pre-Construction Crotch Bumble Bee Survey</u>	Prior to initiation of all ground disturbing activities	Project proponent

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

Focused surveys for Crotch bumble bee shall be conducted prior to initiation of Project activities in accordance with the *2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*. The surveys shall be prior to ground-disturbing activities and vegetation clearing activities consistent with the *2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*. Should vegetation removal or ground-disturbing activities be scheduled to begin during the overwintering season (late fall through early spring), when Crotch's bumble bee are not detectable aboveground, then four (4) focused surveys shall be conducted consistent with the 2023 CDFW Survey Considerations at least three (3) weeks apart during the peak flight season (late March through August) immediately prior to start of construction. If Crotch bumble bee is determined to occur within the Project Site at any time, coordination with CDFW shall be required prior to the initiation of Project activities. Additionally, if Crotch's bumble bee is present, the qualified biologist shall identify the location of nests in in the survey area and the Project Proponent shall fully avoid impacts to Crotch's bumble bee or should obtain a CESA ITP.		
<u>BIO-5 Least Bell's Vireo</u> Removal of vegetation shall not occur during the least Bell's vireo breeding season from March 15 through July 15 to the greatest extent feasible to avoid take of least Bell's vireo birds, nestlings, or their eggs. Prior to any Project activities occurring from March 15 through July 15, a qualified avian biologist shall conduct protocol surveys for least Bell's vireo consistent with the UFWS 2001 Least Bell's Vireo Survey Guidelines. If least Bell's vireo is found on the Project site at any time, the Project Proponent shall immediately halt Project activities, contact CDFW, and fully avoid impacts to least Bell's vireo. If the Project cannot fully avoid impacts to least Bell's vireo, the Project Proponent should obtain a CESA ITP.	Prior to initiation of all ground disturbing activities occurring between March 15 through July 15	Project proponent and Qualified Avian Biologist
<u>BIO-6 Sensitive Plant Species Surveys</u> Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field	Prior to initiation of all ground disturbing activities	Project proponent and Qualified Botanist

Docusign Envelope ID: FA1DCE1D-F007-4A23-9A10-F88B783B212D

surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the Project Proponent shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging).		