



NOTICE OF ENVIRONMENTAL COMMITTEE MEETING

Responsible for matters of stewardship of the District's property including: Urban Water Management Plans; Water Conservation Programs; Classis Watershed Education Grants; Watershed Management; Resource Management and other environmental related matter.

NOTICE IS HEREBY GIVEN that the San Lorenzo Valley Water District has called a meeting of the Environmental Committee to be held on **Wednesday, December 1, 2021, 9:00 am** via video/teleconference.

There will not be any physical location for this meeting. Pursuant to AB 361 and San Lorenzo Valley Water District Resolution No. 4 (21-22) this meeting will be conducted by video/teleconference. Any person in need of any reasonable modification or accommodation in order to participate in the meeting may contact the District Secretary's Office at (831) 430-4636 a minimum of 72 hours prior to the scheduled meeting. The meeting access information is as follows:

<https://global.gotomeeting.com/join/345660261>

You can also dial in using your phone.

(For supported devices, tap a one-touch number below to join instantly.)

United States (Toll Free): 1 866 899 4679

- One-touch: <tel:+18668994679,,345660261#>

United States: +1 (571) 317-3116

- One-touch: <tel:+15713173116,,345660261#>

Access Code: 345-660-261

AGENDA

1. Convene Meeting/Roll Call

2. Oral Communications

This portion of the agenda is reserved for Oral Communications by the public for items which are not on the Agenda. Please understand that California law (The Brown Act) limits what the Board can do regarding issues raised during Oral Communication. No action or discussion may occur on issues outside of those already listed on today's agenda. Any person may address the Committee at this time, on any subject that lies within the jurisdiction of the District. Normally, presentations must not exceed three (3) minutes in length, and individuals may only speak once during Oral Communications. Any Director may request that the matter be placed on a future agenda or staff may be directed to provide a brief response.

3. Old Business:
Members of the public will be given the opportunity to address each scheduled item prior to Committee action. The Chairperson of the Committee may establish a time limit for members of the public to address the Committee on agendized items.
- A. FUEL REDUCTION UPDATE
Discussion and possible action by the Committee regarding fuel reduction update.
4. New Business:
Members of the public will be given the opportunity to address each scheduled item prior to Committee action. The Chairperson of the Committee may establish a time limit for members of the public to address the Committee on agendized items.
- A. CONJUNCTIVE USE PLAN
Discussion and possible action by the Committee regarding the Conjunctive Use Plan.
- B. KEN MOORE MEMORIAL VIDEO
Remembering a local land steward who helped the District and all of SC County with invasive plant removal.
5. Informational Material:
Here is a link <https://www.slvwd.com/node/289/minutes> to previous Environmental Committee meeting minutes.
6. Adjournment

Agenda documents, including materials related to an item on this agenda submitted to the Committee after distribution of the agenda packet, are available for public inspection and may be reviewed at the office of the District Secretary, 13060 Highway 9, Boulder Creek, CA 95006 during normal business hours. Such documents may also be available on the District website at www.slvwd.com subject to staff's ability to post the documents before the meeting.

Certification of Posting

I hereby certify that on November 24, 2021 I posted a copy of the foregoing agenda in the outside display case at the District Office, 13060 Highway 9, Boulder Creek, California, said time being at least 72 hours in advance of the meeting of the Environmental Committee of the San Lorenzo Valley Water District in compliance with California Government Code Section 54956.

Executed at Boulder Creek, California, on November 24, 2021.

Holly B. Hossack, District Secretary

MEMO

To: Environmental Committee
From: District Manager
Prepared by: Environmental Planner
Subject: December 2021 Meeting Overview
Date: December 6, 2021

Recommendation

It is recommended that the Environmental Committee review this summary memo on the four informational items for December 2021's meeting.

Background

FUEL REDUCTION UPDATE

As of November 11, 2021 HELIX Environmental completed the following sites Bear Creek Tank, Olympia well #3, and Olympia well #4. *Photos of before and after at each site to be shared by staff during the meeting.*

Ecological Concerns Inc. is planning to begin their fuel reduction on December 6th for the following sites; Quail Hollow well #4, Quail Hollow well #5, Lompico Booster, and Highland Tank.

CALFIRE's Forrest Improvement grant (~\$480K) agreement has been signed, a tour completed with the grant funder, and implementation planning beginning with the Resource Conservation District of Santa Cruz (RCD).

CONJUNCTIVE USE PLAN

On November 4th the Board of Director's (BoD) reviewed the draft conjunctive use plan and its associated Initial Study – Mitigated Negative Declaration (IS-MND). After discussion the BoD directed staff to bring the item the Environmental Committee for further discussion.

It is recommended the committee review the November 4th BoD memo (exhibit A) and the supporting documents (included as part of the BoD memo). A comment & response matrix is also attached to summarize the comments received on the IS-MND (exhibit B).

Currently the District is accessing all costs associated with the Environmental Impact Report (EIR), fisheries studies, and legal time.

At this time estimates for fisheries studies range from \$35,000-\$40,000 and legal costs for review of the EIR range from \$42,000 - \$63,000.

Alternatives are also in discussion. Staff plan to have a thorough report and staff requested direction for the committee at the January meeting.

KEN MOORE MEMORIAL VIDEO & REMEMBRANCE

Ken Moore was an active land steward throughout Santa Cruz county, with many of his projects taking place in the San Lorenzo Valley. Ken was an invasive weed warrior who dedicated his life to maintaining native biodiversity. Ken worked closely with the District's environmental department completing both planning and implementation efforts.

Ken implemented the Acacia removal project, lead volunteer efforts to remove Portuguese and French broom, and mapped the sandhills habitats and plants on the District's Olympia Watershed properties. As well as co-authored the District's watershed management plan and Draft French Broom Management and Monitoring Plan.

Please watch this memorial video to honor Ken Moore.

<https://vimeo.com/640481719>

MEMO
Revised

TO: Board of Directors

FROM: District Manager

PREPARED BY: Environmental Programs Manager
SUBJECT: Conjunctive Use Plan IS-MND & Environmental Permitting
Consultant Contract Amendment

DATE: November 4, 2021

RECOMMENDATION:

It is recommended that the Board of Directors review this memorandum and authorize the District Manager to enter into an amended professional services agreement with Rincon Consultants, Inc for the Conjunctive Use Plan Environmental Impact Report (EIR).

BACKGROUND

The San Lorenzo River Watershed Conjunctive Use Plan (CUP) has been developed jointly by the San Lorenzo Valley Water District (SLVWD or District) and the County of Santa Cruz (County) to identify opportunities for improving the reliability of the District's surface and groundwater supplies through conjunctively managing these supplies while also increasing stream baseflows for fish in the San Lorenzo River watershed. The CUP was developed under a State of California grant administered by the County (grant completed in June 2021). As part of the grant's deliverables two studies: (1) the Water Availability Assessment (WAA) and (2) the Fisheries Resource Considerations, the CUP, and CEQA analysis were completed. The CEQA Initial Study - Mitigated Negative Declaration (IS-MND) was released for public review from July 28 through August 31, 2021. Significant public concerns were raised during the public review period (see comment letters attached as Exhibit A). Therefore, District staff and legal counsel recommend a more thorough CEQA analysis, through an Environmental Impact Report (EIR).

In addition to preparing an EIR that will help the District respond to public comments received on the IS-MND, the District will consider revisions to the CUP to better suit its operational needs. Immediate next steps include evaluating concerns raised by the California Department of Fish & Wildlife, National Marine Fisheries Service, the City of Santa Cruz and others during the public review period for the CUP IS-MND. Once direction is determined and concerns are properly addressed the District will proceed with submitting water right petitions through the SWRCB. Staff's goal is to file all associated water rights petitions with SWRCB in 2022.

District staff recommends continuing the CEQA analysis work with Rincon Environmental Consulting, the firm originally brought onto the project to complete the IS-

MND, because the firm's familiarity with the project. Rincon's updated scope of work (exhibit B) is attached.

Exhibit A - IS-MND Comment Letters

Exhibit B - Rincon Environmental Amended Scope

Additional supporting documents can be found the District's website:

Conjunctive Use Plan -

https://www.slvwd.com/sites/g/files/vyhlif1176/f/uploads/slvwd_conjunctive_use_plan.pdf

IS-MND -

<https://www.slvwd.com/environmental/pages/conjunctive-use-planning-documents>

WAA -

https://www.slvwd.com/sites/g/files/vyhlif1176/f/uploads/water_availability_assessment_v3_with_tables_figures_0.pdf

Fisheries Resource Considerations -

https://www.slvwd.com/sites/g/files/vyhlif1176/f/uploads/slvwd_conjunctive_use_-_fisheries_revised_final.pdf

FISCAL IMPACT:

Cost: ~\$145,000



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

Agenda: 11.4.21
GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



August 30, 2021

Ms. Carly Blanchard
Environmental Planner
San Lorenzo Valley Water District
13060 Highway 9
Boulder Creek, CA 95006
cblanchard@slvwd.com

Subject: Conjunctive Use Plan for the San Lorenzo River Watershed, Initial Study/Mitigated Negative Declaration, SCH No. 2021070572, City of Felton, Santa Cruz County

Dear Ms. Blanchard:

The California Department of Fish and Wildlife (CDFW) has reviewed the Conjunctive Use Plan for the San Lorenzo River Watershed (Project) Initial Study/Mitigated Negative Declaration (IS/MND) prepared by San Lorenzo Valley Water District (SLVWD). CDFW is submitting comments on the IS-MND regarding potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources (e.g., biological resources). CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION

This Project is centered in SLVWD's service area in Santa Cruz County, California. SLVWD provides drinking water to unincorporated communities in Santa Cruz County including: Brookdale; Ben Lomond; Boulder Creek; Lompico; Felton; and areas surrounding Scotts Valley. SLVWD supplies water via surface water diversions from tributaries to the San Lorenzo River, and from wells that draw water from the Santa Margarita Groundwater Basin (SMGB).

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Currently, SLVWD has three service areas: the North, Felton and Southern systems, which are independent of one another and draw water from distinct sources. The Northern System includes Brookdale, Ben Lomond, Boulder Creek, and Lompico. Water is supplied via surface diversions on Peavine, Foreman, Sweetwater, and Clear Creeks, and from groundwater drawn from the Quail Hollow and Olympia wellfields. The Felton Area is supplied solely from surface water diversions on Fall Creek, Bennett Spring, and Bull Creek. The Southern System relies on groundwater from the Pasatiempo wellfield.

The Project initially stemmed from SLVWD efforts to study and identify projects that would boost water supply reliability. For this effort, SLVWD contracted Exponent Environmental & Earth Sciences (Exponent). In 2019, Exponent released *Water Availability Assessment for San Lorenzo River Watershed Conjunctive Use Plan*, which is Appendix A in the IS/MND. This document identified 22 potential projects that could increase water supply reliability by reducing reliance on distinct water sources for the North, Felton and South System, and that in some cases conjunctively use water diverted from surface sources to recharge groundwater aquifers in the SMGB via direct injection, or indirectly affect groundwater by preferentially using water supplied from surface sources to meet customer demands as opposed to groundwater. The SMGB is overdrafted and the State's 2014 Sustainable Groundwater Management Act (SGMA) identifies it as a medium priority basin. This listing necessitated the formation of the Santa Margarita Groundwater Agency (SMGA) of which SLVWD and other local water suppliers are members. The SMGA is required to prepare a Groundwater Sustainability Plan for the SMGB by 2022.

The IS/MND advances four potential projects from Exponent's 2019 study potentially toward implementation to improve SLVWD water supply reliability. They are: modification of existing water right and associated bypass flow requirement for SLVWD's diversions on Fall Creek and Bennett Spring; importing excess water from stream diversions in the North System to supplement supplies in the Southern System; use of earmarked supply in City of Santa Cruz's Loch Lomond Reservoir to supplement supply in Southern System; and a conjunctive use scenario where excess water supplied from stream diversions in the North and Felton Systems is injected in the Olympia groundwater wellfield as an aquifer storage and recovery (ASR) project. The IS/MND states the first three projects could be implemented after adoption of this IS/MND, while the ASR project would require additional CEQA documentation.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA

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documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, section 2080.

Lake and Streambed Alteration Program

The Project has the potential to impact resources including mainstems, tributaries and floodplains associated with the San Lorenzo River Watershed including: Peavine Creek; Foreman Creek; Boulder Creek; Clear Creek; Sweetwater Creek, Fall Creek; Bennett Spring; Bull Creek; Newell Creek; Bean Creek; Zayante Creek; and the mainstem of the San Lorenzo River. Notification is required, pursuant to CDFW's LSA Program (Fish and Game Code, section 1600 et. seq.) for any Project-related activities that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. CDFW considers work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code section 21000 et seq.) as the responsible agency.

ENVIRONMENTAL SETTING AND LOCATION

The Project is located in the water system and service area of the SLVWD, and the greater San Lorenzo River watershed inclusive of the middle, and lower mainstems, Loch Lomond, Newell Creek, Bean Creek, Zayante Creek, and the SMGB.

The San Lorenzo River watershed covers 138 square miles, with 25 miles of mainstem habitat. The watershed is bounded by Castle Rock Peak and Ben Lomond Mountains and contains significant tracts of Coastal Redwood (*Sequoia sempervirens*) forest and Sandhills, which are characterized by Zayante sand soils and a collection of endemic and uniquely adapted plants and wildlife. Elevations in the watershed range from 3,214 feet to sea level. The surrounding climate is Mediterranean, and annual rain can vary throughout the watershed from 15 to over 100 inches of rain. SLVWD diverts surface waters from sources that encompass 7.1 square miles of the watershed.

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Threatened, endangered, and other special-status species that are known to occur, or have the potential to occur in the Project area, include, but are not limited to:

Common Name	Scientific Name	Status
California giant salamander	<i>Dicamptodon ensatus</i>	SSC
California red-legged frog	<i>Rana draytonii</i>	FT, SSC
Foothill yellow-legged frog – Southwest/South Coast Clade	<i>Rana boylei</i>	SE, SSC
Santa Cruz black salamander	<i>Aneides niger</i>	SSC
Santa Cruz long-toed salamander	<i>Ambystoma macrodactylum croceum</i>	FE, SE, SFP
Black swift	<i>Cypseloides niger</i>	SSC
Burrowing owl	<i>Athene cunicularia</i>	SSC
Marbled murrelet	<i>Brachyramphus marmoratus</i>	FT, SE
Tricolored blackbird	<i>Agelaius tricolor</i>	ST, SSC
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC
White tailed kite	<i>Elanus leucurus</i>	SFP
Coho salmon – Central California coast ESU	<i>Oncorhynchus kisutch</i>	FE, SE
Steelhead – Central California coast DPS	<i>Oncorhynchus mykiss irideus</i>	FT
Tidewater goby	<i>Eucyclogobius newberryi</i>	FE
Ohlone tiger beetle	<i>Cicindela Ohlone</i>	FE
Smith's blue butterfly	<i>Euphilotes enoptes smith</i>	FE
Zayante band-winged grasshopper	<i>Trimerotropis infantilis</i>	FE
American badger	<i>Taxidea taxus</i>	SSC
Pallid bat	<i>Antrozous pallidus</i>	SSC
San Francisco dusky-footed woodrat	<i>Neotoma fuscipes annectens</i>	SSC
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC

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Western pond turtle	<i>Emys marmorata</i>	SSC
Notes: FE = Federally Endangered; FT = Federally Threatened; SE = State Endangered; ST = State Threatened; SFP = State Fully Protected; SSC = State Species of Special Concern; ESU = Evolutionarily Significant Unit; DPS = Distinct Population Segment		

CDFW recommends that prior to project implementation surveys be conducted for special-status species noted in this comment letter with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocols>.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist SLVWD in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on biological resources.

Comment 1: San Lorenzo River at Big Trees Low-Flow Requirements Modification Scenario

Issue: The IS/MND proposes modifying the existing Fall Creek Diversion water right and specifically eliminating an existing stipulation in the bypass flow requirements. This is described in the IS/MND on page 5. The existing water right requires SLVWD to bypass 1.5 cubic foot per second (cfs) of streamflow November through March and 1 cfs April through October in wet years, and 0.75 cfs November through March and 0.5 cfs April through October in dry years below the diversion. It also requires SLVWD cease all diversions at Fall Creek if the San Lorenzo River U.S. Geological Survey (USGS) gauge at Big Trees (SLRBT) goes below 10 cfs in September, 25 cfs in October, or 20 cfs in November. This latter obligation to cease all diversions in the Fall depending on the flows at the SLRBT gauge is the portion of the bypass flows SLVWD wishes to alter. This would reduce restrictions and allow SLVWD to divert more water to meet Felton System customer demands. However, the existing SLRBT streamflow bypass obligations are intended to be protective of juvenile Central California Coast steelhead trout (*Oncorhynchus mykiss*) rearing in the mainstem San Lorenzo River during critical low flow periods.

In *Fisheries Resource Considerations for the San Lorenzo River Watershed Conjunctive Use Plan* (Appendix B), the history of the origin of this bypass flow stipulation is discussed. There is a discussion of variation in the required bypass quantities at

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SLRBT, and lack of justification for these monthly adjustments relative to anadromous salmonid life histories. Regardless of justification for month-to-month variation, CDFW acknowledges the City of Santa Cruz is seeking approval for a Habitat Conservation Plan (HCP) to protect steelhead trout and Central California Coast Coho Salmon (*Oncorhynchus kisutch*) that will obligate the City to bypass a minimum of 10 cfs in September, 25 cfs in October and 20 cfs all other months of the year at their Felton Diversion, which is just upstream of SLRBT (City of Santa Cruz 2021). Selection of 20 cfs for the Felton diversion bypass was not directly informed by physical habitat modeling but was selected due to analysis supporting that it would protect migration ability of smolt sized and smaller steelhead. Elsewhere, the City of Santa Cruz did use Instream Flow Incremental Methodology (Bovee 1998) to inform the selection of bypass flow criteria they are seeking to implement.

CDFW asserts that operating the Fall Creek diversion in accordance with existing bypass stipulations at SLRBT does afford protections to juvenile steelhead in the mainstem San Lorenzo River. Eliminating this existing bypass stipulation will allow reductions of instream flow below those established in the City of Santa Cruz HCP. Those flows are necessary to conserve the ecosystem upon which listed species (rearing juvenile steelhead in the San Lorenzo River) depend, ultimately contributing to their recovery. Increased diversions, (particularly in dry years at Fall Creek) has the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; substantially reduce the number or restrict the range of an endangered, rare or threatened species; and reduce the overall population number of steelhead juveniles this section of river could support. CDFW has worked with the City of Santa Cruz and NOAA Fisheries for many years to develop an integrated water resources management strategy that is protective of special status anadromous salmonid species while also providing for long-term water supply reliability. This strategy includes the development of a Habitat Conservation Plan negotiated with CDFW and NOAA Fisheries designed to enhance instream flow for coho salmon and steelhead in the San Lorenzo River watershed.

This Project not only seems to be in direct conflict with the goals of the City of Santa Cruz HCP but there is no detailed evaluation included in the IS/MND regarding the potential impacts these increased diversions will have on the existing instream flow or how they might impact habitat conditions for salmonids.

Recommendations: CDFW recommends SLVWD does not alter the existing SLRBT bypass flow requirement in order to protect San Lorenzo River flows during dry periods and droughts for rearing juvenile steelhead trout. The study by Exponent in Appendix A identifies other potential projects to provide alternative supplies to Felton System to provide relief when SLVWD is unable to divert at Fall Creek due to low flows and needs to comply with bypass flows. Some of these projects will be more beneficial to salmon

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and steelhead than elimination of a significant portion of the Fall Creek Diversion bypass flow stipulations. If SLVWD were to pursue the alteration the existing SLRBT bypass flow requirement, an in-depth analysis of the potential downstream impacts associated with this change would need to be presented and discussions and coordination with CDFW and NOAA Fisheries should occur. Altering existing bypass flows per the project description presents a risk for 'take' of CESA listed species which would necessitate a CESA Permit.

Comment 2: Other Public Agencies Whose Approval is Required

Issue: Page 16, Table 1 of the IS/MND, indicates approvals and permits for the Project will be needed from State Water Resources Control Board (SWRCB), Central Coast Regional Water Quality Control Board (CCRWQCB), County of Santa Cruz, and California Department of Transportation. This table should also cite that SLVWD surface water diversions are subject to Fish and Game Code section 1602. CDFE recommends SLVWD obtain LSA Agreements for all its surface water diversions from CDFW prior to diverting streamflow. CDFW has concerns with the current SLVWD diversion practices, particularly summer and fall diversions during low flows are already negatively impacting Coho salmon and steelhead trout. Areas of greatest concern are Boulder Creek, mainstem San Lorenzo River, Fall Creek and Clear Creek. This Project may increase diversions at all stream diversions SLVWD operates.

Evidence of Significant Impacts:

Reduction in wetted habitat: Diversion of water, particularly during summer low flow and/or drought conditions, reduces aquatic habitat quantity and quality or suitability (e.g., pool volumes, wetted channel, stream depths, water quality) for fish and other aquatic species (Gasith and Resh 1999, Marchetti and Moyle 2001; Lake 2003; taken from Deitch, et al. 2009). Reduction in aquatic conditions can have direct, indirect, and/or lethal effects on fish and aquatic life. Fish that are not able to respond to shifting habitat conditions as summer base flows recede can become trapped in isolated pools where: a) organisms become concentrated, b) water quality can become lethal, c) risk of predation increases, and d) competition increases for limited food resources. When fish are stressed by any one process, they are less able to deal with other stressors (Wedemayer et al. 1980).

Reduction in water quality: Reduced flow volume has a strong positive correlation with increased water temperature (Arismendi et al, 2012). Increased water temperatures reduce growth rates in fish and increase their susceptibility to disease, while warmer water also holds less dissolved oxygen, which can reduce survival in juvenile salmonids (Moyle 2002). Both water temperature and dissolved oxygen are critically important for salmonid survival and habitat quality (Moore and Townsend 1998). Though isolated pools can provide critical refuge habitat, extended intermittency can drive high mortality

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as dissolved oxygen levels decline to lethal levels (Woelfle-Erskine et al. 2017, Wigington et al. 2006).

Barrier to Movement: Reduced instream flow interrupts invertebrate drift, disrupts channel dynamics, increases deposition of fine sediments, inhibits recruitment of spawning gravels, and promotes encroachment of riparian and non–endemic vegetation into spawning and rearing areas (CDFW 2002). Juvenile salmonids react to reduction in stream connectivity from changing conditions by re-distributing themselves within the stream network in order to find more suitable rearing habitat (Hwan and Carlson 2015). Shirvell (1994) found that juvenile coho salmon moved upstream in response to decreasing stream flows to find suitable micro-habitat. Once established, salmonids exhibit high site fidelity (Sogard et al. 2009). This movement between habitats can be restricted when flow over riffles becomes too shallow (Hwan and Carlson 2015, Bradford and Heinonen 2008).

Recommendations: CDFW recommends SLVWD apply for and obtain LSA Agreements for operations of all SLVWD’s surface water diversions. CDFW recommends SLVWD initiate discussions with CDFW and NOAA Fisheries regarding diversion compliance, and methodology to develop protective bypass flows considerate of the City of Santa Cruz’s HCP, for anadromous salmonids for all points of diversion within a river, lake or stream.

Comment 3: Biological Resources pgs. 35-40

Issue: CDFW is concerned operational practices associated with these Projects will result in increased diversion of streamflow at all SLVWD diversions. Reduced stream flows particularly during critical low flow periods and dry years, are harmful to aquatic and riparian ecosystems, Coho salmon, and steelhead trout populations other aquatic life such as amphibians and benthic macroinvertebrates.

The IS/MND concludes significant effects with mitigation included for impacts to habitat of special-status fish, and less-than-significant impacts to interference with movement and migration of native fish. These assertions are almost entirely supported by analysis contained in Appendix A (*Water Availability Assessment for San Lorenzo River Watershed Conjunctive Use Plan*) and Appendix B (*Fisheries Resource Considerations for the San Lorenzo River Watershed Conjunctive Use Plan*).

The *Water Availability Assessment for San Lorenzo River Watershed Conjunctive Use Plan* (Appendix A) contains the following statement with respect to the limitations of the study:

“The results of this study are suitable for a planning-level evaluation of conjunctive use alternatives. The synthesized monthly records of water supply and use have limited precision and should not be used to evaluate compliance

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with specific regulatory, water-right, or habitat requirements. The alternatives are evaluated under optimal, hypothetical conditions without full regard for infrastructure and operational limitations, and as such likely overestimate potential yields. The actual yield of existing and future infrastructure will depend on numerous factors beyond the scope of this analysis.

The approach used to evaluate and compare conjunctive use alternatives does not consider the effects of stream diversions or groundwater pumping other than by San Lorenzo Valley Water District (SLVWD). Beyond the simplified approach used for this study, evaluating the effects of groundwater pumping on streamflow requires use of a calibrated numerical groundwater flow model, which was outside the scope of this study. The conjunctive use alternatives are evaluated and compared on the basis of the 1970-2017 climatic period without considering potential climate change.

The report provides additional details about the methods, results, and limitations of this study.”

The *Fisheries Resource Considerations for the San Lorenzo River Watershed Conjunctive Use Plan* (Appendix B) contains the following statement with respect to the limitations of the analysis:

“Similar to the approach used in the WAA [Water Availability Analysis], the results of this analysis of fisheries resource considerations for the *San Lorenzo River Watershed Conjunctive Use Plan* are suitable for a planning-level evaluation of conjunctive use alternatives. Due to the limited precision of the synthesized monthly records of water supply (Exponent 2019), the results should not be used to evaluate compliance with specific regulatory, water-right, or habitat requirements. Instead, this comparative analysis is intended to identify the relative fisheries benefits of individual conjunctive use scenarios and to narrow down the selection of potential projects to move forward in the planning process.”

These statements acknowledging the limitations of the analysis are concerning. They raise serious doubts regarding the ability of these two studies to adequately support findings that the Project has less-than-significant impacts. This limited analysis does not demonstrate a good faith effort to determine whether there is substantial evidence that the Project would result in any significant environmental effect. The *Biological Technical Memorandum for the San Lorenzo Valley Water District Conjunctive Use Plan* (Rincon Consultants, Inc. 2020; Appendix E) states: “It is assumed that any changes to the operation of diversions on Bennett Spring/Bennett Creek and Bull Creek under this scenario would be negligible and would have no discernable effect on salmonid habitat in these tributaries or downstream reaches of the San Lorenzo River.” (Page 4)

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However, there is no additional explanation or analysis presented to support this assumption other than a reference to the *Fisheries Resource Considerations* document which has already been established to be unsuitable for evaluating compliance with specific regulatory, water-right, or habitat requirements. Based on current Project analysis, CDFW believes there may be potentially significant negative impacts to Coho salmon, steelhead trout and other aquatic life due to operation practices at SLVWD diversions in association with these Projects. DW Alley and Associates long-term sampling has established a negative correlation between May to September average streamflow and juvenile steelhead trout average densities in the San Lorenzo River (DW Alley and Associates 2020). DW Alley also qualitatively has observed declining habitat in San Lorenzo River with decreasing baseflow. It is logical to assume that diversion would negatively impact fish and results in take and direct impacts to fish, particularly in a system like Boulder Creek where up to 20% of mainstem baseflow may be diverted by upstream SLVWD diversion and these impacts are likely to extend to the San Lorenzo River mainstem as well.

Recommendation: See CDFW's recommendation for Comment 2, which directly applies here. Documentation providing a detailed description of the amount and timing of the additional diversions as well as a comprehensive assessment of the instream flow needs of protected resources downstream of all the diversions would be needed to support SLVWD's finding that this Project would have a less-than-significant impact.

CONCLUSION

While the Project does identify some potential benefits to improvement of stream base flow in areas by reducing some groundwater pumping (which may improve habitat for these species) overall, the alteration of instream flows included in the Project have the potential to significantly impact downstream resources negatively by decreasing flow during critical life cycle periods for salmonids. The IS/MND fails to adequately assess or address potential downstream impacts from the reduction in the amount of water in the system. CDFW recommends SLVWD conduct a comprehensive assessment of biological resources downstream of the diversions, collect the necessary data to determine whether flow reductions would significantly impact these downstream resources, and perform the detailed analysis needed to demonstrate if there is a less-than-significant impact. If impacts are potentially significant, additional mitigation measures including minimum flow releases should be identified.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC).

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FILING FEES

CDFW considers this Project to have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, section 711.4; Pub. Resources Code, section 21089). 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.

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, CDFW appreciates 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.

If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Jessie Maxfield, Water Rights Coordinator, at (707) 210-2807 or Jessica.Maxfield@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Stacy Sherman

692D021D81CA4E7...
Stacy Sherman

Acting Regional Manager
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James G. Moose
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August 30, 2021

Sent by Electronic Mail

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Boulder Creek, California 95006.
Email: cblanchard@slvwd.com

Re: Comments of City of Santa Cruz on Draft Initial Study & Mitigated Negative Declaration (IS/MND) for proposed Conjunctive Use Plan for the San Lorenzo River Watershed

Dear Ms. Blanchard,

On behalf of the City of Santa Cruz (City), I thank you for the opportunity to submit the following comments on the Draft Initial Study & Mitigated Negative Declaration (IS/MND) for the proposed Conjunctive Use Plan for the San Lorenzo River Watershed (the Project). As a long-time partner of the San Lorenzo Valley Water District (District or SLVWD), the City values its friendly and constructive relationship with its sister agency, and looks forward to maintaining the good will and collaborative spirit that have characterized past and ongoing cooperative efforts between the two public agencies. Not surprisingly, however, the City is very interested in the Project, as it will directly affect the City's operations of its own water system and the bodies of water from which the City directly or indirectly draws the majority of its water supplies. These water bodies include the San Lorenzo River, Loch Lomond Reservoir, Newell Creek, Fall Creek, Peavine Creek, Foreman Creek, Clear Creek, and Sweetwater Creek. To be frank, the City is also very concerned that the Project could frustrate the City's ongoing efforts to protect the fisheries in those water bodies, and that the Project could have its own adverse effects on those fisheries. The City therefore feels that it has no choice but to submit this letter on the IS/MND. Please accept the letter in the constructive spirit in which it is offered.

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In the recent past, the City has taken actions to protect the sensitive fish species in the aforementioned water bodies and others, and is in the process of proposing and pursuing additional future protective actions. Since 2007, for example, the City has been subject to agreements with the California Department of Fish and Wildlife (CDFW) by which the City has maintained “interim bypass flows” protective of Central California Coast steelhead (steelhead) (*O. mykiss*) and Central California coast coho (coho) (*O. kisutch*) at the City’s Tait Diversion on the San Lorenzo River and on the so-called North Coast Streams.¹ These bypass flows leave more water in-stream than is required by the City’s existing water rights. In addition, in January 2021, the City approved its Operations and Maintenance Habitat Conservation Plan (OMHCP), which protects, among other species, the tidewater goby (*Eucyclogobius newberryi*) and the Pacific lamprey (*Lampetra tridentata*).

As the District is aware, the City is actively pursuing its Water Rights Project, for which the City published a Draft Environmental Impact Report (EIR) in June 2021. Among the elements of the Water Rights Project are stream bypass requirements for fish habitat (referred to in the Draft EIR as “Agreed Flows”). In addition to being proposed to be part of the City’s upcoming Anadromous Salmonid Habitat Conservation Plan (ASHCP), the Agreed Flows would be incorporated, by action of the Santa Cruz City Council, into both the City’s pre-1914 rights on the North Coast streams and its post-1914 permits and licenses on the San Lorenzo River and Newell Creek. The Agreed Flows and the ASHCP are intended to protect steelhead and coho, but will also benefit the tidewater goby and Pacific lamprey.

In light of these past and ongoing efforts, which are intended not only to benefit the above-referenced species but also to increase the reliability of the City’s water supply, the City is understandably very vigilant in considering the merits of any actions that other public agencies might take that could adversely affect those same species. City staff and technical consultants have therefore very carefully reviewed the IS/MND and its supporting appendices for their completeness and accuracy from a technical and scientific standpoint. At the City’s direction, I have also reviewed the document for its legal adequacy in light of the work done by these consultants and members of City staff.

¹ These “North Coast Streams” are Laguna Creek, Reggiardo Creek, Liddell Spring, and Majors Creek.

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As will be explained in detail below, the City has reluctantly concluded that, in light of insufficiencies and gaps in the analysis found in the IS/MND and its supporting studies, the District cannot make the findings that are legally necessary in order to lawfully adopt a Mitigated Negative Declaration under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) and the CEQA Guidelines (Cal Code Regs., tit. 14, § 15000 et seq.). More specifically, the District cannot find that there is no substantial evidence that the Project may have a significant effect on the environment. The District must instead prepare a full Environmental Impact Report (EIR) for the Project in order to comply with the law. Although the time and expense required to prepare an EIR will surely delay the District's approval of the Project, the City firmly believes that the efforts taken to prepare a defensible EIR will redound to the benefit of all concerned. An EIR will lead to a better Project that will complement, rather than undermine, the City's dual efforts to protect special status fish species and maintain a reliable water supply. The City understands that the District has the same dual goals.

The City bases its conclusion about the legal indefensibility of the IS/MND primarily on the fact that, as explained below and in supporting expert technical documents enclosed with this letter, substantial evidence supports a fair argument that the Project may have significant environmental effects. The existence of such substantial evidence triggers the need for an EIR under CEQA. The two technical experts offering this substantial evidence are the City's Watershed Compliance Manager Chris Berry and fisheries biologist Jeffery Hagar of Hagar Environmental Science. Their expert conclusions regarding the inadequacies of the IS/MND and the District's supporting technical documents are laid out in full in Exhibits A and B to this letter. These exhibits also include their resumes, which set forth the professional qualifications and experience that demonstrate their expertise with respect to the technical subjects they address.²

² Mr. Berry's submission (Exhibit A hereto) includes numerous references to technical and planning documents relevant to the Project. He also provides internet links to each such document. Mr. Hagar's submission (Exhibit B hereto) also provides an internet link. By providing these internet links to the District, the City has made all of the referenced documents part of the District's formal administrative record for the Project. As explained in case law, the District is required to print out copies of these reference documents and to include them within the Project files so that they are available in the event of CEQA litigation over the Project. (*Consolidated Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 724-725.) The same is true of the internet link provided in footnote 6 of the body of this letter.

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As Mr. Berry and Mr. Hagar explain, many of the problems with the Project result from its lack of definition and details in terms of how the District will actually divert water from various water bodies. This absence of specificity increases the potential universe of significant environmental effects. The most fundamental problem with the IS/MND, however, is the lack of depth of its environmental impact analysis, which by its inadequacy also enlarges the universe of potentially significant environmental impacts.

The District's analysis of impacts on fisheries relies on outdated information and is largely premised on two planning-level documents that deal in monthly time-steps rather than daily time steps: the Water Availability Assessment (WAA) (Exponent 2019); and what this letter calls the "Fisheries Effects Study" (formally entitled, *Fisheries Resource Considerations for the San Lorenzo River Watershed Conjunctive Use Plan (Revised Final)*) (Podlech 2019). The monthly time-steps used in these two documents make them insufficient for analyzing impacts on fisheries. As Mr. Berry and Mr. Hagar explain, the District should have contacted the City about using the City's operations model (Confluence), which employs *daily* time steps and is capable of analyzing effects of reservoir operations on spill frequency and associated flows. The District could have also sought from the City the substantial amounts of data the City possesses regarding the operation of Loch Lomond Reservoir and regarding downstream flows, water temperature, and aquatic resources. This data includes a daily hydrologic record encompassing over 70 years of flow data for Newell Creek as well as habitat modelling that links changes in flow to habitat quality for steelhead, coho salmon, and other species. If the District had asked the City for this information and assistance, the City would have gladly assisted its sister agency. Through this letter, the City offers its assistance to the District as the District embarks on an EIR for the Project.

The combination of the vaguely defined nature of the Project and the inadequate impact analysis makes it is very unlikely that the District, using the current IS/MND, will be able to receive the approvals the Project will need from the State Water Resources Control Board (SWRCB), the National Marine Fisheries Service (NMFS), and CDFW. For the District to have any hope of obtaining regulatory approvals from these resource agencies, the Project will have to be supported by rigorous environmental analysis in the form of an EIR supported by Confluence modeling, and will have to be refined to avoid potential adverse effects on fisheries. Moreover,

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the City will be unable to support the Project if it is not reimagined in a form that complements the City's dual efforts to protect fisheries and to maintain a reliable water supply for its citizens and other dependent customers.

In short, until more rigorous technical work is completed and the Project is fleshed out to include more detailed flow regimes and specific fish protection features, the Project will remain too ill-defined and too poorly understood to succeed or to comply with CEQA's legal requirements. An EIR is the logical mechanism both for (i) doing the analyses needed to identify environmental problems and (ii) refining the Project to include built-in solutions for those problems. The preparation of an EIR will also give District staff a chance to collaborate with the City staff and its expert consultants in order to learn from the City's own ongoing efforts to reduce the environmental effects of the City's water system. Such collaboration should help the District to design the Project in a form that can be similarly constructive without undermining the City's past, ongoing, and future efforts to protect aquatic resources while providing a reliable water supply.

This letter will begin by laying out applicable legal principles governing when agencies subject to CEQA may rely on MNDs and when, instead, they are required to prepare EIRs (as is the case here). The letter will then summarize the conclusions reached by City Watershed Compliance Manager Chris Berry and fisheries biologist Jeffrey Hagar of Hagar, and will offer additional legal observations regarding what the City considers to be shortcomings of the IS/MND.

DISCUSSION

A. The "Fair Argument" standard for EIR preparation

Where a lead agency is considering a proposed project that is neither exempt from CEQA nor subject to the rules governing supplemental environmental review (see CEQA Guidelines, §§ 15162 – 15164), the lead agency may rely on a negative declaration only where "[t]here is *no* substantial evidence, in light of the whole record before the lead agency, that the project *may* have a significant effect on the environment." (Pub. Resources Code, § 21080, subd. (c)(1), italics added; see also *id.* § 21082.2, subd. (a).) Where a negative declaration is not possible, a *mitigated* negative declaration (MND) is sometimes an option, but only where mitigation measures integrated into the project will "avoid the effects or mitigate the effects to a point

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where *clearly* no significant effect on the environment would occur” and still “there is no substantial evidence, in light of the whole record before the lead agency, that the project, as revised, may have a significant effect on the environment.” (Pub. Resources Code, § 21080, subd. (c)(2), italics added.)

The flip side of these legal standards is that an EIR is *required* “[i]f there is substantial evidence, in light of the whole record before the lead agency, that the project *may* have a significant effect on the environment.” (*Id.*, subd. (d), italics added; see also *id.* § 21082.2, subd. (d).) As used in this context, “the word ‘may’ connotes a reasonable possibility.” (*Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881.) Stated another way, an EIR is required whenever substantial evidence in the record supports a “*fair argument*” that significant impacts *may* occur. Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR. (CEQA Guidelines, § 15064, subd. (f)(1); *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75 (*No Oil I*); *Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1000–1003 (*Friends of “B” Street*); see also *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319 (*CBE v. SCAQMD*); and *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 171-172.)

“In the CEQA context, substantial evidence ‘means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.’” (*Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730, quoting CEQA Guidelines, § 15384, subd. (a).) Sometimes non-expert lay evidence is enough to trigger an EIR, though for some very technical issues some level of expertise is needed. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928 (*Pocket Protectors*); *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 173.)

The “fair argument” standard creates a “low threshold” for requiring preparation of an EIR. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 310 (*Sundstrom*) [quoting *No Oil I, supra*, 13 Cal.3d at p. 75]; *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754; *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1331; *Georgetown Preservation Society v. County of El Dorado*

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(2018) 30 Cal.App.5th 358, 370; and *Save the Agoura Cornell Knoll v. City of Agoura Hills* (2020) 46 Cal.App.5th 665, 676.) The fair argument standard is founded upon the principle that, because adopting a negative declaration has a “terminal effect on the environmental review process” (*Citizens of Lake Murray Area Assn. v. City Council* (1982) 129 Cal.App.3d 436, 440), an EIR is necessary to “substitute some degree of factual certainty for tentative opinion and speculation” and to resolve “uncertainty created by conflicting assertions” (*No Oil I, supra*, 13 Cal. 3d at p. 85).

As one court put it, “[t]hese legal standards reflect a preference for requiring an EIR to be prepared.” (*Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332.) EIRs should be prepared in “doubtful case[s],” so that agencies do not make decisions “without the relevant data or a detailed study of it.” (*No Oil I, supra*, 13 Cal. 3d at p. 84.) “It is the function of an EIR, not a negative declaration, to resolve conflicting claims, based on substantial evidence, as to the environmental effects of a project.” (*Pocket Protectors, supra*, 124 Cal.App.4th at p. 935.)

As the California Supreme Court explained long ago, a project need not have an “momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at p. 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that [a] project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if substantial evidence in the record supports a conclusion that significant impacts will not occur, if a “fair argument” supports the opposite conclusion. (*Id.* at p. 75.)

The “fair argument” test requires the preparation of an EIR whenever “there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, *regardless of whether the overall effect of the project is adverse or beneficial*” (CEQA Guidelines, § 15063, subd. (b)(1), italics added; see also *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1197 “[a]ny potential significant environmental effect triggers the EIR requirement ..., even if the plan revisions together provide a ‘net’ or overall positive for the environment”].)

Where experts have presented conflicting evidence on the extent of the environmental effects of a project, the lead agency must conclude that the effects may be significant and prepare an EIR. (*Pocket Protectors, supra*, 124 Cal.App.4th at p. 935; and *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-18; CEQA Guidelines, § 15064, subd. (g).) When a

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lead agency has received substantial evidence supporting a fair argument that a project's impacts may be significant, the agency faces a legal duty to prepare an EIR, even if the agency is more persuaded by contrary substantial evidence. (*Friends of "B" Street, supra*, 106 Cal.App.3d at p. 1002; and *Pocket Protectors, supra*, 124 Cal.App.4th at p. 935.) Thus, where such substantial evidence is presented, "evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact." (*Sundstrom, supra*, 202 Cal.App.3d at p. 310.)

Importantly here, "[w]hile a fair argument of environmental impact must be based on substantial evidence, mechanical application of this rule would defeat the purpose of CEQA where the local agency has failed to undertake an adequate initial study. The agency should not be allowed to hide behind its own failure to gather relevant data." (*Id.* at p. 311.) "CEQA places the burden of environmental investigation on government rather than the public. If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. *Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.*" (*Ibid.*, italics added)

Related to these last principles is the general legal rule under CEQA that agencies may not refuse to use the best reasonably available technical tools for addressing the impacts of their proposed projects. (See, e.g., CEQA Guidelines, § 15144 ["an agency must use its best efforts to find out and disclose all that it reasonably can"]; *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 938-939; *Citizens To Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 432; *Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, 1364-1367; and *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413, 439-440.)

Here, as explained below, the District's reliance on the WAA and Fisheries Effects Study, with their monthly time-steps, has greatly "enlarge[d] the scope of fair argument by lending a logical plausibility to a wider range of inferences." The District should have used the Confluence model, which, by using daily time-steps, allows for a far more refined analysis capable of addressing potential adverse effects on particular fish species and their life stages

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across a variety of hydrological conditions (e.g., very dry years, average years, very wet years, etc.).

B. The IS/MND presents the Project in a confusing fashion; fails to include sufficient details of physical Project components and expected operations to allow for meaningful analysis; contains erroneous assumptions; omits analysis of key issues; and fails to address a sufficiently large geographic area.

As mentioned above, both Mr. Berry and Mr. Hagar reviewed at length both the IS/MND and the technical supporting materials on which it based its conclusions about impacts to biological resources. Each expert found a number of problems, which are set forth at length below, sometimes with extended quotations from their letters. In summary, Mr. Berry and Mr. Hagar found that the District's analysis of biological resource impacts, as set forth in the WAA and the Fisheries Effects Study, and thus in the IS/MND, is unsupportable for a number of reasons that compound upon each other to make the District's conclusions that impacts are less than significant wholly unsupportable. The Project – in both physical and operational terms – is too vaguely defined to allow for meaningful impact analysis. It lacks specific components and limitations that could limit its potential adverse environmental effects. In addition, the analysis includes erroneous assumptions that lead to erroneous conclusions. It fails to address key issues, and is focused on too small a geographic area.

1. The Project Description is confusing.

As an initial point, however, the City notes that the IS/MND presents the Project itself in a confusing fashion, making it difficult for readers to understand exactly what is being proposed. The District's terminology contributes to the problem. On page 5, the IS/MND states that the Project includes "four conjunctive use *scenarios*," only three of which are analyzed in the document (with the fourth to be studied separately in the future). The four "scenarios" are (i) the San Lorenzo River at Big Trees (SLRBT) Low-Flow Requirements Modification Scenario, (ii) the North System Diversions Scenario, (iii) the Loch Lomond Scenario, and (iv) the Aquifer Storage and Recovery (ASR) Scenario. The SLRBT Low-Flow Requirements Modification Scenario and the North System Diversions Scenario would be implemented in the short-term (within the next five years), while the Loch Lomond Scenario would be implemented in the long-

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term (greater than five years). The ASR Scenario is the one that is not addressed in the IS/MND. It would have its own future CEQA review document.

The use of the term “scenario” in the Project Description is confusing and can be easily misunderstood. Based on the common use of the word “scenario,”³ many readers are likely to interpret the term as the equivalent of “alternatives.” In other words, readers may think that the District is mulling over which one of several options to choose but is not intending to go forward with all of them. After a close reading of the IS/MND, though, City readers concluded that, apparently, such an interpretation is not what the District intends. Rather, the Project seems to consist of three components, the first three of the “scenarios” listed above.

2. There are a number of problems with the Loch Lomond Scenario.

The scenarios are also insufficiently defined, lacking the details needed for an adequate environmental impact assessment. For example, the Loch Lomond Scenario lacks sufficient detail regarding facilities improvements to allow for the evaluation of environmental effects. The analysis in the IS/MND is also based on a potentially antiquated 11-year-old Loch Lomond Reservoir Source Development Study (SPH, 2010) that the City understands will be updated in the next fiscal year. This fact, by itself, makes the analysis problematic. As is evident from the proposal to upgrade the District’s Kirby Treatment Plant under the Loch Lomond Scenario, water treatment capabilities at that facility are currently insufficient to treat “raw” water from Loch Lomond. Yet there has also been little specific coordination between the City and the District on the details of the District’s connection to the City’s Newell Creek (Loch Lomond) water line. This lack of coordination is another omission that can be cured if the District chooses to work closely with the City on an EIR that will include a refined and improved Project Description.

The analysis of the Loch Lomond Scenario also erroneously assumes, as Mr. Hagar explains, the availability of “free” water not needed for fishery habitat:

The *Loch Lomond Scenario* element of the Project would divert currently unused water from the reservoir for use in the SLVWD system. The Fisheries Effects Study (Podlech 2019) cites pending implementation of the City of Santa Cruz Anadromous Species Habitat Conservation Plan (ASHCP) and erroneously

³ An online dictionary (Dictionary.com) defined the term to mean “an imagined or projected sequence of events, especially *any of several detailed plans or possibilities.*” (Italics added.)

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concludes that this allotment of water represents environmentally “free” water “for which potentially adverse effects will have already been avoided” (Podlech 2019, page 4-6) by implementation of the ASHCP. In fact, the ASHCP effects analysis treats the SLVWD allocation as remaining in storage and diversion of this amount under the SLVWD Project will influence streamflow below Newell Creek Dam and potentially affect the frequency of spill and resulting aquatic habitat conditions in Newell Creek. These potential environmental effects were not considered in the Initial Study determination that the Project has no significant effect on aquatic resources.

(Exhibit B, p. 5.)

Relatedly, the WAA and the IS/MND do not address the potential impacts of the District’s proposed withdrawals of stored water from Loch Lomond Reservoir under its unexercised storage reservation of 313.4 acre feet of water per year (AFY). The impact analysis should have discussed how the District’s proposal to use its allocation of stored water in Loch Lomond Reservoir (on an unspecified schedule) could affect the City’s right to divert water to storage and to redivert water from storage because the District’s withdrawals could affect the City’s ability to operate the reservoir under varying hydrologic conditions.

The District’s new withdrawals from storage would be a change in the historic baseline use of water stored in Loch Lomond Reservoir. These new withdrawals could impact the recreational uses of the reservoir and could interfere with the City’s rediversions from storage for its own consumptive purposes to meet existing and planned demands in the City’s service area under water right License 9847. Because this supply is a municipal supply, the District could potentially use it year-round, yet the IS/MND does not specify when and at what diversion rate it would withdraw water from storage or whether there are limitations on the District’s withdrawals that might limit the timing and conditions under which this new source of supply could be used.

3. The overall lack of detail in the Project Description makes adequate environmental analysis impossible.

In addition to these specific problems relating to the Loch Lomond Scenario, Mr. Hagar explains more generally how the lack of detail in the Project Description, and particularly the absence of details regarding the timing and amounts of proposed new diversions, has the effect of creating the potential for adverse effects on special status aquatic species:

The IS/MND states that the main purpose of the Project is to optimize the conjunctive use of surface and groundwater sources to improve aquatic habitat and water supply reliability within the San Lorenzo River watershed. While this concept has potentially beneficial effects to aquatic biological resources such as coho salmon and steelhead, *the Project is insufficiently defined to evaluate environmental effects of the Project.* The IS/MND and its supporting documents do not provide definition of the amounts and timing of additional diversions that would occur under the Project and do not provide an assessment of instream flow needs of protected resources existing downstream of the diversions (Exponent 2019, Podlech 2019, Podlech 2021, SLVWD 2021). *Without such definition, the effect of proposed diversions on streamflows is only hypothetical and any conclusions regarding biological effects are unsupported. Based on the current vaguely defined Project, potentially significant biological effects are certainly possible.* No mitigation options are presented that may avoid such effects.

The Project proposes to divert additional surface flows during the winter and spring and/or provide in-lieu groundwater recharge to improve surface flows during the summer. The winter and spring encompass critical portions of salmon and steelhead life-cycles including rearing of juveniles; migration of adults, smolts, and juveniles; and spawning. The project proponents do not appear to consider that the highly variable hydrology of the San Lorenzo River watershed can result in low flow periods in the winter and spring when diversion of flow can significantly affect aquatic resources. There has been no presentation of information related to the Project that indicates flow needs for instream resources (e.g., coho and steelhead) and how diversions would be accomplished to protect those flows. *Without analysis of the timing and magnitude of flows protective of instream resources and an associated Project Description that details the timing and magnitude of diversions that can be accomplished while protecting those instream habitat values, there can be no reliable determination of whether the Project may or will have significant environmental effects.* Diversions from the North System and Loch Lomond influence flows from the points of diversion downstream to the ocean and must be analyzed cumulatively for their potential effects in the source streams which are tributary to the San Lorenzo River as well as the mainstem San Lorenzo River and San Lorenzo River Lagoon.

[T]he Project lacks enough definition to adequately determine effects on steelhead, coho salmon, or tidewater goby. The timing and amounts of new diversions are not defined with sufficient detail to predict the timing and amounts of change in streamflow in the source streams or the San Lorenzo River, to which they are tributary. Further, there is insufficient information provided to determine the relationship between streamflow and habitat quality for potentially affected lifestages of steelhead and coho salmon in affected stream reaches, including the San Lorenzo River.

(Exhibit B, pp. 1-2, 5-6, italics added.)

4. The geographic scope of the analysis is too limited.

Furthermore, as Mr. Berry notes, “the analysis has a limited geographic scope that may not fully capture all the effects of the Project downstream.” (Exhibit A, p. 3.) Indeed, the District has limited the Project’s scope to its own service area in spite of the fact that the San Lorenzo River watershed is a relatively small stream system that is jointly operated by the District, the City, and other agencies and users. The interconnectedness of these water systems required the District, in describing the environmental setting for the Project, to describe how the District, the City, and other water users on the system currently operate within the legal requirements imposed by their water rights. The District was also required, in addressing the impacts of the Project, to analyze how proposed changes to the District’s water rights, and the implementation of those changes, would impact the water supplies available to the City and other water users, and how any such effects on the reliability of those supplies might foreseeably lead to indirect environmental effects. The District was also required to address how effects on the availability of water supplies of sufficient quantity and quality below the Felton Diversion to satisfy the needs of special status fish in the lower San Lorenzo River and estuary.

C. The environmental baseline used in the IS/MND does not accurately reflect “existing conditions” in the aquatic environment at the time the document was prepared.

On pages 14 and 15, the IS/MND correctly states that the environmental baseline for impact analysis is normally “the physical environmental conditions in the vicinity of the project . . . at the time environmental analysis commenced.” (See also *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1277-1280 [applying this principle to a negative declaration]; and *CBE v. SCAQMD, supra*, 48 Cal.4th at 320-321 [same].) Although the text goes on to state that the analysis in the initial study was commenced in January 2021, the District explains that it has instead chosen to use an earlier date as the baseline date. The District mentions that the WAA and Fisheries Effects Study were prepared in 2019, and then argues that a baseline that reflects the aftermath of the 2020 CZU Lightning Complex Fires in Santa Cruz County would be

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misleading in that “it would not account for the replacement of the infrastructure damaged in the ... fires.” Thus, the District is using a “pre-fire baseline,” though it is unclear whether this translates into 2019 or 2020. Since much of the analysis relies on the WAA and Fisheries Effects Study, it appears that, at least for the impacts of greatest interest to the City (e.g., biological resources), the District has used a 2019 baseline. The WAA is dated January 2019 (more than two and a half years ago), while the Fisheries Effects Study is dated November 2019 (nearly two years ago).

The City finds the use of a 2019 baseline for the IS/MND to be flawed for the analysis of effects on biological resources. As to those topics, a 2021 baseline would *not* have been misleading, but rather would have been more accurate and appropriate than the 2019 baseline. For one thing, in January 2021, the City approved its OMHCP, as mentioned earlier. This plan is directly relevant to the inquiry, on page 40 of the IS/MND, as to whether the Project would “conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.” The current analysis does not mention the OMHCP. It should have been assumed as part of the baseline.

The baseline should also expressly account for the “interim bypass flows” that have been in place in the San Lorenzo River at the Tait Diversion pursuant to agreements reached between the City and CDFW going back to 2007, as mentioned earlier. As the City’s June 2021 Draft EIR for its Water Rights Project explains, “[t]hrough interim bypass agreements with CDFW, the City has already begun implementing improved bypass flows not required by its existing water rights at diversion facilities on the North Coast streams and at the Tait Diversion on the San Lorenzo River, further constraining the City’s limited water supply, particularly in dry years.” (Draft EIR for Water Rights Project, p. 3-25.; see also id. p. 3-17, fn. 15 [“[t]he interim bypass flow requirements are those flow requirements agreed to by CDFW and the City as part of an April 2018 agreement between CDFW and the City. The City and CDFW have had numerous such agreements since 2007 during development of the ASHCP.”])

The District has cited no legal authority for its use of a *past* baseline. Although the California Supreme Court has held that agencies may use a *future* baseline without an existing conditions baseline where including an existing conditions baseline would be misleading or

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without informational value (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 445, 451–452), no court has ever authorized a *past* baseline unmoored in some way to existing conditions. In *CBE v. SCAQMD*, *supra*, 48 Cal.4th at 327-328, the Supreme Court explained that agencies had some flexibility in how to define existing conditions, and particularly where environmental conditions tended to fluctuate over time; but the goal must always be to identify, in some way, “existing conditions.” The same qualification appears in CEQA Guidelines section 15125, subdivision (a)(1), which sets for the rules governing the formulation of baselines in EIRs.) Here, however, the District has said, outright, that “reliance on an existing conditions baseline would be misleading to both decisionmakers and the public[.]” (IS/MND, p. 15.) The District, then, is not characterizing its 2019 baseline for biological resources as in some way reflecting fluctuating existing conditions.

Another issue related to the environmental baseline is a lack of clarity as to whether the District is or is not currently operating within the bypass flows dictated by its water rights. As Mr. Berry explains,

We ... understand that, at the time of the issuance of the IS/MND, the SLVWD Felton System was not operating within compliance of SLVWD’s water rights bypass flow standards. It is unclear whether the Project includes analysis of compliant or non-compliant Felton System operations, as the IS/MND states on page 39 that the Felton System will “continue to be operated in compliance with water rights” but the WAA repeatedly discusses Felton System non-compliant operations and states that the analysis may underrepresent the magnitude of non-compliant operations. Without additional operational details and clarification of seemingly contradictory statements provided above, it is difficult to understand how the Project will affect the City of Santa Cruz water operations and overall downstream beneficial uses of water.

(Exhibit A, p. 2.)

When the District prepares an EIR for the Project, this compliance issue should be clarified. In addition, the updated baseline should reflect existing conditions as of the date on which the District issues its Notice of Preparation (NOP). (See CEQA Guidelines, § 15125, subd. (a).) Such existing conditions should definitely account for the OMHCP and, possibly, the interim bypass flows reflecting ongoing agreements between the City and CDFW. If, however, the City’s Water Rights Project and/or the ASCHP have been approved by the date of the NOP,

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the baseline should reflect the previously mentioned “Agreed Flows” or a variation thereof as reflected in the Final approved ASHCP.

D. The Water Availability Analysis and Fisheries Effects Study on which the IS/MND relies are insufficiently detailed to support accurate and meaningful environmental impact analysis; and they ignore the issue of climate change.

As discussed in the introductory portion of this letter and in Sections B.2 and B.3 of the Discussion, many of the problems with the Project and the IS/MND result from the general level of impact analysis found therein. A closely related additional problem is that the impact analysis relies heavily on both the WAA and the Fisheries Effects Study, both of which are planning level studies that lack the level of detail needed to sustain an adequate CEQA analysis.

By their very nature, the WAA and Fisheries Effects Study are insufficient for analyzing environmental impacts on fish species and their life stages in the San Lorenzo watershed because, as explained earlier, the documents are planning level studies that use a monthly time-step methodology that cannot possibly capture environmental nuances occurring on a weekly or daily basis. Yet, absent analysis that is sufficiently refined to detect weekly or even daily changes in flows and other environmental conditions, it is impossible to detect short-term changes that might be harmful to fish species or their life stages under various hydrological conditions. Both Mr. Berry and Mr. Hagar discuss this problem.

Mr. Berry states that “[m]onthly average values can obscure sometimes significant effects related to the typical daily hydrologic variations that may occur on a shorter time scale which may have substantial effects on downstream fisheries.” (Exhibit A, p. 5.) Going into more detail, he explains that

This reliance on planning level studies presents a fundamental challenge to evaluating biological effects of the Project with a level of rigor that will ensure protection of downstream special-status species and other beneficial uses of water. The Fisheries Analysis provides limited information related to planning-level studies and does not fully explore Project effects in drought or seasonally low-flow conditions. Nor does it provide specific flow and available fisheries habitat relationship information using appropriate downstream flow goals. Furthermore, the analysis has a limited geographic scope that may not fully capture all the effects of the Project downstream. At a minimum, *evaluation of the Project’s effects on the flows below Big Trees ... on downstream mainstem San Lorenzo River steelhead rearing and related impacts downstream should be explored more fully.*

(Exhibit A, p. 3, italics added.)

Mr. Hagar explains in more detail why analysis based on monthly time-steps can completely miss significant effects occurring within a more confined time frame, and notes that the City has a model, Confluence, that the District could use to analyze Project impacts using a *daily* time-step:

The Fisheries Effects Study (Podlech 2019) concludes that effects are unlikely since the percent of simulated monthly flow remaining downstream of North system diversions under this Scenario is only slightly less (≤ 1 percent) than under the existing base case scenario. This is a gross misrepresentation of potential effects on steelhead and coho due to averaging of monthly average values and averaging over the system as a whole. Alterations of flow could be substantial during specific conditions such as periods between storms or during drier years or seasons. In fact, the Water Availability Assessment indicates that there are a number of years when Project-related monthly average flow reductions in Clear and Sweetwater Creeks exceed 10% of baseline (Exponent 2019). *Steelhead and coho life histories can be significantly affected by events that occur on a timescale of just a few days but have the potential to affect an entire year class. While analysis based on monthly averages or averages of monthly average values may be suitable for water supply planning, such averaging will completely miss important events influencing biological parameters. Even winter diversions could be significant if concentrated in a single source and/or during sensitive periods.* The Project Description is so vague that none of these possibilities can be excluded.

The City of Santa Cruz has produced substantial amounts of data and analyses addressing the operation of Loch Lomond and effects on downstream flows, water temperature, and aquatic resources as part of its ASHCP. The data includes a daily hydrologic record encompassing over 70 years of flow data for Newell Creek and habitat modelling that links changes in flow to habitat quality for steelhead and coho salmon. The City's operations model (Confluence) is capable of analyzing effects of reservoir operations on spill frequency and associated flows. This information could have been made available to SLVWD for analysis of environmental effects of the Loch Lomond Scenario element of the Project.

Conclusions reached in the Biological Resources section of the Initial Study (SLVWD 2021) regarding significance of effects on these species are factually incorrect or purely conjectural as they are not supported by appropriate data or analyses. The documentation has not excluded the possibility of significant effects

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on special status aquatic species, as explained above. To avoid such effects, the Project must be revised to include specific attributes intended and designed to avoid effects on special status species. Such design refinements will only be possible, however, after additional analysis performed on a daily time-step basis. Such work should occur in coordination with the City of Santa Cruz, whose water operations affect the same water bodies affected by the Project.

(Exhibit B, pp. 4, 5, 6, italics added.)

Mr. Berry also identifies a number of other shortcomings in the IS/MND and its supporting technical analyses, in addition to the reliance on a monthly time-step; and he, too, notes that the City has extensive information that could assist the District as it undertakes, in the future, a far more thorough impact analysis:

Further undermining the WAA’s utility for evaluating effects is the fact that it omits many years of data from the City Newell Creek and United States Geological Survey (USGS) San Lorenzo River at Santa Cruz stream gages. It is also unclear how the IS/MND and supporting materials evaluated the Loch Lomond scenario hydrologic and biotic effects, given the lack of reference to or inclusion of City of Santa Cruz modeling. Nor is it clear if the WAA and related Fisheries Analysis includes an evaluation of Loch Lomond spill dynamics relative to SLVWD exercising its right to its allocation of water there. Additionally, many of the graphs provided in the WAA have a scale that precludes seeing the full presentation of the data.

Finally, *climate change is one of the greatest threats to special-status fish species in the San Lorenzo River* – whether it regards hydrologic changes or increased water temperatures. Given the predictions for future “weather whiplash” associated with climate change and associated hydrologic regime shifts, *analysis of climate change scenarios relative to the potential future operations and downstream hydrologic and biotic effects would make the Project analysis significantly more robust.*^[4]

Therefore, the ability to evaluate effects of the Project is fairly limited by the lack of comprehensive data regarding downstream hydrologic and biotic effects resulting from the project implementation. At a minimum, comparison of water supply scenarios that includes reference to all applicable current bypass flow requirements and recommendations downstream should occur (be they from the City of Santa Cruz Habitat Conservation Planning processes, the 1979 San

⁴ In its recent Draft EIR for its Water Rights Project, the City stated that “[p]rojected future droughts are likely to be a serious challenge to the region’s already stressed water supplies” and that “the 73-year period of record is characterized by rainfall patterns well above long-term averages and therefore the worst droughts reflected in the past 73 years likely understate future conditions.” (Draft EIR, pp. 7-3, 7-4.)

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Lorenzo River Watershed Plan or the 2004 San Lorenzo River Salmonid Enhancement Plan) and does so on a daily time-step would significantly enable more thorough effects evaluations. The City of Santa Cruz has extensive water supply (Confluence), hydrologic and fisheries habitat effects modeling (including climate change – adjusted hydrologic data) on a daily time step that may help with refining this analysis, should that be initiated (Dudek 2021a).

(Exhibit A, pp. 5-6, italics added; footnote omitted.)

As emphasized in the introductory portion of this letter, the City lists out all of these flaws in the District’s methods with the constructive intention of seeking to help the District to identify the steps it must take in order to prepare an EIR that includes rigorous analysis that the District and the City, working together, can use to refine the Project in order to avoid any significant environmental effects on aquatic species. As co-stewards of the San Lorenzo River and its tributaries, the two agencies should be able to work together towards the formulation of creative solutions to common problems.

E. The IS/MND and supporting studies make unsupported assumptions, and contain informational omissions, that understate potential environmental impacts.

In addition to proposing a Project that is defined too vaguely and relying on planning tools that were inadequate for defensible impact analysis, the District has also made analytical assumptions that lead to erroneous or unsupportable impact conclusions. Mr. Berry explains, for example, how the Fisheries Effects Study, on which the IS/MND relies, draws erroneous conclusions about impact significance based solely on *relative* changes in diversion percentages:

The Fisheries Analysis also draws conclusions about relative effects being insignificant based on diversion volume percentage of recommended bypass flows. This is insufficient for a variety of reasons, including the fact that *fish migration is, by nature, relatively absolute in nature and a relatively small reduction in flow can interfere with migration*. If sufficient flows for migration are not available, then migration generally cannot occur. Reduction in the number of fish passage days – particularly coho migration in a drought year when the number of migration days may already be limited – could be a potentially very serious concern. *Even if the Felton or North System water diversions are only a small percentage of the winter bypass requirements below Big Trees in Felton, that may be a relatively high percentage of the required bypass flow in Santa Cruz and may occur at a time when conditions are especially challenging for special-status fish species there* – thereby presenting potentially significant effects

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to downstream biota including not only coho and steelhead, but also tidewater goby, in the lower San Lorenzo River. For example, *even a relatively small diversion of 0.5 cfs⁵ in Fall Creek during these periods can have relatively significant effects on available steelhead rearing habitat availability in the San Lorenzo River* and subsequent impacts on the City of Santa Cruz's ability to divert water there. There is no analysis of the Project relative to current bypass flow requirements downstream of Big Trees other than the historic requirements at the City's Felton Diversion and no detailed evaluation of the biotic effects in drought periods or under climate change scenarios provided in the current SLVWD proposal – in spite of the fact that the analysis states in several locations that there may be relatively substantial reductions in flow in the San Lorenzo River during dry periods with existing operations and proposed operations may – in some cases – exacerbate that condition.

(Exhibit A, p. 4, italics added.)

Mr. Berry also explains the significance of the District's failure to consider how increased groundwater pumping under the Project might adversely affect aquatic species indirectly by reducing cold water inflows into surface streams from the karst formations in which the groundwater to be pumped is located:

The analysis could be strengthened even further were it to broaden the evaluation of Project instream temperature effects further downstream where temperatures may be more limiting to cold water fisheries. By virtue of their origins in karst-dominated watersheds, many of the SLVWD water source streams are relatively more important to San Lorenzo River watershed fisheries recovery than other streams in the watershed. Karst streams tend to remain cold during hot weather and have more reliable flow during dry periods and drought. While the Fisheries Analysis does present good information on this topic, it would (again) be strengthened if it were provided in the context of overall watershed conditions – particularly considering potential future climate change-related effects on the San Lorenzo River mainstem temperatures and their potential to further limit cold water fisheries.

Mr. Hagar notes that the Fisheries Effect Analysis, and thus the IS/MND, did not look at the potential impacts of new diversions at all relevant times of the year, and failed to consider potential impacts on particular water bodies of concern:

The Fisheries Effects Study (Podlech 2019) only considered the effect of flow changes in September and October, when effects of the Fall Creek Diversion have been concentrated. However, *steelhead and coho life histories can be significantly influenced by discrete, extreme events that can occur on the order of*

⁵ The acronym "cfs" stands for cubic feet per second.

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a day to a few days and the frequency of an event does not always indicate the potential severity. In order to effectively evaluate the environmental effects of the Project, an analysis needs to cover the entirety of potential events at a fine enough time scale (daily) to observe the effects. ***

The Fisheries Effects Study also did not consider effects of the Fall Creek Diversion on temperature in the mainstem San Lorenzo River to which it is tributary. Even relatively small changes in water temperature can have significant effects on sensitive species by decreasing resistance to disease, altering growth rates, and influencing survival. Fall Creek is one of the most shaded and coolest tributaries in the San Lorenzo River watershed (Podlech 2019) and potentially has a cooling effect on the San Lorenzo River below its confluence. The Initial Study makes no mention of this fact and fails to provide any supporting evaluation of why reducing Fall Creek flow into the San Lorenzo River under this scenario would not create a potentially adverse temperature-related effect on habitat for steelhead and coho salmon. Contrary to this potential, and without supporting analysis, the Initial Study finds that effects to steelhead or coho are not expected.

In addition to flow reductions in Fall Creek and the San Lorenzo River under the SLRBT Low-Flow Requirements Modification Scenario, the other elements of the Project (North System Diversions Scenario and Loch Lomond Scenario) involve diversions of flow that do not occur under existing conditions. The Fisheries Effects Study (Podlech 2019) describes each of these elements individually from the perspective of conditions in the tributary streams themselves but does not evaluate the cumulative effect of all these diversions on habitat and temperature conditions in the mainstem San Lorenzo River, which could be significant.

(Exhibit B, p. 3.)

One special status fish species of concern – the tidewater goby – was not addressed at all in the District’s impact analysis. As Mr. Hagar explains,

The Initial Study (SLVWD 2021) lists Special Status Species but fails to include the Federally Endangered tidewater goby (*Eucyclogobius newberryi*). Tidewater goby is an estuary dependent species known to inhabit the San Lorenzo River lagoon. Project-related alteration of flows, including increased diversion of flow in the winter and spring in the North System, removal of limits on Fall Creek diversions that support low flows in the San Lorenzo River, and diversions from Loch Lomond, effect downstream flows and ultimately are reflected in inflow levels to the lagoon. *Tidewater goby habitat in the lagoon is potentially altered with change in inflows.* Inflow is known to influence the frequency with which the lagoon opens and closes (breaching), either naturally or as assisted by City Public Works crews. Breaching of the lagoon has led to stranding of tidewater gobies and their burrows in the past. *Freshwater inflows also influence water quality conditions in the lagoon,* including nutrient levels, temperature, salinity, and

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dissolved oxygen levels, all of which have an influence on the quality of habitat for tidewater goby. *The Project may have a substantial adverse effect on this special status species that are not identified due to the failure of the Initial Study to consider them.*

(Exhibit B, p. 5 [italics added].)

A more robust impact analysis in an EIR, supported by Confluence, could cure all of the analytical flaws and omissions described above.

F. The SLRBT Low-Flow Requirements Scenario could result in significant environmental effects.

With the exception of problems with the description and analysis of the Loch Lomond Scenario discussed above in Section B.2 of this letter, the omissions and inadequacies of the IS/MND and supporting materials, as laid out in detail in the other Sections above, generally apply to the Project as a whole. Mr. Hagar has also identified particular problems with the SLRBT Low-Flow Requirements Modification Scenario. As he explains,

The SLRBT Low-Flow Requirements Modification Scenario element of the Project would maintain existing bypass flow requirements in Fall Creek but would remove a requirement that limits Fall Creek diversions to protect minimum low flows in the San Lorenzo River. Fall Creek is tributary to the San Lorenzo River upstream of the City of Santa Cruz Felton Diversion. This element would potentially reduce flows in the San Lorenzo River primarily during the fall (September-November) but also to some extent during December through May (See Podlech 2019, Table 4-1, page 4-2). The San Lorenzo River downstream of Fall Creek supports all life stages of steelhead and migration of coho. Existing information indicates a consistent increase in habitat value for rearing steelhead in the San Lorenzo River between 10 cfs and 25 cfs (City of Santa Cruz 2021). Optimum flow for steelhead spawning in the San Lorenzo River is around 70-90 cfs and declines at lower levels of flow. Both steelhead and coho need a flow of 40 cfs or more to migrate through the lower San Lorenzo River. Flow reductions related to the Project have the potential to adversely affect habitat for steelhead and coho salmon and interfere with movement of these species by reducing flows below threshold levels for migration or causing declines in habitat value with reduced flows. Contrary to this potential, and without supporting analysis, the Initial Study finds that effects to steelhead or coho are not expected. The Fisheries Effects Study (Podlech 2019) finds that flows would be altered by the Project a significant amount of the time but it provides no evaluation of the degree to which flows are changed and no evaluation of the potential of these changes to adversely alter habitat conditions for steelhead and coho. Without such an analysis, there is

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no basis for the IS finding of no expected effect (SLVWD 2021). Indeed, *potentially significant adverse effects remain possible.*

(Exhibit B, p. 2.)

When the District prepares a full EIR for the Project, with assistance as necessary from the City, these shortcomings in the current analysis can be rectified.

G. The Project is inconsistent with applicable and pending habitat conservation plans and other plans and policies intended to protect biological resources and to avoid or minimize effects on such resources.

One of the questions posed in the checklist portion of the IS/MND is whether the Project would “conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan[.]” (IS/MND, p. 40.) In response to this question, the District finds “no impact.” (*Ibid.*) For reasons set forth below, the discussion supporting this conclusion, as well as the conclusion itself, is unsupportable.

The only plan or policy mentioned at all in the discussion is the City’s proposed ASHCP, mentioned earlier. Although the text first states that “the HCP was not reviewed for this evaluation,” the text goes on to state, in a conclusory fashion, that the Project “is consistent with the anticipated goals and objectives of the draft HCP.” The reason given is that the Project “would not result in significant impacts to steelhead or coho salmon, and would have an overall benefit to these species.” (*Ibid.*) The many reasons why this last conclusion is unsupported are discussed at length above throughout this letter.

The discussion of the Project’s potential conflicts with an “adopted Habitat Conservation Plan” should have considered the City’s OMHCP, which was adopted in January 2021. As Mr. Berry explains,

The current proposal may be in conflict with several existing plans and policies. The approved City of Santa Cruz OMHCP specifically calls for future instream flow requirements of 40 cfs during much of the winter downstream at the Big Trees USGS gage and a minimum of 8 cfs at the Santa Cruz USGS gage. Analysis of the Project scenarios specific to these standards would better illuminate the full scope of potential downstream Project biotic effects – including those relative to tidewater goby and Pacific lamprey.

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(Exhibit A, p. 7.)

When the District prepares an EIR for the Project, the document should address the Project's potential conflicts with the OMHCP and whether any inconsistencies translate into adverse effects on the tidewater goby and Pacific lamprey. If, by the time the Draft EIR is ready for release, the ASHCP is in effect, the Draft EIR should also address any inconsistencies with that HCP as well.

Mr. Berry also explained that the IS/MND failed to address the Project's potential or apparent inconsistencies with a number of other pertinent regulatory plans and policies, and that, as a result, the IS/MND may have – again – understated the Project's environmental impacts:

The Federal Central California Coastal Coho Recovery Plan Action Step 4.1.1.6 (National Marine Fisheries Services, 2012) also calls on page 7 for protection of karst-derived instream flows that are especially important during the dry season and in drought conditions. The IS/MND correctly references the importance of these karst-derived flows – particularly with regard to the Felton System and its influence on the San Lorenzo River during drought periods, but the IS/MND provides no reference to the Recovery Plan or any subsequent analysis of the Project's effects on karst-derived flow relative to downstream mainstem San Lorenzo flow or water temperatures.

Policy 5.6.1 of the Conservation and Open Space Element of the County of Santa Cruz General Plan regarding minimum instream flows seems relevant to the Project (County of Santa Cruz Planning Department, 1994). For example, the WAA states in numerous locations that the Project will result in less than 70% of unimpaired flows downstream of SLVWD diversions in many cases. In addition, the Fisheries Analysis states on page 3-7 that during drought years Fall Creek flows may be reduced by up to 50 percent. It is not clear if these flow reductions would be exacerbated by the Project and its focus on reducing the Big Trees flow requirements tied to the Felton System water rights. It is understandable that there is tension between protection of most limiting flow requirements (i.e., dry season and drought) and water supply reliability. However, the lack of reference to this policy, diversion volumes related to the North System and SLRBT low flow scenarios in excess of the General Plan policy standards, and the absence of specific instream flow/habitat effects analyses of the Project for all relevant special-status fish species life-cycle stages downstream all appear to be in conflict with this policy.

The Project is generally consistent with overall goals on page 3-2 and 3-3 of the July 2021 draft Santa Margarita Groundwater Sustainability Plan (GSP) (Balance

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Hydrologics, Miller Maxfield, Inc., Montgomery and Associates, WSC, Inc. and California State University – Sacramento, 2021), but the Project does not completely align with the overall goals of the draft GSP, in that there is no obvious commitment to improve flows for all life stages of special-status fish species downstream. The impacts of this strategy may (admittedly) be minor in some cases and the general focus on groundwater recharge and improving associate fish rearing flows is in complete alignment with GSP goals. However, there may be occasions when biotic effects could be substantial – though, again, the analysis provided does not make that clear. Further, it is not clear how the Project specifically contributes toward meeting GSP sustainability goals, as those goals are not explicitly referenced. Nor are Project elements analyzed specifically in context to them.

(Exhibit A, pp. 7-8.)

When the District prepares an EIR for the Project, the new analysis should squarely address how the Project can be made to conform with the OMHCP, the ASHCP, the Federal Central California Coastal Coho Recovery Plan, Policy 5.6.1 of the Conservation and Open Space Element of the County of Santa Cruz General Plan, and the Santa Margarita GSP.

H. The discussion of cumulative impacts is deficient for failing to account for flows proposed under the City’s Water Rights Project.

The IS/MND deals with the key topic of cumulative impacts on pages 114 through 117. Although the text identifies some future projects that might contribute to cumulative impacts of various kinds, the District omits the City’s Water Rights Project from its list. (*Id.* at pp. 114-115.) On the crucial subject of potential cumulative impacts relating to aquatic biological resources, the very brief text states that “the proposed conjunctive use scenarios would have a beneficial impact related to fish habitat within the San Lorenzo River. The Loch Lomond Scenario, and any other projects in the region, would also be required to comply with federal, State, regional, and local regulations and laws put in place to minimize impacts to biological resources. Therefore, cumulative impacts would be less than significant.” (*Id.* at p. 116.)

This discussion of cumulative impacts fails to meet legal standards. As noted earlier, the City released its Draft EIR for its Water Rights Project in June 2021, after having issued an NOP with a lengthy Initial Study in October 2018. The City’s publication of the Draft EIR preceded by several weeks the District’s late release in late July 2021 of the Notice of Intent to Adopt a Mitigated Negative Declaration for the Project. As explained below, this chronology clearly

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made the Water Rights Project is a “probable future project” that the District should have considered in its analysis of cumulative impacts.

As a matter of law, a lead agency is required to prepare an EIR when a proposed project “has possible environmental effects that are individually limited but *cumulatively considerable*.” CEQA Guidelines, § 15065, subd. (a)(3), italics added; see also *id.*, § 15064, subd. (h).) In this context, ‘[c]umulatively considerable’ means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of *probable future projects*.” (*Id.*, §§ 15065, subd. (a)(3), 15064, subd. (h), italics added.). Although, in an MND, a lead agency’s focus should be on whether a proposed project will cause a “cumulatively considerable” impact, this question necessarily requires a consideration of how the project’s effects interact with or exacerbate those expected from probable future projects. (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 119-120 [“the need for an EIR turns on the impacts of both the project under review and the relevant past, present and future projects”].)

It is clear, moreover, from case law going back to the 1980s that any proposed project “under environmental review” is considered to be a probable future project. (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 74.) There is no doubt that a proposed project, such as the Water Rights Project, for which a draft EIR has been released is “under environmental review.” (*Ibid.*, fn. 13.)

The IS/MND therefore should have included discussion of the Water Rights Project in the analysis of cumulative impacts. The omission renders the discussion inadequate. As discussed earlier, the Water Rights Project, as described in its Draft EIR, includes “stream bypass requirements for fish habitat (referred to ... as Agreed Flows).” (Draft EIR, p. 3-19.) In addition to being proposed to be part of the City’s upcoming ASHCP, “[t]he Agreed Flows would be incorporated into both pre-1914 rights on the North Coast streams and post-1914 permits and licenses on the San Lorenzo River and Newell Creek. This would improve instream habitat and flow conditions for these fish species in the San Lorenzo River compared to historic operations.” (*Id.* at p. 3-25.) In preparing its analysis of cumulative impacts, the District should have accounted for the fact that these proposed flow changes are now reasonably foreseeable. The

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assumption that such flows will be instituted would have complicated the question of whether the Project's effects are cumulatively considerable.

Mr. Berry is also critical of the District's analysis of cumulative impacts, and had the following to say on the subject:

Cumulative effects – More thorough analysis of the Project in the context of downstream flow needs would not only help identify potential biotic and hydrologic effects, but also help contextualize the project regarding other existing and probable future projects including, but not necessarily limited to, the City of Santa Cruz Water Rights Project, the Draft Santa Margarita Groundwater Sustainability Plan, the City of Santa Cruz Operations and Maintenance Habitat Conservation Plan, the Administrative Draft Anadromous Salmonid Habitat Conservation Plan, the City of Santa Cruz Graham Hill Water Treatment Plant Facilities Improvement Project, the City of Santa Cruz Newell Creek Pipeline Rehabilitation Plan, and other, ongoing water diversions by the multitude of private diverters in the watershed.

There is the potential that the SLVWD Project may have interaction with these other activities in terms of effects downstream, and the IS/MND would be strengthened by some analysis of this interaction. For example, as stated throughout the Fisheries Analysis, the cumulative effect of SLVWD diversions on downstream flows, while generally not problematic, may be significant if occurring during drier periods when considered in the context of other activities also occurring in the watershed. Typically, those are times when conditions in the San Lorenzo River are already limiting for special-status fish species. Admittedly, the cumulative effects of the SLVWD project may also be beneficial in some cases. An example of this would be any improvement that the Project makes regarding groundwater recharge-related baseflows that occur in concert with the City of Santa Cruz improvements to bypass flows downstream. However, analysis of the Project with broader consideration of the effects of other activities in the San Lorenzo River watershed has not been provided in the IS/MND, so a greater understanding of the cumulative effects of the Project is not possible with the analysis provided.

(Exhibit A, pp. 8-9.)

In summary, the District's discussion of cumulative impacts on aquatic biological resources was cursory and failed to account for important probable future projects. These omissions can be cured in an EIR that uses the Confluence model and voluminous extant historical data on the San Lorenzo River watershed.

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I. The IS/MND fails to address a reasonably foreseeable consequence of the Project: forcing the City to seek supplemental water supplies.

CEQA requires lead agencies to consider not only the direct environmental effects of their projects, but also any “[i]ndirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect or secondary effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems.” (CEQA Guidelines, § 15384.) Here, Mr. Berry expressed his concern that the IS/MND failed even to consider whether any indirect effects might result from reasonably foreseeable actions the City might need to take if the Project should result in reduced water supplies available to the City:

Should the Project result in reduced instream flows that fall below the City’s instream flow goals at Big Trees or Santa Cruz, the City may be forced to re-evaluate its water supply planning and utilize additional alternative water supplies not considered in its Water Supply Advisory Committee and related water supply planning processes to meet system demand (City of Santa Cruz Water Supply Advisory Committee, 2015). These sources may include Loch Lomond Reservoir, existing or new wells, North Coast sources, new diversions of Bay Street Spring, reinitiated diversions on Branciforte Creek, or other, as of yet unidentified, sources. Not only does this need to identify new sources present operational challenges to the City, it expands the realm of potential biological effects associated with the Project outside of the study area included in the IS/MND. For example, reduction of the Felton System bypass flow requirements at Big Trees could result in fewer City of Santa Cruz Felton Diversion pumping days or reduced ability to divert at the City’s Tait Street Diversion – as the City has strict regulatory requirements related to those facilities vis-a-vis downstream instream flows. While there are undoubtedly benefits to rearing flows that benefit the City associated with the general focus on conjunctive use in this Project, the overall effects on City water operations are not well analyzed in this regard.

(Exhibit A, p. 8.)

As these observations demonstrate, the Project could benefit the District at the City’s expense, forcing the City to consider means of augmenting its water supplies that involve environmental impacts not considered or addressed in the IS/MND. In the EIR to be prepared by the District, the District could use Confluence and other tools to explore options for Project refinement that will allow the Project to proceed without harming the City’s water supply. Such

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an outcome would also increase the odds that the District could succeed in obtaining all of the required regulatory approvals from the SWRCB, NFMS, and CDFW.

J. The IS/MND does not disclose or analyze possible limitations imposed on existing water system operations by terms in the District's water rights or the possible impacts of those terms on the District's ability to implement the Project.

The City's comments earlier in this letter peripherally address the lack of any disclosure or real discussion in the IS/MND of any terms limiting the District's exercise of its water rights and the potential limitations on the District's ability to obtain approval of its proposed water right changes because of Project impacts on aquatic and other resources in the San Lorenzo River watershed. But the City also believes that the IS/MND is defective because the District does not address these issues directly or explain how likely it is that the SWRCB will approve the District's water right change petitions or what impact a denial of those petitions would have on the Project. The District's water right Permit 20123 (A24652) illustrates the need for this discussion and analysis. Permit 20123 provides for diversions from Bull Creek, Bull Spring, Bennett Creek, and Fall Creek and contains three relevant terms, Terms 18, 19, and 20.⁶ Permit 20123 imposes a maximum diversion rate and maximum limitations on diversions under this right and the District's other, more senior post-1914 appropriative rights to divert from Bull Creek, Bull Spring, Bennett Creek, and Fall Creek of 1.7 cfs and 1,059 acre-feet of total diversions per annum.

Permit terms 12 and 13 respectively relate to the existing bypass flow requirements at the District's Fall Creek diversion and limitations on diversions at the Felton Diversion Weir when flows in the San Lorenzo River fall below specified amounts below this point. Notably, the annual water right reports filed by the District indicate that it has not reached the maximum amount of annual diversions already permitted, which might indicate that system demands are below the District's existing permitted diversion rates or that its diversions are limited by the

⁶ Permit 20123 may be accessed on the SWRCB's water right records database, eWRIMS, at: <https://ciwqs.waterboards.ca.gov/ciwqs/ewrims/DocumentRetriever.jsp?appNum=A024652&wrType=Appropriative>

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variable hydrology in the San Lorenzo River watershed. But the IS/MND's analysis is too coarse to clearly indicate whether one or both conditions apply.

Terms 18, 19, and 20 are of interest because they potentially impose additional limitations on the District's ability to exercise its water rights and indicate that the Project's proposed changes to those rights might increase impacts from any changes in the District's water rights that would increase diversions and move water among its three service areas. Term 18 provides that the District may not establish new water service connections unless they have been properly permitted and comply with the Central Coast Regional Water Quality Control Plan. Term 19 requires the District to develop a water conservation plan or actions in consultation with the SWRCB's Division of Water Rights, and to implement "all cost-effective measures" in any approved conservation program according to the implementation schedule in that plan. Term 20 limits the District's total diversions of water under all of its post-1914 water rights to a daily maximum of 1.87 cfs until it can demonstrate to the Division of Water Rights that the District "can provide a dependable supply of water to its users during the months of July through November."

While the District admittedly does not know if the District has complied with some or all of these permit terms or if they remain applicable to the District or are relevant to the Project, the problem is that the lack of disclosure makes it impossible to know their relevance. The IS/MND simply does not mention these terms or analyze the applicability of any requirements in the Central Coast Regional Water Quality Control Plan or any other applicable regulatory document. To the extent one or more of these permit terms are relevant, the failure to identify or analyze them for any Project impacts constitutes yet another defect in the IS/MND. Also, if one or more of these permit terms are relevant and the Project is at least in part intended to relieve the District from complying with the applicable terms, there should have been a discussion or analysis both (i) of the likelihood the District will obtain the SWRCB's approval of the necessary water right changes that would enable the District to implement the Project and (ii) of what the impact on the Project would be if the water right change petitions are denied.

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CONCLUSION

As this letter has surely made clear, the City believes that the District has erred by attempting to pursue a project as complicated as its proposed Conjunctive Use Plan for the San Lorenzo River Watershed with only an MND, which, almost by definition, lacks the kind of scientific and technical rigor associated with EIRs. Like the City's Water Rights Project, the District's Project is a complicated undertaking that will affect sensitive resources that are already under considerable stress, and will occur in a context in which climate change is increasing the challenges facing all water providers. Although the tone of this letter is firm insofar as it reflects the City's steely determination to identify for the official record the flaws in the IS/MND, the City is sincere in stating that it is willing to work with the District, as its long-time partner and fellow environmental steward, in trying to find a path forward for the Project. As Mr. Hagar stated, and as noted above, "the Project must be revised to include specific attributes intended and designed to avoid effects on special status species. Such design refinements will only be possible, however, after additional analysis performed on a daily time-step basis. Such work should occur in coordination with the City of Santa Cruz, whose water operations affect the same water bodies affected by the Project."

City staff is willing to make the time to share its own data and technical resources in order to try to help the District to succeed. The City recognizes that the District, like the City, has a legal obligation to provide a reliable water supply to its customers. These days, this job is ever more challenging. Collaboration amongst similarly situated public agencies is one way to maximize the chances of success.

Very truly yours,



James G. Moose

Cc: Santa Cruz City Council
San Lorenzo Valley Water District Board of Directors
Rick Rogers
Rosemary Menard
Anthony Condotti
Chris Berry
Heidi Luckenbach
Sarah Easley-Perez
Ryan Bezerra

EXHIBIT A



City of Santa Cruz Water Department – 212 Locust St. Santa Cruz, CA 95060 – (831) 420-5200

August 25, 2021

Mr. James Moose
c/o Remy, Moose and Manley, LLP
555 Capitol Mall, Suite 800
Sacramento, CA 95814
Via email to: JMoose@rmmenvirolaw.com

RE: Comments on San Lorenzo Valley Water District Initial Study/Mitigated Negative Declaration for the Conjunctive Use Plan for the San Lorenzo River Watershed

Dear Mr. Moose,

I'm corresponding with you regarding the Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the San Lorenzo Valley Water District (SLVWD) Initial Study/Mitigated Negative Declaration for the proposed Conjunctive Use Plan for the San Lorenzo River Watershed (the Project). I am doing so in order to give you my professional opinion regarding the adequacy of the impact analysis and the Project's potential to have significant effects on the environment.

I am qualified to do so, in that I have over 35 years of experience working in fisheries and watershed management. This experience includes academic training in aquatic biology, as well as environmental management and environmental regulatory compliance. My professional background also includes significant experience working with the State and Federal Endangered Species Acts and California Fish and Game Code, groundwater sustainability planning, karst protection policy making, and water rights and related matters, including steelhead and coho recovery conservation planning (see resume attached).

That said, the Project is highly complex, and additional public process and environmental review would facilitate not only stakeholder engagement, but also enable the overall rigor of said review. While the Project conceptually has potential merit, the IS/MND suffers from the following shortcomings: a) it presents incomplete and confusing information; b) it has only been analyzed at a very high level without sufficient data to inform analysis of effects; c) it has elements that may be in conflict with existing plans and policies; and d) the overall Project focus on diverting water in excess of SLVWD system demand rather than in excess of downstream environmental needs may result in potentially significant effects that have not been well – evaluated or evaluated at all. The following are some specific points regarding IS/MND issues that warrant additional analysis in this regard.

Project Description Detail:

The Project Description is somewhat confusing and lacking of detail to the extent that effects cannot be well understood. In the Project Description, the use of the word “scenario” is confusing and may be construed as “alternatives”. Understanding that the scenarios are elements of one Project, the Loch Lomond project element lacks sufficient detail regarding facilities improvements to evaluate effects. The analysis is based on a potentially-antiquated 11-year-old Loch Lomond Reservoir Source Development Study (SPH, 2010) that we understand will be updated in the next fiscal year. As is evident from the proposal to upgrade the Kirby Treatment Plant under the Loch Lomond Scenario, the water treatment capabilities at that facility are currently insufficient to treat “raw” water from Loch Lomond. There has also been little specific coordination, however, between the City and SLVWD on the details of SLVWD’s connection to the City’s Newell Creek (Loch Lomond) water line and details of conveyance/facility improvements and subsequent operations are insufficiently identified. Furthermore, the Water Availability Assessment (WAA) provided as an appendix states on page 6-16 that Loch Lomond water will be required on a “continuous basis” but is not clear on other operational details. The *Fisheries Resource Considerations for the San Lorenzo River Watershed Conjunctive Use Plan (Revised Final)* (Fisheries Analysis) supporting the IS/MND also states on page 4-6 that:

“SLVWD staff selected Scenario 2b, the import of its Loch Lomond water allotment to the South system as a substitute for pumping the Pasatiempo wells. However, as conceived and simulated in the WAA, Scenario 2b incorporates Scenario 2a, the import of an average of 4 afy of Loch Lomond water to the North system¹ and an average of 50 afy to the Felton system to help meet unmet demand in those systems. SLVWD staff have indicated that the District currently does not plan to import Loch Lomond water to the North and Felton Systems.”

Therefore, it is not clear that the Scenario 2b details were consistent across the IS/MND and supporting appendices or how that may have affected evaluation of its effects.

We also understand that, at the time of the issuance of the IS/MND, the SLVWD Felton System² was not operating within compliance of SLVWD’s water rights bypass flow standards. It is unclear whether the Project includes analysis of compliant or non-compliant Felton System operations, as the IS/MND states on page 39 that the Felton System will “continue to be operated in compliance with water rights” but the WAA repeatedly discusses Felton System non-compliant operations and states that the analysis may underrepresent the magnitude of non-compliant operations. Without additional operational details and clarification of seemingly contradictory statements provided above, it is difficult to understand how the Project will affect the City of Santa Cruz water operations and overall downstream beneficial uses of water.

Data Deficiencies:

The Project elements focused on reducing San Lorenzo Valley Water District (SLVWD) Felton System operations bypass flow requirements and increasing diversions from the North System of the SLVWD system (SLRBT Low-Flow Requirements Modification Scenario³ and North System Diversions Scenario) may also have significant effects on the environment both immediately downstream of these operations as well as further downstream to, and including, the San Lorenzo River estuary. Complicating the ability to evaluate the

¹ The North System includes SLVWD’s diversions from creeks north of Ben Lomond, California on tributaries to the San Lorenzo River.

² The Felton System includes SLVWD’s diversions from creeks and springs in Felton, California, as described in the IS/MND.

³ The SLRBT Low-Flow Requirements Modification Scenario includes reducing the bypass flow requirements associated with SLVWD’s Felton water rights that are tied to the USGS Big Trees stream gage located downstream on the San Lorenzo River.

Project, the planning-level evaluation used as a basis for determining the absence of potentially significant environmental effects is not detailed enough to actually understand what the potential effects are. Both the WAA and Fisheries Analysis do not explicitly reference other existing, (in some cases) more detailed hydrologic and instream flow habitat studies or provide sufficient new information detailed enough to evaluate effects on beneficial uses of water downstream to the San Lorenzo River estuary – particularly with regard to special-status fish species including coho salmon, steelhead trout and tidewater goby. In fact, both documents explicitly state that they are intended as planning level studies and should not be used to evaluate such effects.

The WAA states on page 1-6 as well in other locations:

"...However, these records are insufficient for estimating the remaining portion of streamflow available to support habitat or the potential for additional diversions...."

It further states on page 6-4:

"Values of simulated monthly flow (e.g., expressed in units of afm, cfs, or gpm; tabulated in Appendix A) have limited precision and should not be used to evaluate compliance with specific regulatory, water-right, or habitat requirements."

The Fisheries Analysis states on page 1-5:

"Similar to the approach used in the WAA, the results of this analysis of fisheries resource considerations for the San Lorenzo River Watershed Conjunctive Use Plan are suitable for a planning-level evaluation of conjunctive use alternatives. Due to the limited precision of the synthesized monthly records of water supply (Exponent 2019), the results should not be used to evaluate compliance with specific regulatory, water-right, or habitat requirements. Instead, this comparative analysis is intended to identify the relative fisheries benefits of individual conjunctive use scenarios and to narrow down the selection of potential projects to move forward in the planning process. As such, the synthetic streamflow estimates developed for the WAA were not used to evaluate potential existing effects of SLVWD's surface water diversions on salmonid habitat conditions, but rather as a comparative tool for differentiating the relative potential benefits of the different conjunctive use scenarios..."

The Fisheries Analysis further states on page 3-2 that more detailed instream flow studies would be required to fully-evaluate the effects future expanded diversions, but notes that the current Project does not include expanded diversions. This is confusing in that the Project already includes expanded diversions. Further, the statement further reinforces the idea that more detailed instream flow studies would be helpful in evaluating the effects of the existing Project. This reliance on planning level studies presents a fundamental challenge to evaluating biological effects of the Project with a level of rigor that will ensure protection of downstream special-status species and other beneficial uses of water. The Fisheries Analysis provides limited information related to planning-level studies and does not fully explore Project effects in drought or seasonally low-flow conditions. Nor does it provide specific flow and available fisheries habitat relationship information using appropriate downstream flow goals. Furthermore, the analysis has a limited geographic scope that may not fully capture all the effects of the Project downstream. At a minimum, evaluation of the Project's effects on

the flows below Big Trees⁴ – be they coho migration in drought years in the San Lorenzo River Gorge and in the lower river south of Highway 1 -- effects on downstream mainstem San Lorenzo River steelhead rearing and related impacts downstream should be explored more fully.

The Fisheries Analysis also draws conclusions about relative effects being insignificant based on diversion volume percentage of recommended bypass flows. This is insufficient for a variety of reasons, including the fact that fish migration is, by nature, relatively absolute in nature and a relatively small reduction in flow can interfere with migration. If sufficient flows for migration are not available, then migration generally cannot occur. Reduction in the number of fish passage days – particularly coho migration in a drought year when the number of migration days may already be limited – could be a potentially very serious concern. Even if the Felton or North System water diversions are only a small percentage of the winter bypass requirements below Big Trees in Felton, that may be a relatively high percentage of the required bypass flow in Santa Cruz and may occur at a time when conditions are especially challenging for special-status fish species there – thereby presenting potentially significant effects to downstream biota including not only coho and steelhead, but also tidewater goby, in the lower San Lorenzo River. For example, even a relatively small diversion of 0.5 cfs in Fall Creek during these periods can have relatively significant effects on available steelhead rearing habitat availability in the San Lorenzo River and subsequent impacts on the City of Santa Cruz’s ability to divert water there. There is no analysis of the Project relative to current bypass flow requirements downstream of Big Trees⁵ other than the historic requirements at the City’s Felton Diversion and no detailed evaluation of the biotic effects in drought periods or under climate change scenarios provided in the current SLVWD proposal – in spite of the fact that the analysis states in several locations that there may be relatively substantial reductions in flow in the San Lorenzo River during dry periods with existing operations and proposed operations may – in some cases – exacerbate that condition.

In fact, the 2004 San Lorenzo River Salmonid Enhancement Plan (Alley, D., Dvorsky, J., Ricker, J., Schroeder, K., Smith, J., 2004) states on page 54 that:

“Flow extractions from Fall Creek, the Boulder Creek sub-watershed and Clear Creek appeared to significantly impact the growth rate of YOY’s [young of the year] and the overall density of smolt sized juveniles produced in the middle River, particularly in drier years”

The 1979 San Lorenzo River Watershed Plan (Ricker and Butler, 1979) also shows significant reductions in available salmonid rearing and spawning habitat at levels above the current SLVWD Felton System Big Trees bypass requirements. According to the IS/MND Fisheries Analysis page 4-1, the SLRBT Low-Flow

⁴ Big Trees is located in Felton, California just downstream of the City of Santa Cruz Felton Diversion on the San Lorenzo River. The USGS stream gage there is the regulatory compliance gage for the City and SLVWD’s Felton operations.

⁵ The Fisheries Analysis asserts that the bypass flows required at SLRBT do not have clear biological benefits. However, these flows were developed with best available science at the time (1970s) and were presumably focused on protecting passage over the City of Santa Cruz’s Felton Diversion and nominal protection of anadromous salmonid habitat downstream of Big Trees (Montgomery Consulting Engineers, 1970, Montgomery Consulting Engineers, 1973). Therefore, the historic bypass flows at Big Trees were protective of obvious fisheries habitat limiting factors at the time. That said, the current maximum bypass obligation at SLRBT of 40 cfs is considered to be more protective of anadromous salmonid habitat needs (including all life cycle needs) downstream of the Felton Diversion and should be the standard to which all upstream diversions are held. Similarly, the City has a minimum bypass flow requirement of 8 cfs below the Tait St. Diversion on the San Lorenzo River in Santa Cruz that can be severely limiting to its operations during dry periods and drought and which should be applied to other water diversions upstream. See Administrative Draft Anadromous Salmonid Habitat Conservation Plan (ASHCP) (Ebbin, Moser and Skaggs, LLC, et al., 2021) pages 231, 235, etc.

Requirements Modification Scenario includes a proposal to reduce bypass requirements that already prohibit diversions in October in 31 out of 48 years (65 percent) of the record analyzed. This analysis is relative to an antiquated, lower instream flow standard at Big Trees that has recently been increased through the completed City of Santa Cruz Operations and Maintenance Habitat Conservation Planning (OMHCP) (Ebbin, Moser and Skaggs, LLC, et al., 2021) process⁶. Therefore, potential effects of the project may be significantly greater than the baseline if it were to be evaluated in the context of current bypass flow requirements downstream. For example, the 1979 San Lorenzo River Watershed Plan states on page 26 in this case that the difference between 20 cfs and 40 cfs in available spawning habitat downstream of Felton is substantial (110 sq feet/1,000 ft at 20 cfs vs. 3,300 sq feet/1,000 ft at 40 cfs). This information informed the City's updated bypass flows for the Felton Diversion and should be considered in any evaluation of the SLVWD project effects.

Similarly, the foundation of the analyses provided for the North System Diversions scenario is to take water in excess of system demand, rather than to divert water in excess of downstream habitat needs. This perspective is fundamentally flawed in its lack of attention to effects on downstream beneficial uses, including (but not limited to) provision of habitat for special-status fish species.

The Fisheries Analysis states on page 3-10:

“During drought baseflow conditions, surface water diversions likely reduce streamflows sufficiently to exacerbate already stressful juvenile salmonid rearing conditions, particularly in Boulder Creek.”

This statement regards existing SLVWD diversions. It is our understanding that future additional diversions would come primarily from Clear and Sweetwater Creeks and that the diversions would occur in high flow months. However, we often have dry periods during these months that can be limiting to fisheries downstream. Without additional operational detail and assurances that additional North System diversions would not be occurring during times when downstream flows are already suboptimal for special-status fish species, and without additional hydrologic and biotic information which would support such an analysis, it is unclear what the specific effects are on downstream beneficial uses of water.

The analysis could be strengthened even further were it to broaden the evaluation of Project instream temperature effects further downstream where temperatures may be more limiting to cold water fisheries. By virtue of their origins in karst-dominated watersheds, many of the SLVWD water source streams are relatively more important to San Lorenzo River watershed fisheries recovery than other streams in the watershed. Karst streams tend to remain cold during hot weather and have more reliable flow during dry periods and drought. While the Fisheries Analysis does present good information on this topic, it would (again) be strengthened if it were provided in the context of overall watershed conditions – particularly considering potential future climate change–related effects on the San Lorenzo River mainstem temperatures and their potential to further limit cold water fisheries.

The analysis would be also more informative were it to be based on a daily time-step, and not a monthly time-step, as was the case with the WAA upon which much of the current analysis is based. Monthly average values can obscure sometimes significant effects related to the typical daily hydrologic variations that may occur on a shorter time scale which may have substantial effects on downstream fisheries. Further

⁶ The OMHCP adopted the minimum bypass flows from the “Agreed Flows” developed in the ASHCP and also incorporated in the Santa Cruz Water Rights Project. See discussion on OMHCP pages 54, 123, etc.

undermining the WAA's utility for evaluating effects is the fact that it omits many years of data from the City Newell Creek and United States Geological Survey (USGS) San Lorenzo River at Santa Cruz stream gages. It is also unclear how the IS/MND and supporting materials evaluated the Loch Lomond scenario hydrologic and biotic effects, given the lack of reference to or inclusion of City of Santa Cruz modeling. Nor is it clear if the WAA and related Fisheries Analysis includes an evaluation of Loch Lomond spill dynamics relative to SLVWD exercising its right to its allocation of water there. Additionally, many of the graphs provided in the WAA have a scale that precludes seeing the full presentation of the data.

Finally, climate change is one of the greatest threats to special-status fish species in the San Lorenzo River – whether it regards hydrologic changes or increased water temperatures. Given the predictions for future “weather whiplash” associated with climate change and associated hydrologic regime shifts, analysis of climate change scenarios relative to the potential future operations and downstream hydrologic and biotic effects would make the Project analysis significantly more robust.

Therefore, the ability to evaluate effects of the Project is fairly limited by the lack of comprehensive data regarding downstream hydrologic and biotic effects resulting from the project implementation. At a minimum, comparison of water supply scenarios that includes reference to all applicable current bypass flow requirements and recommendations downstream should occur (be they from the City of Santa Cruz Habitat Conservation Planning processes, the 1979 San Lorenzo River Watershed Plan or the 2004 San Lorenzo River Salmonid Enhancement Plan) and does so on a daily time-step would significantly enable more thorough effects evaluations. The City of Santa Cruz has extensive water supply (Confluence), hydrologic and fisheries habitat effects modeling (including climate change – adjusted hydrologic data) on a daily time step that may help with refining this analysis, should that be initiated (Dudek 2021a)⁷.

Other regulatory requirements:

Given the lack of focus on relevant downstream instream flow standards or reference to detailed instream flow studies and potential conflicts with downstream water rights holders such as the City, it is unlikely that the current proposal will be authorized by the California State Water Resources Control Board (SWRCB) as currently defined. Furthermore, it may be that the SWRCB would require a full Environmental Impact Report in order to approve proposed water rights changes associated with the project. The SWRCB may also require that SLVWD file Underground Storage Supplements for groundwater recharge elements of this Project, as well as petitions for its appropriate water rights that require changes in Purpose or Place of Use.

Approval of the Project, as currently defined, by the California Department of Fish and Wildlife and the National Marine Fisheries Services (NMFS), either through their own permit processes or through their roles in SWRCB processes, is also in question given the lack of detailed information and potential effects on downstream biota. It is our understanding that the majority of SLVWD operations have not gone through either Fish and Game Code Section 1602 or 2081 or Federal Endangered Species Act (ESA) Section 10(a)(1)(B) permitting. However, we are aware that the NMFS has communicated to SLVWD that its Fall Creek operations generally have minimal effects on steelhead and coho within the immediate vicinity of the Fall Creek Diversion as historically operated, but that reinitiation of consultation should occur if conditions change from those that were considered during the original consultation on the Fall Creek Diversion. Unfortunately, the CZU fire response challenged SLVWD to the extent that the Fall Creek operations have changed and diversions have increased – thereby potentially necessitating reinitiation of ESA consultation on

⁷ These models include a long period of record of daily hydrologic, available fisheries habitat and City of Santa Cruz water supply operational data that interact with each other to project future available flow for meeting City of Santa Cruz system demand and corresponding effects on fisheries.

this facility and further obfuscating analysis of effects of the Felton System baseline relative to future proposed operations. Long - term Section 10 ESA consultation has not occurred regarding SLVWD operations, nor has it occurred in the context of effects downstream in all affected stream reaches. NMFS states on page 2 of its May 2021 Biological Opinion (National Marine Fisheries, 2021) regarding the Fall Creek Diversion:

“...the effects of the SLVWD’s other water supply options within the San Lorenzo River basin on salmonids and their habitats have not been analyzed under the ESA or MSA...”

DFW also stated in a recent email to the City (Maxfield, 2021) that, while permitting associated with fish ladder rehabilitation at the Fall Creek Diversion has occurred, permitting regarding ongoing operations of the Fall Creek (and other SLVWD diversions) has not occurred. These permits may entail bypass flow requirements that are not currently reflected in the IS/MND analysis. To that point, the 1979 San Lorenzo River Watershed Plan shows significant reductions in available salmonid rearing and spawning habitat at levels above the current bypass requirements for Fall Creek. Furthermore, the SLRBT Low-Flow Requirements Modification Scenario includes a proposal to reduce bypass requirements that would already prohibit diversions in October in 31 out of 48 years (65 percent) of the record analyzed due to the diversions’ violation of downstream bypass flow obligations included in the associated water rights. This analysis is relative to an antiquated, lower instream flow standard at Big Trees that has recently been changed through the City of Santa Cruz Habitat Conservation Planning process and incorporated in the approved OMHCP and Santa Cruz Water Right Project petitions to the SWRCB. Therefore, potential effects of the proposal may be significantly greater than the baseline.

Again, without acknowledging and building into the proposal rigorous instream flow bypass requirements (some of which have already been developed specific to SLVWD operations, others proposed in the 1979 San Lorenzo River Watershed Plan and others related to City of Santa Cruz operations), it is likely the Project will be protested at the SWRCB; and Felton System - related petitions may not be approved.

Conflict with Existing Plans and Policies:

The current proposal may be in conflict with several existing plans and policies. The approved City of Santa Cruz OMHCP specifically calls for future instream flow requirements of 40 cfs during much of the winter downstream at the Big Trees USGS gage and a minimum of 8 cfs at the Santa Cruz USGS gage. Analysis of the Project scenarios specific to these standards would better illuminate the full scope of potential downstream Project biotic effects – including those relative to tidewater goby and Pacific lamprey.

The Federal Central California Coastal Coho Recovery Plan Action Step 4.1.1.6 (National Marine Fisheries Services, 2012) also calls on page 7 for protection of karst-derived instream flows that are especially important during the dry season and in drought conditions. The IS/MND correctly references the importance of these karst-derived flows – particularly with regard to the Felton System and its influence on the San Lorenzo River during drought periods, but the IS/MND provides no reference to the Recovery Plan or any subsequent analysis of the Project’s effects on karst-derived flow relative to downstream mainstem San Lorenzo flow or water temperatures.

Policy 5.6.1 of the Conservation and Open Space Element of the County of Santa Cruz General Plan regarding minimum instream flows seems relevant to the Project (County of Santa Cruz Planning Department, 1994). For example, the WAA states in numerous locations that the Project will result in less than 70% of unimpaired flows downstream of SLVWD diversions in many cases. In addition, the Fisheries Analysis states on page 3-7 that during drought years Fall Creek flows may be reduced by up to 50 percent. It is not clear if these flow reductions would be exacerbated by the Project and its focus on reducing the Big Trees flow requirements

tyed to the Felton System water rights. It is understandable that there is tension between protection of most limiting flow requirements (i.e., dry season and drought) and water supply reliability. However, the lack of reference to this policy, diversion volumes related to the North System and SLRBT low flow scenarios in excess of the General Plan policy standards, and the absence of specific instream flow/habitat effects analyses of the Project for all relevant special-status fish species life-cycle stages downstream all appear to be in conflict with this policy.

Should the Project result in reduced instream flows that fall below the City's instream flow goals at Big Trees or Santa Cruz, the City may be forced to re-evaluate its water supply planning and utilize additional alternative water supplies not considered in its Water Supply Advisory Committee and related water supply planning processes to meet system demand (City of Santa Cruz Water Supply Advisory Committee, 2015). These sources may include Loch Lomond Reservoir, existing or new wells, North Coast sources, new diversions of Bay Street Spring, reinitiated diversions on Branciforte Creek, or other, as of yet unidentified, sources. Not only does this need to identify new sources present operational challenges to the City, it expands the realm of potential biological effects associated with the Project outside of the study area included in the IS/MND. For example, reduction of the Felton System bypass flow requirements at Big Trees could result in fewer City of Santa Cruz Felton Diversion pumping days or reduced ability to divert at the City's Tait Street Diversion – as the City has strict regulatory requirements related to those facilities vis-a-vis downstream instream flows. While there are undoubtedly benefits to rearing flows that benefit the City associated with the general focus on conjunctive use in this Project, the overall effects on City water operations are not well analyzed in this regard.

The Project is generally consistent with overall goals on page 3-2 and 3-3 of the July 2021 draft Santa Margarita Groundwater Sustainability Plan (GSP) (Balance Hydrologics, Miller Maxfield, Inc., Montgomery and Associates, WSC, Inc. and California State University – Sacramento, 2021), but the Project does not completely align with the overall goals of the draft GSP, in that there is no obvious commitment to improve flows for all life stages of special-status fish species downstream. The impacts of this strategy may (admittedly) be minor in some cases and the general focus on groundwater recharge and improving associate fish rearing flows is in complete alignment with GSP goals. However, there may be occasions when biotic effects could be substantial – though, again, the analysis provided does not make that clear. Further, it is not clear how the Project specifically contributes toward meeting GSP sustainability goals, as those goals are not explicitly referenced. Nor are Project elements analyzed specifically in context to them.

Other Concerns:

Recreation - The IS/MND would be more robust were it to also include an analysis of recreation effects of the Project – both downstream of the SLVWD diversions and also in Loch Lomond. Some of this analysis has already been completed for the City of Santa Cruz Water Rights Project Draft Environmental Impact Report (Dudek, 2021b).

Cumulative effects – More thorough analysis of the Project in the context of downstream flow needs would not only help identify potential biotic and hydrologic effects, but also help contextualize the project regarding other existing and probable future projects including, but not necessarily limited to, the City of Santa Cruz Water Rights Project, the Draft Santa Margarita Groundwater Sustainability Plan, the City of Santa Cruz Operations and Maintenance Habitat Conservation Plan, the Administrative Draft Anadromous Salmonid Habitat Conservation Plan, the City of Santa Cruz Graham Hill Water Treatment Plant Facilities Improvement Project, the City of Santa Cruz Newell Creek Pipeline Rehabilitation Plan, and other, ongoing water diversions by the multitude of private diverters in the watershed.

There is the potential that the SLVWD Project may have interaction with these other activities in terms of effects downstream, and the IS/MND would be strengthened by some analysis of this interaction. For example, as stated throughout the Fisheries Analysis, the cumulative effect of SLVWD diversions on downstream flows, while generally not problematic, may be significant if occurring during drier periods when considered in the context of other activities also occurring in the watershed. Typically, those are times when conditions in the San Lorenzo River are already limiting for special-status fish species. Admittedly, the cumulative effects of the SLVWD project may also be beneficial in some cases. An example of this would be any improvement that the Project makes regarding groundwater recharge-related baseflows that occur in concert with the City of Santa Cruz improvements to bypass flows downstream. However, analysis of the Project with broader consideration of the effects of other activities in the San Lorenzo River watershed has not been provided in the IS/MND, so a greater understanding of the cumulative effects of the Project is not possible with the analysis provided.

The City of Santa Cruz appreciates the opportunity to participate in the review of the IS/MND and offers these comments in the spirit of strengthening our future collective regional water resources and fisheries conservation efforts. SLVWD staff should not hesitate to follow up with me if there are questions or concerns about the points I've raised.

Sincerely,

8/25/2021

X 

Chris Berry
Watershed Compliance Manager
Signed by: Chris Berry

cc: Rosemary Menard, Heidi Luckenbach

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CHRISTOPHER BERRY

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EDUCATION:

- University of California, Santa Barbara. *B.A. Biological Sciences, 1992*
- University of San Francisco. *M.S. Environmental Management, 1997*

TRAINING:

- TECHNICAL – *Hydrology, Ichthyology, Aquatic Biology, Environmental Engineering, Fish X-ing, California red-legged frog and western pond turtle conservation, U.S. Environmental Protection Agency - Watershed Academy, Wetland Restoration, Riparian Habitat Conservation, Karst Groundwater Hydrogeology, Salmonid Restoration Federation Conferences, etc.*
- LEADERSHIP – *Public Utilities and Waterworks Management, The Public Agency Training Center Leadership Certificate Managing Performance Through Evaluation, Environmental Values in the Water Industry, Conflict Resolution, True Colors, Federal Emergency Management Agency - National Incident Management System – IS 700, Leadership Santa Cruz, etc.*
- LEGAL – *California Water Law, California Environmental Quality Act, California Fish and Game Code, Federal Endangered Species and Clean Water Act, etc.*

PROFESSIONAL:

- City of Santa Cruz, CA. Water Department – *Watershed Compliance Manager, 2012-present*
- City of Santa Cruz, CA. Water Department – *Water Resources Manager, 2001-2012*
- City of Santa Cruz, CA. Water Department – *Watershed Specialist, 1999-2001*
- City of Santa Cruz, CA. Water Department – *Watershed Program Coordinator, 1997-1999*
- City of Santa Cruz, CA. Water Department – *Water Quality Laboratory Assistant, 1994-2000*
- Land Trust of Santa Cruz County, CA. – *Environmental Science Intern, 1993-1994*
- Geo/Resource Consultants, Inc. – *Environmental Science Intern, 1993*
- Ventura County, CA. Resource Conservation District – *Water Conservation Intern, 1992-1993*
- Woods Hole Marine Biological Laboratory – *Marine Biological Laboratory Intern, 1986*

PROJECTS:

- City of Santa Cruz, CA. - *Estuary management*
- City of Santa Cruz, CA. - *Water rights management*
- Save the Frogs – *Invasive species policy development*
- Save the Frogs – *Wetland restoration regulatory compliance*
- City of Santa Cruz, CA. - *Groundwater Sustainability Planning*
- Land Trust of Santa Cruz County, CA. - *Sediment transport studies*
- City of Santa Cruz, CA. - *Hydrologic and sediment transport studies*
- County of Santa Cruz, CA. - *Karst Protection Zone policy development*
- Woods Hole Marine Biological Laboratory - *Shellfish population analyses*
- City of Santa Cruz, CA. - *Endangered Species Act permitting and compliance*
- City of Santa Cruz, CA. - *Fisheries population and habitat database development*
- County of Santa Cruz, CA. - *Integrated Regional Water Management Plan workgroup*
- Geo Resources, Inc. - *Groundwater contamination assessment and related NEPA work*
- City of Santa Cruz, CA. - *Drinking water sanitary surveys and source water assessments*
- City of Santa Cruz, CA. - *Environmental compliance, regulatory liaison and construction monitoring*
- City of Santa Cruz, CA. - *Anadromous salmonid, Pacific pond turtle, tidewater goby, California red-legged frog and other biotic surveys*

GRANTS:

- American Rivers - *Mountain Charlie Instream Restoration Project #1*
- US EPA - *San Lorenzo Valley High School Watershed Management Internship Program*
- State of California Department of Fish and Wildlife - *San Lorenzo Valley High School Watershed Management Internship Program*
- State of California Wildlife Conservation Board - *Addressing Limiting Factors in the San Lorenzo River Lagoon: A "Bottom Up" Approach to Enhancing Stream Flow*
- County of Santa Cruz, CA. Fish and Wildlife Commission – *State of the San Lorenzo Science Symposium*

VOLUNTEER:

- Save the Frogs Advisory Committee former member
- Coastal Watershed Council Board of Directors former member and chair
- County of Santa Cruz, CA. Fish and Wildlife Commission current member and chair
- County of Santa Cruz, CA. Environmental Health Appeals Commission current member and chair
- County of Santa Cruz, CA. Water Advisory Commission current member and vice-chair, former chair
- County of Santa Cruz, CA. Inter-Commission Coordination Working Group founder and current member

PUBLIC PRESENTATIONS:

- *Logging, Leather, Lime and "Lost Boys": Reducing Limiting Factors for Anadromous Salmonids in the San Lorenzo River Lagoon, Santa Cruz County.* 2020 (tentatively rescheduled to 2022). Salmonid Restoration Federation Annual Conference. Santa Cruz, California.
- *20 Years of Habitat Conservation Planning for the City of Santa Cruz Water Department.* 2018. Presented at the County of Santa Cruz Fish and Wildlife Advisory Commission. Santa Cruz, CA.
- *From Coho Salmon to the Zayante Band-Winged Grasshopper-Twenty Years of Lessons from the City of Santa Cruz Habitat Conservation Planning Process.* 2018. Presented at the Northern California Conservation Planning Partners Annual Conference. Vacaville, CA.
- *A "10,000 foot", 10 minute Overview of the San Lorenzo Watershed.* 2017. Presented at the State of the San Lorenzo River Science Symposium. Santa Cruz, California.
- *Water Resources of the San Lorenzo River Lagoon.* 2016. Presented at the State of the San Lorenzo River Science Symposium. Santa Cruz, California.
- *State of the San Lorenzo River Science Symposium - Facilitator.* 2015. Santa Cruz, California.
- *Moving Toward Balance – The City of Santa Cruz Anadromous Salmonid HCP.* 2014. Presented at the Salmonid Restoration Federation Annual Conference. Santa Barbara, California.
- *Watershed – The Movie Discussion panel member.* 2014. Santa Cruz, California.
- *Karst Protection Zone Planning.* 2014. Presented to the Rural Bonny Doon Association. Bonny Doon, California.
- *Resource Management for Steelhead and Coho Salmon Conservation in Santa Cruz County.* 2009. Presented at the Salmonid Restoration Federation Annual Conference. Santa Cruz, California.
- *City of Santa Cruz Drinking Water Source Protection and Timber Harvest.* 2004. Presented to the Central Coast Regional Water Quality Control Board. Santa Cruz, California.
- *People, Fish and the River – Can Competing Needs Co-Exist?* 2003. Presented at the Valley Women's Club Watershed Festival. Felton, California.

MEMBERSHIPS/AFFILIATIONS:

- The Wildlife Society
- American Fisheries Society
- California Native Plant Society
- North American Lake Management Society
- Fire Safe Council of Santa Cruz County Board of Directors
- Santa Margarita Groundwater Agency – Surface Water Working Group
- San Lorenzo Valley High School Watershed Academy Advisory Panel

- Gavilan College Water Resources Management Program Advisory Panel
- Santa Cruz Mid-County Groundwater Agency - Surface Water Working Group
- Comparative Lagoon Ecological Assessment Project (CLEAP) Advisory Panel
- NOAA – Monterey Bay National Marine Sanctuary/BWET Grants Review Panel
- Coastal Regional Prioritization Group - California Forest Management Task Force
- Summit-Martin Fires State Emergency Assessment Team (SEAT) Advisory Panel
- Santa Cruz County Regional Conservation Investment Strategy Technical Advisory Team
- California Rapid Assessment Method for Wetlands (CRAM) Central Coast Regional Team
- Santa Cruz County, CA Integrated Regional Water Management (IRWM) Program Working Group
- California State University at Monterey Bay Professional Science Master's Program Advisory Panel
- California Department of Fish and Wildlife – Bullfrog and Non-native Turtle Policy Working Group

LICENSES/PERMITS/CERTIFICATIONS:

- California Department of Motor Vehicles: Class C Driver's License
- California Department of Boating and Waterways: Boater Education Certification
- California Department of Public Health: T1 Drinking Water Treatment Plant Operator
- United States Fish and Wildlife Service Approved Biologist for California red-legged frog and tidewater goby

PUBLICATIONS:

- *Giants of the Forest: Dicamptodon*. Save the Frogs Magazine. December, 2015. Los Angeles, California.
- *Water Quality Impacts of Extreme Weather-Related Events: Case Studies – CS 046*. Prepared for the Water Research Foundation. Denver, Colorado. 2014.
- *Resource Management for Steelhead and Coho Salmon Conservation in Santa Cruz County – Field Tour Abstract*. Prepared for the Salmonid Restoration Federation. Redway, California. 2009.
- *Sanitary Survey of San Lorenzo and North Coast Watersheds – 2001 Update*. Prepared for the City of Santa Cruz Water Department. Santa Cruz, California. 2001.
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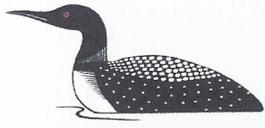
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EXHIBIT B



Hagar Environmental Science

August 24, 2021

James G. Moose
Remy Moose Manley LLP
555 Capitol Mall, Suite 800
Sacramento, CA 95814

Re: Comments on Draft Initial Study & Mitigated Negative Declaration (IS/MND) for proposed Conjunctive Use Plan for the San Lorenzo River Watershed - Attorney Client Privilege

Dear Mr. Moose,

In response to your request, I have completed a review of the San Lorenzo Valley Water District's Initial Study - Mitigated Negative Declaration (IS/MND) for the proposed Conjunctive Use Plan for the San Lorenzo River Watershed (the Project) and related documents. This letter transmits my professional expert opinion¹ regarding the adequacy of the impact analysis and whether the Project may have a significant effect on the environment. My review is focused on potential effects on steelhead and coho salmon.

The IS/MND states that the main purpose of the Project is to optimize the conjunctive use of surface and groundwater sources to improve aquatic habitat and water supply reliability within the San Lorenzo River watershed. While this concept has potentially beneficial effects to aquatic biological resources such as coho salmon and steelhead, the Project is insufficiently defined to evaluate environmental effects of the Project. The IS/MND and its supporting documents do not provide definition of the amounts and timing of additional diversions that would occur under the Project and do not provide an assessment of instream flow needs of protected resources existing downstream of the diversions (Exponent 2019, Podlech 2019, Podlech 2021, SLVWD 2021). Without such definition, the effect of proposed diversions on streamflows is only hypothetical and any conclusions regarding biological effects are unsupported. Based on the current vaguely defined Project, potentially significant biological effects are certainly possible. No mitigation options are presented that may avoid such effects.

¹ A copy of my resume, which sets forth my educational background and the career work that makes me an expert on fisheries issues in the water bodies within Santa Cruz County, is attached to this letter.

James G. Moose
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The Project proposes to divert additional surface flows during the winter and spring and/or provide in-lieu groundwater recharge to improve surface flows during the summer. The winter and spring encompass critical portions of salmon and steelhead life-cycles including rearing of juveniles; migration of adults, smolts, and juveniles; and spawning. The project proponents do not appear to consider that the highly variable hydrology of the San Lorenzo River watershed can result in low flow periods in the winter and spring when diversion of flow can significantly affect aquatic resources. There has been no presentation of information related to the Project that indicates flow needs for instream resources (e.g., coho and steelhead) and how diversions would be accomplished to protect those flows. Without analysis of the timing and magnitude of flows protective of instream resources and an associated Project Description that details the timing and magnitude of diversions that can be accomplished while protecting those instream habitat values, there can be no reliable determination of whether the Project may or will have significant environmental effects. Diversions from the North System and Loch Lomond influence flows from the points of diversion downstream to the ocean and must be analyzed cumulatively for their potential effects in the source streams which are tributary to the San Lorenzo River as well as the mainstem San Lorenzo River and San Lorenzo River Lagoon.

The *SLRBT Low-Flow Requirements Modification Scenario* element of the Project would maintain existing bypass flow requirements in Fall Creek but would remove a requirement that limits Fall Creek diversions to protect minimum low flows in the San Lorenzo River. Fall Creek is tributary to the San Lorenzo River upstream of the City of Santa Cruz Felton Diversion. This element would potentially reduce flows in the San Lorenzo River primarily during the fall (September-November) but also to some extent during December through May (See Podlech 2019, Table 4-1, page 4-2). The San Lorenzo River downstream of Fall Creek supports all life stages of steelhead and migration of coho. Existing information indicates a consistent increase in habitat value for rearing steelhead in the San Lorenzo River between 10 cfs and 25 cfs (City of Santa Cruz 2021). Optimum flow for steelhead spawning in the San Lorenzo River is around 70-90 cfs and declines at lower levels of flow. Both steelhead and coho need a flow of 40 cfs or more to migrate through the lower San Lorenzo River. Flow reductions related to the Project have the potential to adversely affect habitat for steelhead and coho salmon and interfere with movement of these species by reducing flows below threshold levels for migration or causing declines in habitat value with reduced flows. Contrary to this potential, and without supporting analysis, the Initial Study finds that effects to steelhead or coho are not expected. The Fisheries Effects Study (Podlech 2019) finds that flows would be altered by the Project a significant amount of the time but it provides no evaluation of the degree to which flows are changed and no evaluation of the potential of these changes to adversely alter habitat conditions for steelhead and coho. Without such an analysis, there is no basis for the IS finding of no expected effect (SLVWD 2021). Indeed, potentially significant adverse effects remain possible.

James G. Moose
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The Fisheries Effects Study (Podlech 2019) only considered the effect of flow changes in September and October, when effects of the Fall Creek Diversion have been concentrated. However, steelhead and coho life histories can be significantly influenced by discrete, extreme events that can occur on the order of a day to a few days and the frequency of an event does not always indicate the potential severity. In order to effectively evaluate the environmental effects of the Project, an analysis needs to cover the entirety of potential events at a fine enough time scale (daily) to observe the effects. An example of this type of effects analysis is one I completed using a long-term daily hydrologic record (over 70 years), models linking streamflow with salmonid habitat value, analysis of temperature effects, and effects of projected climate change. This analysis was completed using output from a detailed operations model defining proposed project operations in sufficient detail to predict daily streamflow values below each of the City diversions. Documentation of this approach can be found in the City of Santa Cruz Draft Water Rights EIR (Appendix C and Appendix D) available online at (<https://www.cityofsantacruz.com/Home/Components/BusinessDirectory/BusinessDirectory/126/2089>).

The Fisheries Effects Study also did not consider effects of the Fall Creek Diversion on temperature in the mainstem San Lorenzo River to which it is tributary. Even relatively small changes in water temperature can have significant effects on sensitive species by decreasing resistance to disease, altering growth rates, and influencing survival. Fall Creek is one of the most shaded and coolest tributaries in the San Lorenzo River watershed (Podlech 2019) and potentially has a cooling effect on the San Lorenzo River below its confluence. The Initial Study makes no mention of this fact and fails to provide any supporting evaluation of why reducing Fall Creek flow into the San Lorenzo River under this scenario would not create a potentially adverse temperature-related effect on habitat for steelhead and coho salmon. Contrary to this potential, and without supporting analysis, the Initial Study finds that effects to steelhead or coho are not expected.

In addition to flow reductions in Fall Creek and the San Lorenzo River under the *SLRBT Low-Flow Requirements Modification Scenario*, the other elements of the Project (*North System Diversions Scenario* and *Loch Lomond Scenario*) involve diversions of flow that do not occur under existing conditions. The Fisheries Effects Study (Podlech 2019) describes each of these elements individually from the perspective of conditions in the tributary streams themselves but does not evaluate the cumulative effect of all these diversions on habitat and temperature conditions in the mainstem San Lorenzo River, which could be significant.

Under the *North System Diversions Scenario*, SLVWD would export unused potential diversions from the North System to the South System as a substitute for pumping groundwater from the Pasatiempo groundwater wells. The surface water components of SLVWD's North System consist of diversions located on the eastern slope of Ben Lomond Mountain from Boulder Creek to Brookdale, with multiple diversion boxes that feed into a gravity pipeline (Five-Mile Pipeline) and ultimately to the Lyon Treatment

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Plant in Boulder Creek. SLVWD's North System includes surface water diversions on Peavine Creek and Foreman Creek (tributaries to Boulder Creek), Clear Creek (tributary to the mainstem San Lorenzo River), and Sweetwater Creek (tributary to Clear Creek). All of these streams ultimately feed the San Lorenzo River. The Project Description assumes that existing streamflow that exceeds current demand can be diverted. However, there is no assessment of instream flows needed to protect aquatic resources in any of these streams, including those that support steelhead and coho. Without such an assessment it is not possible to determine the environmental effects of the Project. The Fisheries Effects Study (Podlech 2019) concludes that effects are unlikely since the percent of simulated monthly flow remaining downstream of North system diversions under this Scenario is only slightly less (≤ 1 percent) than under the existing base case scenario. This is a gross misrepresentation of potential effects on steelhead and coho due to averaging of monthly average values and averaging over the system as a whole. Alterations of flow could be substantial during specific conditions such as periods between storms or during drier years or seasons. In fact, the Water Availability Assessment indicates that there are a number of years when Project-related monthly average flow reductions in Clear and Sweetwater Creeks exceed 10% of baseline (Exponent 2019). Steelhead and coho life histories can be significantly affected by events that occur on a timescale of just a few days but have the potential to affect an entire year class. While analysis based on monthly averages or averages of monthly average values may be suitable for water supply planning, such averaging will completely miss important events influencing biological parameters. Even winter diversions could be significant if concentrated in a single source and/or during sensitive periods. The Project Description is so vague that none of these possibilities can be excluded.

The Fisheries Effects Study (Podlech 2019) reviews existing temperature data in different parts of the North System but does not address the potential effects of the *North System Diversion Scenario* on water temperatures in salmonid supporting streams including Boulder Creek or Clear Creek and their influence on water temperature in the San Lorenzo River, to which they are tributary. Existing temperature conditions in these streams are favorable for both steelhead and coho. Temperature can influence growth rates, expression of disease, egg development rates, hatching rates, and survival of both species. Without definition of the timing and magnitude of increased diversions expected to occur under the Project, it is not possible to determine the degree to which the Project may affect temperature conditions for steelhead and coho and to make findings regarding the degree to which adverse effects to habitat for these species may occur. There is no analysis to support findings of no significant effect in the Initial Study. Potentially adverse effects of the Project are weighed (without quantification) against potentially beneficial effects of streamflow enhancement from groundwater recharge. However, the effects of any streamflow enhancement are also unquantified and largely hypothetical, since the supporting analyses have provided no assessment of the relationship between streamflow and habitat value for steelhead and coho. It is purely conjectural under this

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approach to determine that the benefits of hypothetical streamflow enhancement exceed the adverse effects of increased diversions.

The *Loch Lomond Scenario* element of the Project would divert currently unused water from the reservoir for use in the SLVWD system. The Fisheries Effects Study (Podlech 2019) cites pending implementation of the City of Santa Cruz Anadromous Species Habitat Conservation Plan (ASHCP) and erroneously concludes that this allotment of water represents environmentally “free” water “for which potentially adverse effects will have already been avoided” (Podlech 2019, page 4-6) by implementation of the ASHCP. In fact, the ASHCP effects analysis treats the SLVWD allocation as remaining in storage and diversion of this amount under the SLVWD Project will influence streamflow below Newell Creek Dam and potentially affect the frequency of spill and resulting aquatic habitat conditions in Newell Creek. These potential environmental effects were not considered in the Initial Study determination that the Project has no significant effect on aquatic resources.

The City of Santa Cruz has produced substantial amounts of data and analyses addressing the operation of Loch Lomond and effects on downstream flows, water temperature, and aquatic resources as part of its ASHCP. The data includes a daily hydrologic record encompassing over 70 years of flow data for Newell Creek and habitat modelling that links changes in flow to habitat quality for steelhead and coho salmon. The City’s operations model (Confluence) is capable of analyzing effects of reservoir operations on spill frequency and associated flows. This information could have been made available to SLVWD for analysis of environmental effects of the *Loch Lomond Scenario* element of the Project.

The Initial Study (SLVWD 2021) lists Special Status Species but fails to include the Federally Endangered tidewater goby (*Eucyclogobius newberryi*). Tidewater goby is an estuary dependent species known to inhabit the San Lorenzo River lagoon. Project-related alteration of flows, including increased diversion of flow in the winter and spring in the North System, removal of limits on Fall Creek diversions that support low flows in the San Lorenzo River, and diversions from Loch Lomond, effect downstream flows and ultimately are reflected in inflow levels to the lagoon. Tidewater goby habitat in the lagoon is potentially altered with change in inflows. Inflow is known to influence the frequency with which the lagoon opens and closes (breaching), either naturally or as assisted by City Public Works crews. Breaching of the lagoon has led to stranding of tidewater gobies and their burrows in the past. Freshwater inflows also influence water quality conditions in the lagoon, including nutrient levels, temperature, salinity, and dissolved oxygen levels, all of which have an influence on the quality of habitat for tidewater goby. The Project may have a substantial adverse effect on this special status species that are not identified due to the failure of the Initial Study to consider them.

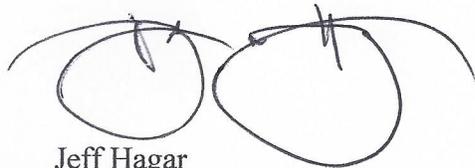
In summary, the Project lacks enough definition to adequately determine effects on steelhead, coho salmon, or tidewater goby. The timing and amounts of new diversions

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are not defined with sufficient detail to predict the timing and amounts of change in streamflow in the source streams or the San Lorenzo River, to which they are tributary. Further, there is insufficient information provided to determine the relationship between streamflow and habitat quality for potentially affected lifestages of steelhead and coho salmon in affected stream reaches, including the San Lorenzo River. Conclusions reached in the Biological Resources section of the Initial Study (SLVWD 2021) regarding significance of effects on these species are factually incorrect or purely conjectural as they are not supported by appropriate data or analyses. The documentation has not excluded the possibility of significant effects on special status aquatic species, as explained above. To avoid such effects, the Project must be revised to include specific attributes intended and designed to avoid effects on special status species. Such design refinements will only be possible, however, after additional analysis performed on a daily time-step basis. Such work should occur in coordination with the City of Santa Cruz, whose water operations affect the same water bodies affected by the Project.

Thank you for the opportunity to review the IS/MND. It is my hope that all parties find these comments constructive and helpful.

Sincerely,

A handwritten signature in black ink, consisting of two large, overlapping loops that resemble the letters 'J' and 'H' connected together. The signature is written in a cursive style with a single horizontal line across the top.

Jeff Hagar
Principal

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References

Exponent. 2019. Water Availability Assessment for San Lorenzo River Watershed Conjunctive Use Plan. Prepared for San Lorenzo Valley Water District. January 30, 2019.

Podlech, M. 2019. Fisheries Resource Considerations for the San Lorenzo River Watershed Conjunctive Use Plan (Revised Final). Prepared for San Lorenzo Valley Water District and County of Santa Cruz. November 21, 2019.

Podlech, M. 2021. San Lorenzo River Watershed Conjunctive Use Plan. Prepared for San Lorenzo Valley Water District and County of Santa Cruz. July 2021.

San Lorenzo Valley Water District. 2021. Conjunctive Use Plan for the San Lorenzo River Watershed Initial Study – Mitigated Negative Declaration. Prepared by San Lorenzo Valley Water District with the assistance of Rincon Consultants, Inc. July 2021.

Jeff Hagar
Principal, Hagar Environmental Science

Jeff Hagar has worked since 1985 as a fisheries consultant in California. He provides expertise on projects involving significant or complex fisheries issues, generally working with multi-disciplinary teams involving environmental planning, engineering, hydrology, geomorphology, and/or legal components. Services include biological surveys such as population abundance and habitat characterization, flow/habitat relationships, endangered species act compliance including Habitat Conservation Plan development, fish passage evaluation, special studies in fisheries, development of resource management and restoration plans, and permitting of habitat restoration and passage improvement projects. Mr. Hagar has been involved in projects throughout California including the Central Coast, Sierra, Eastern Sierra, Central Valley, Sacramento-San Joaquin Delta, and San Francisco Bay with particularly extensive experience in coastal streams of Central and South-Central California including the Santa Ynez River, Salinas River, San Lorenzo River, and Russian River, as well as numerous smaller streams. Much of his current work involves issues relating to management of threatened and endangered species, particularly coastal steelhead and coho salmon. Mr. Hagar has played a major role in development of the City of Santa Cruz Anadromous Species Habitat Management Plan. Mr. Hagar has worked closely with representatives of California Department of Fish and Game, National Marine Fisheries Service, and US Fish & Wildlife Service on compliance with the Endangered Species Act within these streams.

PROFESSIONAL HISTORY

1994 - present	Principal/Senior Biologist Hagar Environmental Science
1991 - 1993	Senior Fisheries Biologist BioSystems Analysis, Inc., Tiburon, California
1989 - 1991	Fisheries Biologist East Bay Municipal Utility District, Oakland, California
1985 - 1989	Aquatic Ecologist/Fisheries Biologist BioSystems Analysis, Inc., Sausalito, California

EDUCATION

M.S. Zoology, 1984

University of Wisconsin, Madison, Center for Limnology

M.S. Water Resources Management, 1984

University of Wisconsin, Madison, Institute for Environmental Studies

B.S. Biological Aspects of Conservation, 1979

University of Wisconsin, Madison

PERMITS AND CERTIFICATIONS

California Department of Fish & Game Scientific Collecting Permit

National Marine Fisheries Service Section 10 Permit for Scientific Research, including Endangered Species Act take authorization for Central California Coast Steelhead, South-Central California Coast Steelhead, Central California Coast Coho Salmon

US Fish and Wildlife Service 10(a)(1)(A) Federal Fish and Wildlife Permit including take of tidewater goby (*Eucyclogobius newberryi*)

REPRESENTATIVE PROJECT EXPERIENCE

City of Santa Cruz Habitat Conservation Plan, 2005-present, for City of Santa Cruz Water Department. HES is providing technical support to assist the City, NOAA Fisheries, and California Department of Fish and Game in development of the City's HCP. HES is integrating existing information with ongoing field surveys implemented by us to develop conservation strategies that maximize anticipated benefits to fishery resources while maintaining the City's ability to operate within water supply constraints. Field surveys include steelhead population abundance surveys in the San Lorenzo River and Laguna Creek lagoons; habitat assessment using the California Salmonid Stream Habitat Restoration Manual methods; instream flow assessment for spawning and rearing steelhead and coho salmon using the PHABSIM component of the Instream Flow Incremental Methodology (IFIM); and evaluation of migration passage obstacles using the Thompson methodology and approaches developed by Powers and Orsborn. HES is developing a conservation strategy for anadromous salmonids and evaluating effects of alternative flow improvement strategies.



Salinas Valley Water Project Fishery Evaluations, 1994 – 2013. The Monterey County Water Resources Agency has developed the Salinas Valley Water Project to stop seawater intrusion, manage nitrate contamination in the ground water, provide adequate water supplies to meet current and future (year 2030) needs, and hydrologically balance the ground water basin in the Salinas Valley. As part of this process, Hagar Environmental Science completed fishery studies and environmental documentation for fishery resources of the Salinas River Basin. HES conducted studies in the Salinas River and its tributaries to determine the presence, distribution, and relative abundance of steelhead spawning populations and evaluated habitat conditions for suitability for steelhead spawning, rearing and migration. Tasks completed by HES have also included monitoring of stream temperature and its relationship to stream flow; evaluation of water quality conditions in the Salinas River Lagoon and project effects on its potential to support rearing steelhead; stream flow requirements for steelhead migration; and potential effects of a surface diversion alternative on steelhead migration, steelhead rearing, and other fish populations. HES worked closely with project planners and engineers to ensure that project alternatives would achieve project objectives without harming remnant steelhead runs within the Salinas River

Basin. HES was also involved in consultation with the National Marine Fisheries Service on steelhead and provided technical information on steelhead and steelhead habitat for the Biological Assessment for the project. Current work involves monitoring of steelhead populations and water quality in the Salinas River Lagoon as required in the NOAA Biological Opinion for the project.

Sonoma Creek Steelhead Smolt Trapping, 2012-2013, for Center for Ecosystem Management and Restoration (CEMAR). The monitoring program was developed to confirm the presence of out-migrating smolts in the Sonoma Creek system and to establish baseline conditions. Of particular importance is the identification of life-history strategies potentially used by steelhead in the Sonoma Creek watershed and the identification of size and age distribution and life-history stage (parr vs. smolt), and relative abundance of migrating steelhead. HES was responsible for refining the study design in collaboration with co-investigators which included CEMAR, Sonoma Ecology Center, and Southern Sonoma Resource Conservation District. Fish sampling equipment and handling protocols were developed in coordination with other programs operating in the Bay Area (Napa County Resource Conservation District, The San Francisco Water Department, and the Santa Clara Valley Water District) to promote regional consistency in study design. HES obtained permitting for the study through the National Marine Fisheries Service and California Department of Fish and Wildlife. HES was also responsible for developing the team of co-investigators and training the team to process the traps; development of study protocols and data handling procedures; design and installation of sampling equipment; coordinating with collaborators and volunteers; and implementation and supervision of the trapping, data collection, and reporting.



Calaveras Dam Replacement Project, 2005-2008, for San Francisco Public Utilities Commission. HES was the fisheries lead as part of the project team for environmental impact assessment and permitting. Key tasks included the integration of extensive background information to address project compliance with environmental regulations, implementation of field surveys to resolve information gaps, and coordination with ongoing fisheries investigations conducted by the client and its consultants. Fisheries surveys included habitat assessment for over 16 miles of streams using modified Level IV effort as described in The California Salmonid

Stream Habitat Restoration Manual and an instream flow assessment for steelhead and native rainbow trout spawning using the PHABSIM component of the Instream Flow Incremental Methodology (IFIM).

Carmel and Salinas River Flood Control, Steelhead Monitoring Plan, January 2001-present. Flood Control activities conducted by Monterey County entail artificial breaching of the Carmel River mouth when river flows raise the lagoon elevation to a predetermined level. Artificial breaching anticipates the natural opening of the lagoon that is imminent. There has been concern that artificial breaching has the potential to impact the lagoon ecology, and particularly steelhead, since it may cause the lagoon to open somewhat earlier and at a lower elevation than would otherwise occur. Hagar Environmental Science developed a monitoring program to evaluate the effect of this activity on lagoon ecology and determine how future flood management should be undertaken to minimize adverse impacts to steelhead trout, a threatened species. HES has conducted pre- and post-breach steelhead population and water quality assessment during the winter of 2001-2002 in the Carmel River Lagoon, in 2002-2003 for both the Carmel and Salinas lagoons, and since 2002 in the Salinas River Lagoon according to this program.

Aptos Creek Watershed Assessment and Enhancement Plan, 2001-2003, for Coastal Watershed Council and California Coastal Conservancy. In this assessment for the Coastal Watershed Council, HES teamed with specialists in hydrology, geomorphology and vegetation to complete a thorough evaluation of habitat conditions and limiting factors for steelhead and coho salmon. HES completed a habitat assessment for over 16 miles of stream in the Aptos Creek watershed. HES used the habitat assessment data together with existing information and information developed by other team members on hydrology, geomorphology, and riparian over-story to complete a limiting factors analysis and worked with the team to develop a list of high priority restoration projects. The practicality of addressing key limiting factors was weighed against the relative benefits to be expected.

Steelhead Habitat Assessment for the San Pedro Creek Watershed, 2001-2002. HES conducted an assessment of the San Pedro Creek Watershed for the San Pedro Creek Watershed Coalition. The assessment included a review of existing information, habitat survey for the mainstem and major tributaries, assessment of factors most likely to limit steelhead, and recommendations for habitat protection and enhancement in the watershed.

Wilder Ranch State Park Habitat Assessment and Aquatic Vertebrate Survey, 2001-2002. Under contract to California State Parks, HES conducted a survey of streams within Wilder Ranch State Park as part of a statewide biological resources monitoring program being developed by State Parks. Surveys involved stream reach classification, habitat assessment using the California Salmonid Stream Habitat assessment methodology, and development of abundance and distribution information for aquatic reptiles, amphibians, and fish using both visual observation and electrofishing. The objective of the Wilder Ranch surveys was to provide a baseline inventory of habitat conditions and aquatic vertebrate populations in Park streams and to develop a long term aquatic monitoring program. The monitoring program will be developed to provide Park Managers with information to identify changes in the areal extent and quality of aquatic habitat and changes in the presence or abundance of key aquatic taxa.

Fish Habitat and Fish Population Assessment for San Lorenzo Creek, Alameda County, 1999 – 2002. The Alameda County Public Works Agency has initiated a pilot watershed study for San Lorenzo Creek. As a part of this work Hagar Environmental Science is conducted a fisheries habitat and fish population assessment. The objectives of fisheries investigations were

to develop a comprehensive understanding of the existing condition of fish populations and their habitat in the San Lorenzo Creek watershed; identify major factors that limit the native fish populations; develop aquatic resource objectives and quantifiable indicators that can be used to monitor the health of fish populations over time; identify and prioritize potential sites to enhance, protect and restore habitat for native fish communities; and understand how sediment and flow affect fish habitat. HES trained County staff in habitat assessment methods, provided oversight and supervision for the habitat assessment, developed and implemented a fish sampling program, provided guidance on implementation of a stream temperature monitoring network, and coauthored the final report.

Stream Reach and Aquatic Habitat Inventory in the Guadalupe River, Coyote and Stevens Creeks, Santa Clara County, 1999. The Santa Clara Valley Water District (SCVWD) has been engaged in a multi-party dispute resolution process identified as the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE). The FAHCE has conducted various investigations to identify factors limiting the production of chinook salmon and steelhead inhabiting streams in the SCVWD service area. Hagar Environmental Science teamed with ENTRIX, Inc. to complete the stream reach and aquatic habitat inventory. HES worked with the FAHCE committee and project team to develop project specific field protocols and provided field training in these protocols for survey crews. HES also provided field oversight and survey calibration and verification as part of the project quality assurance and quality control program.

Aquatic Resource Inventory of Oakland Streams, 1998. Hagar Environmental Science conducted aquatic habitat and fishery surveys in 11 streams in the City of Oakland to identify sensitive resources and factors potentially influencing aquatic resource conditions. Stream reaches were surveyed to evaluate instream and watershed conditions. Aquatic habitat conditions were described including habitat features, substrate, cover, suitability for rearing and migration of fish, presence of aquatic invertebrates, bank conditions, riparian vegetation and surrounding land-use. Fish abundance and distribution was assessed by electrofishing. The presence of sensitive resources and factors potentially influencing aquatic life were described as a first step in determining impacts of stormwater on beneficial uses of local creeks.

Coastal Lagoon Ecological Assessment Project, 2004, for Santa Cruz County Resource Conservation District. HES is teamed with Swanson Hydrology and Geomorphology in a collaborative project with NOAA Fisheries, USGS, The City of Santa Cruz, Santa Cruz County, and the California Coastal Conservancy in a pilot study to assess ecological processes in several lagoons associated with coastal streams in central California. HES is conducting fisheries assessments including development of sampling protocols and description of fish community profiles, species presence and relative abundance. We are also using PIT tag technology to assess growth rates and movement of steelhead using lagoons for rearing. This information will be used together with hydrologic, water quality, plankton, and aquatic invertebrate monitoring data to assess potential limiting factors for steelhead and tidewater goby in these lagoons and as a basis for developing management actions to enhance lagoon habitat.

Branciforte Creek Flood Control Channel Maintenance. 2003-present, for City of Santa Cruz. The City of Santa Cruz maintains the U.S. Army Corps of Engineers Branciforte Creek Flood Control Channel Project. Maintenance requires periodic removal of sediment and associated wetland vegetation from the channel to maintain flood conveyance capacity. Recent collections of tidewater goby in the San Lorenzo River lagoon have raised questions concerning the possibility for tidewater goby to be present in the Branciforte Creek FCC project area. Permitting for the project requires NOAA Fisheries to quantify the amount of take of Central California Coast steelhead that may be present in the flood control channel. HES was contracted

to develop steelhead population estimates and monitor temperature conditions in the FCC. Recent collections of tidewater goby in the San Lorenzo River lagoon have raised questions concerning the possibility for tidewater goby to be present in the Branciforte Creek FCC project area. HES recently completed reconnaissance level surveys to determine whether tidewater goby are likely to be present in the FCC.

Mountain Charlie Gulch Steelhead Monitoring Program, 2003-2005 for the City of Santa Cruz Water Department. The City of Santa Cruz Water Department manages lands adjacent to Mountain Charlie Gulch. In the summer of 2002, the Water Department implemented a steelhead passage improvement project in portions of the Creek on City property. In order to assess the effectiveness of passage improvement projects and to develop better information on the status and limiting factors for steelhead/rainbow trout populations in Mountain Charlie Gulch, the City contracted with HES to develop and implement a steelhead monitoring project for portions of Mountain Charlie Gulch on City property. The purpose of the monitoring program is to: describe habitat conditions in the stream and evaluate potential for supporting steelhead; estimate the abundance of steelhead/rainbow trout of different age classes in the study reach and compare abundance upstream and downstream of the passage improvement project; compare visual methods and electrofishing population assessment for accuracy and cost; and, provide recommendation for a standard monitoring protocol that can be repeated by the City in the future to monitor changes in habitat conditions and steelhead populations.

Gateway Pedestrian Bridge, 2004, for John Gilchrist and Associates (CALTRANS Project). A pedestrian bridge crossing the San Lorenzo River in the vicinity of Gateway Mall is proposed. This reach of the San Lorenzo River is known to support threatened Central California Coastal ESU steelhead/rainbow trout (*Oncorhynchus mykiss*). Recently, endangered tidewater goby (*Eucyclogobius newberryi*) have been collected downstream in the San Lorenzo River lagoon. HES conducted surveys in the vicinity of the proposed bridge to assess the potential for presence of *O. mykiss* and *E. newberryi* and prepared a report documenting findings.

Boulder Creek Seasonal Dam Fish Passage Improvement, 2004-present, for Boulder Creek Recreation and Park District. The Boulder Creek Seasonal Dam, located on the San Lorenzo River in Boulder Creek (Santa Cruz County), was typically installed during the summer months to create a recreational swimming area for the community. Historically, the Boulder Creek Recreation and Park District (District) obtained a Streambed Alteration Permit issued by the California Department of Fish and Game (CDFG) to install and operate the seasonal dam. The most recent permit expired in June 2003. To obtain a new permit the District is required to evaluate fish passage at the project site and potentially improve the dam to provide bi-directional year round passage of juvenile and adult steelhead. HES is working with Fall Creek Engineering, Inc. and John Gilchrist & Associates to assist the District in improving seasonal fish passage at the dam and to obtain the state and federal permits that will be required to operate the dam. As part of this work HES has evaluated habitat conditions within the impoundment area to determine the effect of the impoundment on rearing habitat for juvenile steelhead, and evaluated the existing apron in the center of the dam for passage by adult and juvenile steelhead.

Tucker Road Ford Passage Improvement Project. 2005- . for Santa Cruz County RCD. HES participated in a multidisciplinary team of consultants lead by Fall Creek Engineering to analyze fish passage and prepare plans to restore steelhead passage at an at-grade road crossing of the West Branch Soquel Creek. HES conducted a habitat condition and passage analysis at the crossing to document existing passage conditions and anticipate post-project improvements. HES used an analytical computer program

(FishXing, version 2.1, Six Rivers Watershed Interaction Team, November 1999) to evaluate elements of the crossing.

LLNL Arroyo Mocho Passage Improvement Project, 2002-2003. for University of California, Lawrence Livermore National Laboratory. HES participated in a multidisciplinary team of consultants lead by Fall Creek Engineering to analyze fish passage and prepare plans to restore steelhead passage at an at-grade road crossing of the Arroyo Mocho near Livermore. HES conducted a passage analysis at the crossing to document existing passage conditions and anticipate post-project improvements. HES also developed mitigation and monitoring guidelines for fish passage. HES used an analytical computer program (FishXing, version 2.1, Six Rivers Watershed Interaction Team, November 1999) to evaluate elements of the crossing.

Biological Assessment and Fish Relocation for the Lower Codornices Creek Restoration Project, 2004- . Lower Codornices Creek is a small urbanized watershed tributary to San Francisco Bay in the cities of Berkeley and Albany. HES prepared a Biological Assessment to address project elements for the protection and enhancement of a steelhead/rainbow trout population in the creek. The BA was used by NOAA Fisheries to support issuance of a Biological Opinion allowing project implementation. As part of this work, HES re-located steelhead/rainbow trout from the project area to temporary holding locations in other parts of the stream. HES took samples from a few of these fish and has arranged to have them analyzed at UC-Davis for age, growth rates, and life-history/ancestral origin (sea-run steelhead or non-migratory rainbow trout).

Alameda Creek Steelhead Restoration, 1999 – 2004. Working with the Alameda Creek Fisheries Restoration Workgroup, Hagar Environmental Science teamed with AMS to complete an assessment of the feasibility of restoring a steelhead trout population in the Alameda Creek watershed. The Workgroup includes members representing County flood control and water districts, resource agencies, municipalities, and citizens groups. The assessment documented historical use of the watershed by steelhead, evaluated current habitat conditions and fish populations, and considered existing beneficial uses of the watershed for water supply, flood control, and recreation and potential conflicts between these uses and restoration of steelhead. The assessment provided a set of findings and recommended nine essential actions necessary for steelhead to complete their life cycle in the watershed, five additional restoration actions to increase the likelihood of successful restoration, and seven follow-on technical investigations to reduce technical uncertainties. The assessment met with approval from all members of the Workgroup and the Workgroup is proceeding with implementation of the recommendations. The primary recommendations involve passage improvement at several sites, modification of recreational fisheries management, and evaluation of alternative water delivery scenarios to enhance migration conditions for steelhead while meeting water supply and quality needs.

Hosler Fish Relocation, 2000. Hagar Environmental Science completed fish relocation for steelhead/rainbow trout in Soquel Creek (Santa Cruz County) as part of a streambank stabilization project for a private property owner.

Wilder Ranch State Park Fish Relocation, 2000. Hagar Environmental Science completed fish relocation for steelhead/rainbow trout in Wilder Creek (Santa Cruz County) as part of a dam removal and streambank stabilization project in Wilder Ranch State Park sponsored by California State Parks.

Mill Creek Fish Relocation, 2000. Hagar Environmental Science completed fish relocation for steelhead/rainbow trout in Mill Creek (Pilarcitos watershed, San Mateo County) as part of a dam removal and streambank stabilization project in Burleigh Murray Ranch State Park sponsored by California State Parks. Tissue samples were collected from steelhead/rainbow trout for genetic analyses by the National Marine Fisheries Service.

Arroyo Leon Fish Passage Enhancement Project, 2000-2004. HES participated on a multi-disciplinary team managed by the San Mateo County Resource Conservation District and Pilarcitos Creek Advisory Committee to evaluate fish passage and steelhead rearing issues at two seasonal dams on Arroyo Leon. The team developed preliminary engineering designs and specifications for improvements at these dams; identified potential environmental impacts and permitting conditions associated with the project alternatives; and incorporated mitigation measures and protective provisions developed in consultation with the National Marine Fisheries Service and California Department of Fish and Game. HES conducted site surveys and evaluated design alternatives for their potential effects on steelhead populations in Arroyo Leon.

Salinas River Flood Maintenance Program, 2000. Hagar Environmental Science provided review and assisted with establishment of guidelines for implementation of 2000 River Maintenance Program involving removal of vegetation and sandbars from the Salinas River channel. HES also provided technical assistance to landowners by completing channel marking and mapping and preparation of permit application packages submitted to National Marine Fisheries Service.

Potrero Road Tide Gate Configuration and Performance Study, 2000. As part of the Performance Study conducted by Schaaf & Wheeler Consulting Civil Engineers for MCWRA, HES evaluated fish passage issues at the Potrero Road tide gates, Old Salinas River channel and Salinas River Lagoon. HES provided relevant background information on steelhead migration and recommended measures to enhance existing conditions.

Old Salinas River Channel Dredging, 2001. Hagar Environmental Science was called in to relocate all fish, particularly steelhead/rainbow trout, from the Old Salinas River Channel prior to dredging and subsequent deepening of the channel. The dredging is part of on-going maintenance work conducted by the Monterey County Water Resources Agency, Salinas, California

Apanolio Creek Fish Passage, 2000-2002. As part of a restoration project team, Hagar Environmental Science evaluated conditions in Apanolio Creek for steelhead/rainbow trout including an assessment of instream habitat conditions and presence of structural barriers to steelhead migration at two small diversion dams and a culvert. The restoration project is sponsored by the San Mateo County Resource Conservation District. HES worked with the restoration project engineering contractor to assess biological conditions and develop, screen, and select alternative restoration plans for each passage barrier.

Santa Clara Valley Water District Stream Maintenance Program EIR and Section 7 Consultation, 2000-2002. The Stream Maintenance Program is designed to meet the District's flood protection and water supply mandates. The District is pursuing multi-year environmental permitting to conduct these activities. Hagar Environmental Science developed background information and impact analyses on steelhead and chinook salmon in Santa Clara Valley streams as part of this work. HES also developed a mitigation program and best management practices for the bank protection and repair component of the stream maintenance program. HES was also involved with coordination and consultation on steelhead and chinook salmon with National

Marine Fisheries Service as part of Section 7 Endangered Species Act (ESA) compliance on the multi-year permit for stream maintenance activities.

Long-Term Contingency Water Supply Plan for the Monterey Peninsula, 1999 –2000. The California Public Utilities Commission developed a long-term water supply contingency plan (Plan B) as an alternative to a proposed dam on the Carmel River. As part of the Plan B consultant team, Hagar Environmental Science evaluated the Carmel River steelhead resource and effects of current project operations on Carmel River aquatic resources and worked with the team to develop specific objectives and criteria for evaluating alternative water supply components, identify and analyze potential water supply components, and develop a strategy for meeting water supply needs as an alternative to the proposed dam.

Guadalupe River Fish Ladder and Fish Screen at the Alamitos Drop Structure, 1998. for Santa Clara Valley Water District. HES completed permit acquisition including U.S. Army Corps of Engineers 404 Nationwide Permit pre-construction notification, California Department of Fish and Game streambed alteration agreement, and Regional Water Quality Control Board water quality certification.

Guadalupe River Fish Barrier Removal Project. 1998. for Santa Clara Valley Water District. HES completed permit acquisition including U.S. Army Corps of Engineers 404 Nationwide Permit pre-construction notification, California Department of Fish and Game streambed alteration agreement, and Regional Water Quality Control Board water quality certification, and CEQA categorical exemption.

Hillsdale Bridge Removal Project, 1999-2000. Completed permit acquisition including U.S. Army Corps of Engineers 404 Nationwide Permit pre-construction notification, California Department of Fish and Game streambed alteration agreement, and Regional Water Quality Control Board water quality certification, and CEQA Initial Study/Negative Declaration.

Synthesis and Analysis of Information Collected on the Fishery Resources and Habitat Conditions of the Lower Santa Ynez River, 1996-1998. Hagar Environmental Science worked with Hanson Environmental, Inc. to compile and synthesize hydrology, water quality, habitat, and fishery resource data collected over a four year period in the Santa Ynez River and Santa Ynez River lagoon. The purpose of this work was to summarize a wide range of available data, determine what conclusions could be supported by the information available, and make recommendations for the direction of ongoing studies conducted by the Santa Ynez River Technical Advisory Committee. Hydrologic conditions including precipitation, reservoir storage and elevation, spill, controlled releases, river flows, tributary flows, and breaching of the Santa Ynez River lagoon were described and summarized. Water temperature and dissolved oxygen data were evaluated to characterize seasonal trends and patterns, inter-annual variations, longitudinal gradients, diel fluctuations, analysis of potentially stressful water temperatures, evaluation of potential cold water refuges. The relationship of water quality variables to river flows was also evaluated. Habitat characteristics including depth, substrate, areal extent of habitat type units, riparian vegetation, instream vegetation, substrate, passage barriers, and other habitat features in the mainstem Santa Ynez River and its tributaries were summarized. Fishery resources were characterized in terms of species presence, longitudinal distribution, seasonal distribution and abundance, upstream and downstream migration, and rainbow trout/steelhead stock of origin. Water quality, habitat, and flow conditions were evaluated to determine observable effects on fishery resource condition, identify potentially limiting factors, and recommend appropriate modifications to the long-term study plan.

South Delta Barrier Project, 1995. HES worked with a team of biologists to evaluate monitoring methods for the California Department of Water Resources (CDWR) South Delta Barrier Project. Monitoring data collected by CDWR and CDFG were analyzed to evaluate the relationship between placement of barriers in South Delta channels and direct loss of fish at the Central Valley Project and State Water Project Delta export pumping facilities. Experimental design and study methods were critically reviewed and evaluated. Several years of monitoring data were evaluated to determine potential impact of temporary barriers on fish salvage at the export pumps. Statistical analyses were performed using fish salvage and pumping data during periods with and without barriers in Middle River and Old River. Fish species of particular interest were winter-run chinook salmon, delta smelt, longfin smelt, striped bass, Sacramento splittail, and fall run chinook salmon. Problems with the study plan were identified and recommendations for study modifications were presented.

Sausal Creek Steelhead/Rainbow Trout Studies. 1995-1998. With Hanson Environmental for Kendall-Jackson Winery, Ltd. Conducted field investigation to determine flow requirements, summer habitat conditions, and population inventories for steelhead in this Russian River tributary. Assisted in preparation of testimony for water rights proceeding.

Status of Steelhead Populations in California, 1996. Hagar Environmental Science contributed to a special report for the Association of California Water Agencies (ACWA) describing the status of steelhead populations in California in regards to the Endangered Species Act. The report was submitted on behalf of ACWA to the National Marine Fisheries Service to provide information for their determination as to whether to list steelhead as threatened or endangered under the federal Endangered Species Act.

Sacramento River Basin Chinook Salmon Productivity Model 1985-1988. For the National Marine Fisheries Service Jeff Hagar analyzed population and life history data for chinook salmon and developed input data and assumptions for Sacramento River Basin Chinook Salmon Productivity Model. This project included evaluation of ocean harvest and natural mortality rates; factors influencing upstream migration including passage at dams; factors influencing spawning, hatching and emergence success; factors influencing rearing and migration success. Mr. Hagar worked with a modeler to develop model structure and incorporate existing measured population parameters and relevant environmental variables and developed conceptual relationships between environmental variables and chinook salmon productivity.

Lower Mokelumne River Project FERC Proceeding, 1994. Provided technical support to EBMUD in its proceeding to resolve FERC proposed license modifications to operations of the Mokelumne River Project. Completed critical review of FERC FEIS and comparative analysis of FERC and EBMUD alternatives using analytical tools developed under the direction of Jeff Hagar. Participated in technical meetings with FERC staff at Oak Ridge National Lab to resolve technical issues related to management of river flows and resulting habitat conditions for chinook salmon and steelhead populations in the Lower Mokelumne River

Lower Mokelumne River Management Plan, 1990 - 1994. As a consultant, Jeff Hagar served as project manager for the development of the Lower Mokelumne River Management Plan for EBMUD Updated Water Supply Management Program. He supervised preparation of technical documents including EIS/EIR sections and technical appendices. He contributed to studies evaluating chinook salmon and steelhead in the Mokelumne River, including estimation of spawning escapements, run-timing, factors influencing run size, timing and enumeration of smolt emigration, factors influencing rearing success and smolt emigration, and mortality factors. Mr. Hagar worked with a team of hydrologists, biologists, and engineers to develop and evaluate management strategies for chinook salmon and steelhead in the Lower Mokelumne River,

California using an integrated application of an instream temperature model and reservoir model to a reservoir/tailwater system. Mr. Hagar served as a member of the Mokelumne River Technical Advisory Committee to establish a long term management plan for the Mokelumne River and provided technical information and analysis to negotiations between EBMUD and California Department of Fish and Game to determine management of flows in the Mokelumne River.

Entrainment of Fish at Eastern Sierra Hydroelectric Facilities, 1988. As part of FERC license review, Jeff Hagar developed and implemented special studies and conducted analyses to document the magnitude and significance of entrainment of trout at representative hydroelectric facilities in the Eastern Sierra Nevada.





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October 29, 2021
Project Number 20-09468

Carly Blanchard, Environmental Planner
San Lorenzo Valley Water District
13060 Highway 9
Boulder Creek, California 95006
Via email: cblanchard@slvwd.com

**Subject: Revised Amendment Request No. 1 for the San Lorenzo Valley Water District
Conjunctive Use Plan for the San Lorenzo River Watershed Environmental Review**

Dear Ms. Blanchard:

The purpose of this letter is to request a scope and budget amendment to the December 8, 2020, contract scope of work for the San Lorenzo Valley Water District (SLVWD) Conjunctive Use Plan for the San Lorenzo River Watershed environmental review. This amendment is intended to address additional efforts needed to prepare a Focused EIR for the project in response to public comment letters submitted on the Draft IS-MND.

Additional Scope of Work

Rincon will prepare a Focused EIR for the Conjunctive Use Plan. The Focused EIR will, to the extent practicable, rely on existing environmental documentation and technical studies prepared for the plan. Our scope of work for preparation of the Focused EIR will include the following tasks.

Task 1: EIR Kickoff and Notice of Preparation

Task 1.1: EIR Kickoff Meeting

Rincon will prepare for and participate in a kickoff meeting with District staff, which is assumed to occur via video conference call. This meeting will allow an opportunity to thoroughly discuss potential changes to the project description, scope of environmental evaluation, and approach to addressing community concerns regarding the project that have surfaced to date.

Task 1.2: Initial Study Revisions

This task includes revisions to the existing Initial Study, for attachment to the Notice of Preparation (NOP) to be prepared under Task 1.3. The *Biological Resources* and *Hydrology and Water Quality* sections will be condensed and will refer to the Focused EIR for detailed analysis. Other sections will be bolstered, where appropriate, to address concerns raised during the public comment period for the IS-MND. This scope of work does not include additional field work or updating modeling for air quality, greenhouse gas, noise, or transportation. Rincon assumes up to two rounds of review of the revised Initial Study.



Task 1.3: Notice of Preparation

Rincon will prepare a draft NOP of a Draft EIR for District staff to review. The NOP alerts responsible agencies and the public about the upcoming CEQA document, so they can contribute their input on the scope of the study. The NOP will consist of a one- to two-page notice with a brief project description, a map of the plan area, and instructions for submitting comments. The NOP will also include a statement of project objectives and a general description of anticipated project alternatives and alternative screening criteria, to be developed in consultation with District staff. The Initial Study prepared under Task 1.2 will be attached and circulated with the NOP. Rincon assumes one round of review for the NOP. Rincon also assumes the District will file the NOP and alert applicable responsible agencies and the public.

Task 1.4: Public Scoping Meeting

Rincon staff will prepare for and conduct a public scoping meeting for the project, either virtually or in person, depending on local COVID-19 restrictions in place at the time. Rincon will prepare PowerPoint slides and present at the meeting. It is assumed the District will handle noticing requirements and secure a venue, if held in person. Following the meeting, Rincon will prepare either a list or memorandum summarizing concerns and comments received at the scoping meeting.

Task 2: Project Description

The Project Description will provide a detailed summary of the proposed project including text, tables, and graphics to facilitate a thorough understanding of the proposed CUP scenarios. Based on comments received on the Draft IS-MND and preliminary discussions with District staff, we assume the CUP scenarios may be modified from the description in the IS-MND and/or that other District operational changes (e.g., transfers to Scotts Valley and/or water rights changes) may be incorporated into the project. However, the project will not include any scenarios requiring major physical changes, such as aquifer storage and recovery. This task includes time to coordinate with the District on defining these details, including email correspondence and up to three one-hour meetings, as well as time to address up to two rounds of comments from District staff. For the purposes of this scope of work, we assume that the project description will be stable once accepted by District staff, prior to initiation of the environmental analysis. We also reserve the right to revisit the scope of work presented herein, if the changes to the project description necessitate additional or modified analysis.

Task 3: Modeling Consultation and Peer Review

Rincon understands that Mike Podlech, the District's independent fisheries consultant, will conduct a salmonid model and prepare a technical memorandum to support the Focused EIR ("salmonid tech memo"). It is anticipated that this memorandum will include responses to comments provided on the Draft IS-MND relating to potentially significant impacts to fish and aquatic resources. Mike Podlech's work effort will be conducted under separate contract with the District.

Under this task, Stillwater Sciences will provide input on the modeling approach, model development, and interpretation of the modeling results, and complete a formal peer review of the model results and memorandum, including the responses to comments. This includes the following subtasks.



Task 3.1: Coordination and Input on Modeling Approach

Stillwater will provide coordination and input to help guide the approach and development of a quantitative model to evaluate salmonid impacts. Stillwater will meet with the State Water Resources Control Board (Water Board) to gain an understanding of the Water Board's requirements and informational needs for the model as it pertains to the Water Board's future actions relating to the Conjunctive Use Plan. Stillwater's support may include input on model framework, assumptions, input data requirements and sources, and desired outcomes. Stillwater will provide input to the model's developer, Mike Podlech, that addresses the model's consistency with the requirements and informational needs of the Water Board as understood by Stillwater.

Assumptions:

- Stillwater staff, including one or more senior fisheries biologists and/or quantitative ecologists familiar with quantitative salmonid modeling, will provide up to 24 hours of review and input on the modeling approach and model development.
- The model developed by Mike Podlech and reviewed by Stillwater is a salmonid model and does not include non-salmonid species.
- A Stillwater senior fisheries biologist will participate in up to five 2-hour meetings with Mike Podlech, SLVWD, and/or the Water Board to discuss input regarding modeling approach, model development, and the Water Board's requirements and informational needs for the model.
- Meetings and coordination will occur via email, phone, or video conference.
- The scope and estimated cost for this task assumes Stillwater can gain adequate understanding of the Water Board's requirements and informational needs for the model as it pertains to the Water Board's future actions relating to the Conjunctive Use Plan and provide appropriate input on the modeling approach and development within the level of effort (staff hours) specified above. If additional effort is required, an amendment to this scope and cost estimate will be needed.

Task 3.2: Review Preliminary Results/Analysis

Stillwater will review the preliminary model results and provide input regarding interpretation of the results, including sensitivity of the results to model inputs, parameters, and assumptions.

Assumptions:

- Review will occur approximately half-way through the modeling effort, or as otherwise agreed with Mike Podlech and SLVWD.
- Stillwater staff, including one or more senior fisheries biologists and/or quantitative ecologists, will provide up to 18 hours of technical review and input on preliminary model results and model sensitivity.
- Input will be provided via email, phone, or video conference.

Task 3.3: Formal Peer Review

Stillwater will review the model results and memorandum and provide a technical memorandum summarizing the review. The memo will address model performance and results, including discussion of its potential utility for EIR impact analysis and related decision-making by the CEQA lead agency and



other relevant trustee and responsible agencies (e.g., SLVWD, the Water Board, and the California Department of Fish and Wildlife).

Recommendations for improvement of the model, if any, will be described. The peer review will also consider the responses to comments on the Draft IS-MND relating to potentially significant impacts to fish and aquatic resources.

Assumptions:

- Stillwater will provide a draft memorandum for internal team review (i.e., Mike Podlech, Rincon, and/or SLVWD), and will address comments on the draft memo to produce a final memo.
- Comments on the draft memo will be provided electronically in MS Word “track changes” and consolidated into a single set of comments prior to submittal to Stillwater.
- The draft and final memos will be provided to Rincon electronically in MS Word, in Stillwater’s standard Technical Memorandum format.
- This task includes up to 90 hours of effort by Stillwater staff, including one or more senior fisheries biologists and/or quantitative ecologists.
- Currently there is considerable uncertainty regarding the decision-making process and criteria that will be used by the CEQA lead agency and other relevant trustee and responsible agencies and how each agency will use the salmonid model to support their decision-making. The scope and estimated cost for this task assumes the applicable agency decision-making processes and criteria will be made clear to Stillwater prior to initiation of this task and that the scope and level of effort (staff hours) specified above will be sufficient to complete the task accordingly. If, upon clarification of the applicable decision-making processes and criteria, it becomes apparent that additional effort is required, an amendment to this scope and cost estimate will be needed.
- The scope and estimated cost for this task assumes the model will be used for purposes of an EIR and not for federal approval or permitting (i.e., no federal nexus). It is therefore assumed that no federal agencies will review or use the model for decision-making.
- The level of effort and estimated cost for this task does not include modeling or other quantitative analysis by Stillwater.

Task 3.4: Review of Revisions

Stillwater will review relevant portions of the model, model documentation, and model results to evaluate and verify revisions made in response to Stillwater’s peer review conducted under Task 3.3. Stillwater will also review Mike Podlech’s responses to reviewer comments on the model, model documentation, and model results. Stillwater will coordinate directly with Mike Podlech to provide comments or corrections, as needed.

Assumptions:

- Coordination between Stillwater and Mike Podlech will be via email, phone, or video conference. No documents or other written deliverables will be provided.
- This task includes up to 14 hours of review and coordination by Stillwater staff, including one or more senior fisheries biologists and/or quantitative ecologists.



Task 4: Administrative Draft Focused EIR

The Administrative Draft Focused EIR will include the following key sections.

Executive Summary

The Focused EIR will contain a summary of the proposed Conjunctive Use Plan and associated environmental consequences. This information will be presented in tabular format to simplify review by decision-makers and the public. This section will identify each potential environmental impact, the level of significance of each impact, mitigation measures required and the residual impacts after mitigation. The summary will also note areas of known controversy and an assessment of the alternatives reviewed and their associated impacts. The summary will also include identification of the environmentally superior alternative and the rationale for its selection as such.

Introduction and Environmental Setting

The Introduction will describe the purpose and legal authority of the study, the project objectives, and will provide a discussion of lead, responsible and trustee agencies, if any. The Environmental Setting will provide a general description of the geographic character of the project vicinity at the time of NOP distribution. The setting will be based on existing data sources, including the City's General Plan, LCP, and ordinances, existing and applicable Habitat Conservation Plans, and other relevant environmental documents prepared during recent years, supplemented with information from existing technical studies. Per comments received on the Draft IS-MND, the geographic scope of the study may be broadened, and the larger area will be described in the setting accordingly.

Environmental Impact Analysis

The main body of the Focused EIR will consist of the assessment of potential environmental impacts of the proposed CUP. Based upon the analysis in the Draft IS-MND, the EIR will focus on two technical issue areas: *Biological Resources* and *Hydrology and Water Quality*. If, during the analysis, it is determined that any additional resource areas warrant consideration in a full technical chapter, a scope amendment will be required. Our approach to these two issue areas is described below.

Biological Resources

The Biological Resources section of the Draft IS-MND was based on the Biological Technical Memorandum for the San Lorenzo Valley Water District Conjunctive Use Plan prepared by Rincon Consultants, Inc. (2020) and the Fisheries Resource Considerations for the San Lorenzo River Watershed Conjunctive Use Plan prepared by Mike Podlech, Fisheries Biologist (2019). For the EIR, Rincon will request an updated search of the California Natural Diversity Database (CNDDDB) and perform a field reconnaissance, and update the Biological Technical Memorandum as needed to account for existing conditions at the time the NOP for the Draft EIR is issued. The EIR will utilize this updated report as well as the salmonid tech memo to be prepared by Mike Podlech and peer reviewed by Stillwater, to prepare an EIR section that analyzes impacts to biological resources. The section will include a more robust setting and regulatory setting section and will assess all CEQA Appendix G threshold questions related to biological resources. If the geographic scope for the analysis is expended, this scope of work assumes that there would be no physical impacts to this larger area, such that it can be described in the setting and qualitatively discussed utilizing existing information. Rincon further assumes that the salmonid tech memo will sufficiently address comments provided on the Draft IS-MND, including to downstream fisheries, and that



this information will be summarized in the EIR. This scope of work does not include protocol surveys or a formal jurisdictional delineation.

Hydrology and Water Quality

This section of the EIR will utilize information in the Draft IS-MND, the *Water Availability Assessment for San Lorenzo River Watershed Conjunctive Use Plan* (Exponent 2019), the salmonid tech memo, input from the District's legal counsel regarding water rights changes, and other information from the District and neighboring water agencies. The analysis will describe how implementation of CUP would modify both surface water and groundwater levels within the geographic analysis area, including the potential to decrease downstream flows. The analysis will consider the potential to decrease groundwater supplies, interfere with groundwater recharge, or substantially alter drainage patterns. However, detailed consideration of water rights is not anticipated to be included.

Cumulative Analysis

The Focused EIR will include a cumulative analysis that considers additional cumulative projects, as noted in comment letters received on the Draft IS-MND. This includes: the City of Santa Cruz Water Rights Project, the draft Santa Margarita Groundwater Sustainability Plan, the City of Santa Cruz Operations and Maintenance Habitat Conservation Plan, the Administrative Draft Anadromous Salmonid Habitat Conservation Plan, the City of Santa Cruz Graham Hill Water Treatment Plant Facilities Improvement Project, the City of Santa Cruz Newell Creek Pipeline Rehabilitation Plan, and other ongoing water diversions by the multitude of private diverters in the watershed. It is anticipated that this section will consider all CEQA issue areas.

Alternatives

The Alternatives section will be prepared in accordance with the requirements of the CEQA Guidelines Section 15126.6. The purpose of this section will be to promote informed decision-making and to evaluate a reasonable range of project alternatives, with an emphasis on alternatives capable of reducing significant impacts identified in the environmental analysis. This section will identify the "environmentally superior alternative." If the No Project Alternative is determined to be environmentally superior, the EIR will identify the environmentally superior alternative among the remaining scenarios. Rincon assumes two alternatives will be presented to reduce potential impacts to biological resources and/or hydrology, selected in consultation with District staff and legal counsel.

Other CEQA-Required Sections

Also included in the Focused EIR will be other sections required by CEQA, such as table of contents, references, persons contacted, list of preparers, Appendix F energy analysis, summary of potential growth-inducing, and significant irreversible effects.

Task 5: Draft Focused EIR

After receiving consolidated comments from the District and legal counsel, Rincon will prepare a "Screencheck" Draft EIR showing revisions in track changes. Upon receiving clearance from the District on the Screencheck Draft EIR, Rincon will accept revisions and provide a clean digital (pdf) version of the Draft EIR suitable for posting on the District's website. Rincon will prepare all required notices for the Focused EIR, including the Notice of Completion, and will deliver the NOC to the County Clerk and State



Clearinghouse via the CEQASubmit website. We assume the District will produce any required hard copies, distribute the Draft EIR to the mailing list, and post a notice in the local newspaper.

Task 6: Final Focused EIR

The final stages of the Focused EIR process involve responding to comments, preparing the Administrative Final Focused EIR and Final Focused EIR, and holding public hearings and final editorial tasks. At this point, the CUP and Final Focused EIR will be brought together for final public and decision-maker scrutiny to render official decisions regarding the proposed project. Through this process, final changes and policy decisions concerning the project are made. Our work effort regarding this task is delineated below.

Task 6.1: Response to Comments/Administrative Final Focused EIR

Rincon staff, in coordination with District staff, its consultant, and legal counsel, will respond to public and agency review comments on the Draft EIR in accordance with CEQA Guidelines Section 15088. This scope of work assumes that one lengthy (over 20 pages) and substantive letter will be submitted, and that up to five additional short (under two pages) and non-substantive letters will be submitted, which can be adequately responded to in a maximum of 80 professional staff hours. The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period.

The Final EIR will consist of the body of the Draft EIR, as revised based on comments received, and an additional section including all comments and responses. We assume one round of review by District staff and legal counsel on the Response to Comments and Administrative Final Focused EIR.

Task 6.2: Mitigation Monitoring and Reporting Program (MMRP)

Concurrent with delivery of the Final Focused EIR, and in accordance with Public Resources Code Section 21081.6, Rincon will prepare an MMRP, consistent with CEQA Guidelines requirements. The MMRP will include a table that lists each mitigation measure, the agency responsible for each measure, when monitoring must occur, the frequency of monitoring, and criteria to determine compliance with the condition. For some issues that may depend on the details of future development design, mitigation measures will identify specific performance standards to be achieved, typical approaches to meeting the applicable criteria, and the point in time when documentation must be provided to and approved by the District. Where necessary, the MMRP will include post-construction monitoring to confirm the effectiveness of the proposed measures. The MMRP will include mitigation measures identified in the Focused EIR and its accompanying Initial Study. We assume one round of review of District staff comments on the MMRP.

Task 6.3: Final Focused EIR and Notice of Determination

Rincon will respond to one round of District staff and legal counsel comments on the Administrative Final Focused EIR. Rincon will deliver a digital PDF copy of the Final Focused EIR to the District. Upon certification of the Final EIR and assuming project approval, Rincon will prepare a Notice of Determination (NOD) and will file the NOD with the County Clerk's office and State Clearinghouse. We assume the District will be responsible for payment of the County Clerk and CDFW filing fees.



Task 7: CEQA Findings

Rincon will prepare the CEQA findings for the project in accordance with CEQA Guidelines §15091. The findings will include information related to whether those significant impacts identified in the EIR will be reduced to below a level of significance by mitigation measures identified in the document. If a significant and unavoidable impact is identified in the EIR, it is anticipated that the District will prepare the Statement of Overriding Considerations in consultation with legal counsel. Rincon will provide an administrative draft of the CEQA findings for District and legal review and comment, and then incorporate comments into a final document.

Task 8: Administrative Record

Rincon will maintain the Administrative Record for this project. Rincon will develop a work plan at the outset that instructs internal staff on the way in which the Administrative Record will be developed and maintained. As sources are referenced in each section of the report, they will be logged in an index containing a hyper-linked cross-reference to the individual source files, copies of which are maintained on company servers. These include, for example, guidance documents, websites, correspondence, and technical memoranda. The citations and source files will be audited during our technical review to ensure the record is complete and comprehensive. Upon completion, the index and the source files will be supplied on a thumb drive.

Task 9: Project Management and Coordination

Task 9.1: Project Management

Rincon's Project Manager and her support staff will be responsible for general day-to-day management tasks, including team management, client coordination and communication, and monthly invoicing.

Task 9.2: Meetings and Public Hearings

During EIR preparation, key Rincon staff will attend up to two virtual meetings with staff (two hours in length each). These meetings would be scheduled at the discretion of the District but are anticipated to occur upon receipt of District/legal comments on the Administrative Draft Focused EIR and upon receipt of public comments on the Draft Focused EIR. This is in addition to the kickoff meeting and the three one-hour meetings assumed during preparation of the project description. Rincon's Project Manager and/or Principal-in-Charge will also attend and present the conclusions of the Focused EIR at one virtual District Board meeting.

Assumptions

Rincon assumes the following:

- One round of consolidated comments will be provided on each deliverable
- The Focused EIR will contain two technical chapters (*Biological Resources* and *Hydrology and Water Quality*); any additional technical chapters will require an amendment
- No project disturbance will occur within a stream channel and no permits from CDFW or RWQCB will be required
- The Focused EIR will rely on AB 52 consultation already completed by the District for the IS-MND



- In addition to the no project alternative, two alternatives will be presented to reduce potential impacts to biological resources and/or hydrology
- One lengthy (over 20 pages) and substantive letter will be submitted, and that up to five additional short (under two pages) and non-substantive letters
- The District will be responsible for payment of the County Clerk and CDFW filing fees
- Rincon will not provide hard copies of any deliverables

Estimated Timeline

Rincon has an excellent reputation for adhering to schedules and meeting milestones. Based on our project understanding and the analysis required Rincon proposes to adhere to a schedule that allows for completion of the environmental review process in approximately nine to 12 months depending on the time required to prepare and peer review the salmonid tech memo, timing of our receipt of a complete and stable project description, District review times, and number and complexity of public comments.

1. **Kickoff.** Rincon will schedule a kickoff meeting within one week of notice to proceed.
2. **Project Description.** Rincon will coordinate with the District and prepare a draft Project Description within four weeks of the kickoff meeting (concurrent with IS and NOP).
3. **IS-NOP.** Rincon will submit the revised IS and NOP within four weeks of District acceptance of the Project Description.
4. **Administrative Draft Focused EIR.** Rincon will submit the Administrative Draft EIR within six weeks of end of the 30-day public scoping period, or three weeks after receipt of the salmonid tech memo (revised per peer review comments), whichever is later.
5. **Draft Focused EIR.** The Screencheck Draft Focused EIR will be completed within three weeks of receipt of comments on the Administrative Draft Focused EIR. The Draft Focused EIR will be prepared within two weeks of receipt of comments on the Screencheck Draft Focused EIR.
6. **Final Focused EIR.** The Administrative Draft Final EIR/Responses to Comments will be completed within three to six weeks after receipt of all written comments received during the review period, depending on the number and complexity of public comments received. We will submit the Final EIR/Responses to Comments and MMRP within two weeks of receipt of comments on the draft responses.

Meetings and public hearings will be scheduled as needed during the process.

Cost

The scope of work outlined herein will be completed on a time and materials basis, in accordance with our 2021 fee schedule, not to exceed **\$145,449**. This would increase the total budget for our services from \$77,530 to **\$222,979**. A breakdown of cost by task is provided at the end of this proposal. Costs have been allocated to tasks based upon Rincon's proposed approach. Rincon may re-allocate costs among tasks and/or direct costs as circumstances warrant so long as the adjustments maintain the total price within its authorized amount.



The terms of this amendment request are fully negotiable to meet the needs of SLVWD. Please do not hesitate to contact us if you have questions about this proposal or need additional information.

Sincerely,

Rincon Consultants, Inc.

A handwritten signature in blue ink, appearing to read "Megan Jones".

Megan Jones, MPP
Principal/Project Manager

Phone: 831-920-5424

Email: mjones@rinconconsultants.com

Contact for Clarification

A handwritten signature in blue ink, appearing to read "Jennifer Haddow".

Jennifer Haddow, PhD
Principal Environmental Scientist

Phone: 831-440-3899 x44

Email: jhaddow@rinconconsultants.com

Authorized to contractually obligate and negotiate on behalf of Rincon Consultants, Inc.



Conjunctive Use Plan Focused EIR Cost Estimate

	Rate	Hours	Labor Budget	Direct Expenses	Total Budget
Task 1: EIR Kickoff and Notice of Preparation		75.50	13,449.00	141.00	13,590.00
Task 1.1: EIR Kickoff Meeting		10.00	2,114.00	0.00	2,114.00
<i>Principal II</i>	270.00	2.00	540.00		
<i>Principal I</i>	250.00	2.00	500.00		
<i>Senior Planner I</i>	179.00	6.00	1,074.00		
Task 1.2: Initial Study Revisions		32.00	5,240.00	0.00	5,240.00
<i>Principal II</i>	270.00	2.00	540.00		
<i>Principal I</i>	250.00	4.00	1,000.00		
<i>Senior Planner I</i>	179.00	6.00	1,074.00		
<i>GIS/CADD Specialist II</i>	135.00	2.00	270.00		
<i>Planner II</i>	135.00	16.00	2,160.00		
<i>Production Specialist I</i>	98.00	2.00	196.00		
Task 1.3: Notice of Preparation		18.00	3,106.00	0.00	3,106.00
<i>Principal II</i>	270.00	2.00	540.00		
<i>Principal I</i>	250.00	2.00	500.00		
<i>Senior Planner I</i>	179.00	4.00	716.00		
<i>GIS/CADD Specialist II</i>	135.00	2.00	270.00		
<i>Planner II</i>	135.00	8.00	1,080.00		
Task 1.4: Public Scoping Meeting		15.50	2,989.00	141.00	3,130.00
<i>Principal II</i>	270.00	0.50	135.00		
<i>Principal I</i>	250.00	6.00	1,500.00		
<i>Senior Planner I</i>	179.00	4.00	716.00		
<i>Planner II</i>	135.00	4.00	540.00		
<i>Production Specialist I</i>	98.00	1.00	98.00		
Travel - Mileage				56.00	
Vehicle Day Rate				85.00	
Task 2: Project Description		46.00	8,171.00	0.00	8,171.00
<i>Principal II</i>	270.00	5.00	1,350.00		
<i>Principal I</i>	250.00	8.00	2,000.00		
<i>Senior Planner I</i>	179.00	10.00	1,790.00		
<i>GIS/CADD Specialist II</i>	135.00	5.00	675.00		
<i>Planner II</i>	135.00	16.00	2,160.00		
<i>Production Specialist I</i>	98.00	2.00	196.00		
Task 3: Modeling Consultation and Peer Review		17.00	3,455.00	35,535.00	38,990.00
Task 3.1: Coordination and Input on Modeling Approach		3.00	569.00	7,475.00	8,044.00
<i>Senior Biologist II</i>	195.00	2.00	390.00		
<i>Senior Planner I</i>	179.00	1.00	179.00		
<i>Biology Subconsultant</i>				7,475.00	
Task 3.2: Review Preliminary Results/Analysis		0.00	0.00	4,025.00	4,025.00
<i>Senior Biologist II</i>	195.00	0.00	0.00		



Senior Planner I	179.00	0.00	0.00		
Biology Subconsultant				4,025.00	
Task 3.3: Formal Peer Review		14.00	2,886.00	19,550.00	22,436.00
Principal I	250.00	4.00	1,000.00		
Senior Biologist II	195.00	6.00	1,170.00		
Senior Planner I	179.00	4.00	716.00		
Biology Subconsultant				19,550.00	
Task 3.4: Review of Revisions		0.00	0.00	4,485.00	4,485.00
Senior Biologist II	195.00	0.00	0.00		
Senior Planner I	179.00	0.00	0.00		
Biology Subconsultant				4,485.00	
Task 4: Administrative Draft Focused EIR		191.50	33,208.00	755.00	33,963.00
Executive Summary		6.50	1,104.00	0.00	1,104.00
Principal II	270.00	0.50	135.00		
Principal I	250.00	1.00	250.00		
Senior Planner I	179.00	1.00	179.00		
Planner II	135.00	4.00	540.00		
Introduction and Environmental Setting		14.50	2,191.00	0.00	2,191.00
Principal II	270.00	0.50	135.00		
Principal I	250.00	1.00	250.00		
Senior Planner I	179.00	2.00	358.00		
GIS/CADD Specialist II	135.00	2.00	270.00		
Planner II	135.00	8.00	1,080.00		
Production Specialist I	98.00	1.00	98.00		
Biological Resources		62.00	11,510.00	755.00	12,265.00
Principal II	270.00	7.00	1,890.00		
Principal I	250.00	3.00	750.00		
Senior Biologist II	195.00	9.00	1,755.00		
Senior Biologist I	179.00	10.00	1,790.00		
Biologist IV	164.00	30.00	4,920.00		
GIS/CADD Specialist II	135.00	3.00	405.00		
Record Search				690.00	
Travel - Mileage				65.00	
Vehicle Day Rate				0.00	
Hydrology and Water Quality		29.00	5,250.00	0.00	5,250.00
Principal II	270.00	2.00	540.00		
Principal I	250.00	3.00	750.00		
Senior Planner II	195.00	12.00	2,340.00		
GIS/CADD Specialist II	135.00	2.00	270.00		
Planner II	135.00	10.00	1,350.00		
Cumulative Analysis		20.00	3,532.00	0.00	3,532.00
Principal II	270.00	1.00	270.00		
Principal I	250.00	3.00	750.00		
Senior Planner I	179.00	8.00	1,432.00		
Planner II	135.00	8.00	1,080.00		
Alternatives		36.00	6,474.00	0.00	6,474.00
Principal II	270.00	2.00	540.00		



<i>Principal I</i>	250.00	4.00	1,000.00		
<i>Senior Biologist II</i>	195.00	4.00	780.00		
<i>Senior Planner I</i>	179.00	12.00	2,148.00		
<i>Biologist IV</i>	164.00	4.00	656.00		
<i>Planner II</i>	135.00	10.00	1,350.00		
Other CEQA-Required Sections					
<i>Principal II</i>	270.00	0.50	135.00	0.00	3,147.00
<i>Principal I</i>	250.00	1.00	250.00		
<i>Senior Planner I</i>	179.00	2.00	358.00		
<i>Planner II</i>	135.00	12.00	1,620.00		
<i>Production Specialist I</i>	98.00	8.00	784.00		
Task 5: Draft Focused EIR		58.00	9,533.00	0.00	9,533.00
<i>Principal II</i>	270.00	4.00	1,080.00		
<i>Principal I</i>	250.00	4.00	1,000.00		
<i>Senior Biologist II</i>	195.00	2.00	390.00		
<i>Senior Biologist I</i>	179.00	3.00	537.00		
<i>Senior Planner I</i>	179.00	12.00	2,148.00		
<i>Biologist IV</i>	164.00	5.00	820.00		
<i>GIS/CADD Specialist II</i>	135.00	6.00	810.00		
<i>Planner II</i>	135.00	16.00	2,160.00		
<i>Production Specialist I</i>	98.00	6.00	588.00		
Task 6: Final Focused EIR		92.50	16,449.00	0.00	16,449.00
Task 6.1: Response to Comments/Administrative Final Focused EIR					
<i>Principal II</i>	270.00	10.00	2,700.00	0.00	15,164.00
<i>Principal I</i>	250.00	10.00	2,500.00		
<i>Senior Biologist II</i>	195.00	6.00	1,170.00		
<i>Senior Biologist I</i>	179.00	4.00	716.00		
<i>Senior Planner I</i>	179.00	16.00	2,864.00		
<i>Biologist IV</i>	164.00	8.00	1,312.00		
<i>GIS/CADD Specialist II</i>	135.00	2.00	270.00		
<i>Planner II</i>	135.00	24.00	3,240.00		
<i>Production Specialist I</i>	98.00	4.00	392.00		
Task 6.2: MMRP		8.50	1,285.00	0.00	1,285.00
<i>Principal II</i>	270.00	0.50	135.00		
<i>Principal I</i>	250.00	1.00	250.00		
<i>Planner IV</i>	164.00	1.00	164.00		
<i>Planner II</i>	135.00	4.00	540.00		
<i>Production Specialist I</i>	98.00	2.00	196.00		
Task 7: CEQA Findings		23.00	3,646.00	0.00	3,646.00
<i>Principal II</i>	270.00	1.00	270.00		
<i>Principal I</i>	250.00	2.00	500.00		
<i>Senior Planner I</i>	179.00	4.00	716.00		
<i>Planner II</i>	135.00	16.00	2,160.00		
Task 8: Administrative Record		17.50	2,559.00	0.00	2,559.00



<i>Principal II</i>	270.00	0.50	135.00		
<i>Principal I</i>	250.00	1.00	250.00		
<i>Senior Planner I</i>	179.00	2.00	358.00		
<i>Planner II</i>	135.00	12.00	1,620.00		
<i>Production Specialist I</i>	98.00	2.00	196.00		
Task 9: Project Management and Coordination					
Task 9.1: Project Management		88.00	18,548.00	0.00	18,548.00
<i>Principal II</i>	270.00	8.00	2,160.00	0.00	13,178.00
<i>Principal I</i>	250.00	14.00	3,500.00		
<i>Senior Planner I</i>	179.00	42.00	7,518.00		
Task 9.2: Meetings and Public Hearings		24.00	5,370.00	0.00	5,370.00
<i>Principal II</i>	270.00	4.00	1,080.00		
<i>Principal I</i>	250.00	10.00	2,500.00		
<i>Senior Planner I</i>	179.00	10.00	1,790.00		
Project Total		609	\$109,018	\$36,431	\$145,449

Direct Expenses Summary	Amount
Record Search	\$690
Travel - Mileage	\$121
Vehicle Day Rate	\$85
Stillwater Sciences	\$35,535
Direct Expenses Subtotal	\$36,431

DEPARTMENT OF TRANSPORTATION

CALTRANS DISTRICT 5
 50 HIGUERA STREET
 SAN LUIS OBISPO, CA 93401-5415
 PHONE (805) 549-3101
 FAX (805) 549-3329
 TTY 711
www.dot.ca.gov/dist05/



Making Conservation
 a California Way of Life.

August 26, 2021

SCr/9/6.904
 SCH#2021070572

Carly Blanchard
 Environmental Planner
 San Lorenzo Valley Water District
 13060 Highway 9
 Boulder Creek, CA 95006

Dear Ms. Blanchard:

COMMENTS FOR THE MITIGATED NEGATIVE DECLARATION (MND) FOR THE CONJUNCTIVE
 USE PLAN FOR THE SAN LORENZO RIVER WATERSHED – SANTA CRUZ COUNTY, CA

The California Department of Transportation (Caltrans) appreciates the opportunity to review the MND for the Conjunctive Use Plan for the San Lorenzo River Watershed which includes installation of a pipeline segment under State Route 9. Caltrans offers the following comments in response to the MND:

1. All work in, on, under, over, or affecting State highway right of way is subject to a Caltrans encroachment permit. For more information regarding the encroachment permit process, please visit our Encroachment Permit Website at: <https://dot.ca.gov/caltrans-near-me/district-5/district-5-programs/d5-encroachment-permits>.
2. Depending on the complexity of the project improvements requiring an encroachment permit, Caltrans Oversight may be the more appropriate avenue for project review and approval by Caltrans. The District Permit Engineer has been granted authority by Caltrans to make this decision. Please consult with the District Permit Engineer to determine the most appropriate Caltrans project permitting system.
3. All future work will need to conform to the Caltrans Encroachment Permits Manual, Chapter 600. Additional utility installation requirements, which may apply, are found in Chapter 17 of the Project Development Procedures Manual. Deviations to Caltrans Encroachment Permit Policies may require an exception. This requirement and process will be outlined by the District Permit Engineer in the pre-submittal conference.

Carly Blanchard
August 26, 2021
Page 2

4. All non-operational or vacated pipes shall be removed under ordinary circumstances. However, exceptions can be made regarding abandoned in-place pipes within the State right off way. The District Permit Engineer can grant waivers to this requirement based on an engineering or environmental evaluation. Plans shall conform to the Caltrans Plans Preparation Manual and Encroachment Permit Construction Plan Set outline. Verification will be needed to ensure the abandoned pipeline will not incur future expenses on any highway project.
5. The applicant will need to show all existing facilities and utilities in plan and profile where the scope of work is located.
6. General Basis of Horizontal and Vertical Control - Caltrans datums shall be used and observed for the construction of the proposed improvements. All plans shall be in US feet and follow the datums as follows: • Vertical Basis: NAVD 88 • Horizontal: NAD83 Zone 3 Santa Cruz County, Zone 4 Monterey and San Benito County, and Zone 5 San Luis Obispo and Santa Barbara County. At least two recorded, Caltrans Monuments must be referenced in the surveying basis.
7. All future documents will be subject to additional evaluation and approval at the time of their review. As part of future evaluation, issues involving or impacting the State right-of-way may require additional mitigation due to pertinent issues such as cultural resources, environmental justice, water quality, hydrology, etc.

Thank you for the opportunity to review and comment on the proposed project. If you have any questions, or need further clarification on items discussed above, please contact me at (805) 835-6543 or christopher.bjornstad@dot.ca.gov.

Sincerely,

Christopher Bjornstad

Chris Bjornstad
Associate Transportation Planner
District 5 Development Review



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October 29, 2021
Project Number 20-09468

Carly Blanchard, Environmental Planner
San Lorenzo Valley Water District
13060 Highway 9
Boulder Creek, California 95006
Via email: cblanchard@slvwd.com

**Subject: Revised Amendment Request No. 1 for the San Lorenzo Valley Water District
Conjunctive Use Plan for the San Lorenzo River Watershed Environmental Review**

Dear Ms. Blanchard:

The purpose of this letter is to request a scope and budget amendment to the December 8, 2020, contract scope of work for the San Lorenzo Valley Water District (SLVWD) Conjunctive Use Plan for the San Lorenzo River Watershed environmental review. This amendment is intended to address additional efforts needed to prepare a Focused EIR for the project in response to public comment letters submitted on the Draft IS-MND.

Additional Scope of Work

Rincon will prepare a Focused EIR for the Conjunctive Use Plan. The Focused EIR will, to the extent practicable, rely on existing environmental documentation and technical studies prepared for the plan. Our scope of work for preparation of the Focused EIR will include the following tasks.

Task 1: EIR Kickoff and Notice of Preparation

Task 1.1: EIR Kickoff Meeting

Rincon will prepare for and participate in a kickoff meeting with District staff, which is assumed to occur via video conference call. This meeting will allow an opportunity to thoroughly discuss potential changes to the project description, scope of environmental evaluation, and approach to addressing community concerns regarding the project that have surfaced to date.

Task 1.2: Initial Study Revisions

This task includes revisions to the existing Initial Study, for attachment to the Notice of Preparation (NOP) to be prepared under Task 1.3. The *Biological Resources* and *Hydrology and Water Quality* sections will be condensed and will refer to the Focused EIR for detailed analysis. Other sections will be bolstered, where appropriate, to address concerns raised during the public comment period for the IS-MND. This scope of work does not include additional field work or updating modeling for air quality, greenhouse gas, noise, or transportation. Rincon assumes up to two rounds of review of the revised Initial Study.



Task 1.3: Notice of Preparation

Rincon will prepare a draft NOP of a Draft EIR for District staff to review. The NOP alerts responsible agencies and the public about the upcoming CEQA document, so they can contribute their input on the scope of the study. The NOP will consist of a one- to two-page notice with a brief project description, a map of the plan area, and instructions for submitting comments. The NOP will also include a statement of project objectives and a general description of anticipated project alternatives and alternative screening criteria, to be developed in consultation with District staff. The Initial Study prepared under Task 1.2 will be attached and circulated with the NOP. Rincon assumes one round of review for the NOP. Rincon also assumes the District will file the NOP and alert applicable responsible agencies and the public.

Task 1.4: Public Scoping Meeting

Rincon staff will prepare for and conduct a public scoping meeting for the project, either virtually or in person, depending on local COVID-19 restrictions in place at the time. Rincon will prepare PowerPoint slides and present at the meeting. It is assumed the District will handle noticing requirements and secure a venue, if held in person. Following the meeting, Rincon will prepare either a list or memorandum summarizing concerns and comments received at the scoping meeting.

Task 2: Project Description

The Project Description will provide a detailed summary of the proposed project including text, tables, and graphics to facilitate a thorough understanding of the proposed CUP scenarios. Based on comments received on the Draft IS-MND and preliminary discussions with District staff, we assume the CUP scenarios may be modified from the description in the IS-MND and/or that other District operational changes (e.g., transfers to Scotts Valley and/or water rights changes) may be incorporated into the project. However, the project will not include any scenarios requiring major physical changes, such as aquifer storage and recovery. This task includes time to coordinate with the District on defining these details, including email correspondence and up to three one-hour meetings, as well as time to address up to two rounds of comments from District staff. For the purposes of this scope of work, we assume that the project description will be stable once accepted by District staff, prior to initiation of the environmental analysis. We also reserve the right to revisit the scope of work presented herein, if the changes to the project description necessitate additional or modified analysis.

Task 3: Modeling Consultation and Peer Review

Rincon understands that Mike Podlech, the District's independent fisheries consultant, will conduct a salmonid model and prepare a technical memorandum to support the Focused EIR ("salmonid tech memo"). It is anticipated that this memorandum will include responses to comments provided on the Draft IS-MND relating to potentially significant impacts to fish and aquatic resources. Mike Podlech's work effort will be conducted under separate contract with the District.

Under this task, Stillwater Sciences will provide input on the modeling approach, model development, and interpretation of the modeling results, and complete a formal peer review of the model results and memorandum, including the responses to comments. This includes the following subtasks.



Task 3.1: Coordination and Input on Modeling Approach

Stillwater will provide coordination and input to help guide the approach and development of a quantitative model to evaluate salmonid impacts. Stillwater will meet with the State Water Resources Control Board (Water Board) to gain an understanding of the Water Board's requirements and informational needs for the model as it pertains to the Water Board's future actions relating to the Conjunctive Use Plan. Stillwater's support may include input on model framework, assumptions, input data requirements and sources, and desired outcomes. Stillwater will provide input to the model's developer, Mike Podlech, that addresses the model's consistency with the requirements and informational needs of the Water Board as understood by Stillwater.

Assumptions:

- Stillwater staff, including one or more senior fisheries biologists and/or quantitative ecologists familiar with quantitative salmonid modeling, will provide up to 24 hours of review and input on the modeling approach and model development.
- The model developed by Mike Podlech and reviewed by Stillwater is a salmonid model and does not include non-salmonid species.
- A Stillwater senior fisheries biologist will participate in up to five 2-hour meetings with Mike Podlech, SLVWD, and/or the Water Board to discuss input regarding modeling approach, model development, and the Water Board's requirements and informational needs for the model.
- Meetings and coordination will occur via email, phone, or video conference.
- The scope and estimated cost for this task assumes Stillwater can gain adequate understanding of the Water Board's requirements and informational needs for the model as it pertains to the Water Board's future actions relating to the Conjunctive Use Plan and provide appropriate input on the modeling approach and development within the level of effort (staff hours) specified above. If additional effort is required, an amendment to this scope and cost estimate will be needed.

Task 3.2: Review Preliminary Results/Analysis

Stillwater will review the preliminary model results and provide input regarding interpretation of the results, including sensitivity of the results to model inputs, parameters, and assumptions.

Assumptions:

- Review will occur approximately half-way through the modeling effort, or as otherwise agreed with Mike Podlech and SLVWD.
- Stillwater staff, including one or more senior fisheries biologists and/or quantitative ecologists, will provide up to 18 hours of technical review and input on preliminary model results and model sensitivity.
- Input will be provided via email, phone, or video conference.

Task 3.3: Formal Peer Review

Stillwater will review the model results and memorandum and provide a technical memorandum summarizing the review. The memo will address model performance and results, including discussion of its potential utility for EIR impact analysis and related decision-making by the CEQA lead agency and



other relevant trustee and responsible agencies (e.g., SLVWD, the Water Board, and the California Department of Fish and Wildlife).

Recommendations for improvement of the model, if any, will be described. The peer review will also consider the responses to comments on the Draft IS-MND relating to potentially significant impacts to fish and aquatic resources.

Assumptions:

- Stillwater will provide a draft memorandum for internal team review (i.e., Mike Podlech, Rincon, and/or SLVWD), and will address comments on the draft memo to produce a final memo.
- Comments on the draft memo will be provided electronically in MS Word “track changes” and consolidated into a single set of comments prior to submittal to Stillwater.
- The draft and final memos will be provided to Rincon electronically in MS Word, in Stillwater’s standard Technical Memorandum format.
- This task includes up to 90 hours of effort by Stillwater staff, including one or more senior fisheries biologists and/or quantitative ecologists.
- Currently there is considerable uncertainty regarding the decision-making process and criteria that will be used by the CEQA lead agency and other relevant trustee and responsible agencies and how each agency will use the salmonid model to support their decision-making. The scope and estimated cost for this task assumes the applicable agency decision-making processes and criteria will be made clear to Stillwater prior to initiation of this task and that the scope and level of effort (staff hours) specified above will be sufficient to complete the task accordingly. If, upon clarification of the applicable decision-making processes and criteria, it becomes apparent that additional effort is required, an amendment to this scope and cost estimate will be needed.
- The scope and estimated cost for this task assumes the model will be used for purposes of an EIR and not for federal approval or permitting (i.e., no federal nexus). It is therefore assumed that no federal agencies will review or use the model for decision-making.
- The level of effort and estimated cost for this task does not include modeling or other quantitative analysis by Stillwater.

Task 3.4: Review of Revisions

Stillwater will review relevant portions of the model, model documentation, and model results to evaluate and verify revisions made in response to Stillwater’s peer review conducted under Task 3.3. Stillwater will also review Mike Podlech’s responses to reviewer comments on the model, model documentation, and model results. Stillwater will coordinate directly with Mike Podlech to provide comments or corrections, as needed.

Assumptions:

- Coordination between Stillwater and Mike Podlech will be via email, phone, or video conference. No documents or other written deliverables will be provided.
- This task includes up to 14 hours of review and coordination by Stillwater staff, including one or more senior fisheries biologists and/or quantitative ecologists.



Task 4: Administrative Draft Focused EIR

The Administrative Draft Focused EIR will include the following key sections.

Executive Summary

The Focused EIR will contain a summary of the proposed Conjunctive Use Plan and associated environmental consequences. This information will be presented in tabular format to simplify review by decision-makers and the public. This section will identify each potential environmental impact, the level of significance of each impact, mitigation measures required and the residual impacts after mitigation. The summary will also note areas of known controversy and an assessment of the alternatives reviewed and their associated impacts. The summary will also include identification of the environmentally superior alternative and the rationale for its selection as such.

Introduction and Environmental Setting

The Introduction will describe the purpose and legal authority of the study, the project objectives, and will provide a discussion of lead, responsible and trustee agencies, if any. The Environmental Setting will provide a general description of the geographic character of the project vicinity at the time of NOP distribution. The setting will be based on existing data sources, including the City's General Plan, LCP, and ordinances, existing and applicable Habitat Conservation Plans, and other relevant environmental documents prepared during recent years, supplemented with information from existing technical studies. Per comments received on the Draft IS-MND, the geographic scope of the study may be broadened, and the larger area will be described in the setting accordingly.

Environmental Impact Analysis

The main body of the Focused EIR will consist of the assessment of potential environmental impacts of the proposed CUP. Based upon the analysis in the Draft IS-MND, the EIR will focus on two technical issue areas: *Biological Resources* and *Hydrology and Water Quality*. If, during the analysis, it is determined that any additional resource areas warrant consideration in a full technical chapter, a scope amendment will be required. Our approach to these two issue areas is described below.

Biological Resources

The Biological Resources section of the Draft IS-MND was based on the Biological Technical Memorandum for the San Lorenzo Valley Water District Conjunctive Use Plan prepared by Rincon Consultants, Inc. (2020) and the Fisheries Resource Considerations for the San Lorenzo River Watershed Conjunctive Use Plan prepared by Mike Podlech, Fisheries Biologist (2019). For the EIR, Rincon will request an updated search of the California Natural Diversity Database (CNDDDB) and perform a field reconnaissance, and update the Biological Technical Memorandum as needed to account for existing conditions at the time the NOP for the Draft EIR is issued. The EIR will utilize this updated report as well as the salmonid tech memo to be prepared by Mike Podlech and peer reviewed by Stillwater, to prepare an EIR section that analyzes impacts to biological resources. The section will include a more robust setting and regulatory setting section and will assess all CEQA Appendix G threshold questions related to biological resources. If the geographic scope for the analysis is expended, this scope of work assumes that there would be no physical impacts to this larger area, such that it can be described in the setting and qualitatively discussed utilizing existing information. Rincon further assumes that the salmonid tech memo will sufficiently address comments provided on the Draft IS-MND, including to downstream fisheries, and that



this information will be summarized in the EIR. This scope of work does not include protocol surveys or a formal jurisdictional delineation.

Hydrology and Water Quality

This section of the EIR will utilize information in the Draft IS-MND, the *Water Availability Assessment for San Lorenzo River Watershed Conjunctive Use Plan* (Exponent 2019), the salmonid tech memo, input from the District's legal counsel regarding water rights changes, and other information from the District and neighboring water agencies. The analysis will describe how implementation of CUP would modify both surface water and groundwater levels within the geographic analysis area, including the potential to decrease downstream flows. The analysis will consider the potential to decrease groundwater supplies, interfere with groundwater recharge, or substantially alter drainage patterns. However, detailed consideration of water rights is not anticipated to be included.

Cumulative Analysis

The Focused EIR will include a cumulative analysis that considers additional cumulative projects, as noted in comment letters received on the Draft IS-MND. This includes: the City of Santa Cruz Water Rights Project, the draft Santa Margarita Groundwater Sustainability Plan, the City of Santa Cruz Operations and Maintenance Habitat Conservation Plan, the Administrative Draft Anadromous Salmonid Habitat Conservation Plan, the City of Santa Cruz Graham Hill Water Treatment Plant Facilities Improvement Project, the City of Santa Cruz Newell Creek Pipeline Rehabilitation Plan, and other ongoing water diversions by the multitude of private diverters in the watershed. It is anticipated that this section will consider all CEQA issue areas.

Alternatives

The Alternatives section will be prepared in accordance with the requirements of the CEQA Guidelines Section 15126.6. The purpose of this section will be to promote informed decision-making and to evaluate a reasonable range of project alternatives, with an emphasis on alternatives capable of reducing significant impacts identified in the environmental analysis. This section will identify the "environmentally superior alternative." If the No Project Alternative is determined to be environmentally superior, the EIR will identify the environmentally superior alternative among the remaining scenarios. Rincon assumes two alternatives will be presented to reduce potential impacts to biological resources and/or hydrology, selected in consultation with District staff and legal counsel.

Other CEQA-Required Sections

Also included in the Focused EIR will be other sections required by CEQA, such as table of contents, references, persons contacted, list of preparers, Appendix F energy analysis, summary of potential growth-inducing, and significant irreversible effects.

Task 5: Draft Focused EIR

After receiving consolidated comments from the District and legal counsel, Rincon will prepare a "Screencheck" Draft EIR showing revisions in track changes. Upon receiving clearance from the District on the Screencheck Draft EIR, Rincon will accept revisions and provide a clean digital (pdf) version of the Draft EIR suitable for posting on the District's website. Rincon will prepare all required notices for the Focused EIR, including the Notice of Completion, and will deliver the NOC to the County Clerk and State



Clearinghouse via the CEQASubmit website. We assume the District will produce any required hard copies, distribute the Draft EIR to the mailing list, and post a notice in the local newspaper.

Task 6: Final Focused EIR

The final stages of the Focused EIR process involve responding to comments, preparing the Administrative Final Focused EIR and Final Focused EIR, and holding public hearings and final editorial tasks. At this point, the CUP and Final Focused EIR will be brought together for final public and decision-maker scrutiny to render official decisions regarding the proposed project. Through this process, final changes and policy decisions concerning the project are made. Our work effort regarding this task is delineated below.

Task 6.1: Response to Comments/Administrative Final Focused EIR

Rincon staff, in coordination with District staff, its consultant, and legal counsel, will respond to public and agency review comments on the Draft EIR in accordance with CEQA Guidelines Section 15088. This scope of work assumes that one lengthy (over 20 pages) and substantive letter will be submitted, and that up to five additional short (under two pages) and non-substantive letters will be submitted, which can be adequately responded to in a maximum of 80 professional staff hours. The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period.

The Final EIR will consist of the body of the Draft EIR, as revised based on comments received, and an additional section including all comments and responses. We assume one round of review by District staff and legal counsel on the Response to Comments and Administrative Final Focused EIR.

Task 6.2: Mitigation Monitoring and Reporting Program (MMRP)

Concurrent with delivery of the Final Focused EIR, and in accordance with Public Resources Code Section 21081.6, Rincon will prepare an MMRP, consistent with CEQA Guidelines requirements. The MMRP will include a table that lists each mitigation measure, the agency responsible for each measure, when monitoring must occur, the frequency of monitoring, and criteria to determine compliance with the condition. For some issues that may depend on the details of future development design, mitigation measures will identify specific performance standards to be achieved, typical approaches to meeting the applicable criteria, and the point in time when documentation must be provided to and approved by the District. Where necessary, the MMRP will include post-construction monitoring to confirm the effectiveness of the proposed measures. The MMRP will include mitigation measures identified in the Focused EIR and its accompanying Initial Study. We assume one round of review of District staff comments on the MMRP.

Task 6.3: Final Focused EIR and Notice of Determination

Rincon will respond to one round of District staff and legal counsel comments on the Administrative Final Focused EIR. Rincon will deliver a digital PDF copy of the Final Focused EIR to the District. Upon certification of the Final EIR and assuming project approval, Rincon will prepare a Notice of Determination (NOD) and will file the NOD with the County Clerk's office and State Clearinghouse. We assume the District will be responsible for payment of the County Clerk and CDFW filing fees.



Task 7: CEQA Findings

Rincon will prepare the CEQA findings for the project in accordance with CEQA Guidelines §15091. The findings will include information related to whether those significant impacts identified in the EIR will be reduced to below a level of significance by mitigation measures identified in the document. If a significant and unavoidable impact is identified in the EIR, it is anticipated that the District will prepare the Statement of Overriding Considerations in consultation with legal counsel. Rincon will provide an administrative draft of the CEQA findings for District and legal review and comment, and then incorporate comments into a final document.

Task 8: Administrative Record

Rincon will maintain the Administrative Record for this project. Rincon will develop a work plan at the outset that instructs internal staff on the way in which the Administrative Record will be developed and maintained. As sources are referenced in each section of the report, they will be logged in an index containing a hyper-linked cross-reference to the individual source files, copies of which are maintained on company servers. These include, for example, guidance documents, websites, correspondence, and technical memoranda. The citations and source files will be audited during our technical review to ensure the record is complete and comprehensive. Upon completion, the index and the source files will be supplied on a thumb drive.

Task 9: Project Management and Coordination

Task 9.1: Project Management

Rincon's Project Manager and her support staff will be responsible for general day-to-day management tasks, including team management, client coordination and communication, and monthly invoicing.

Task 9.2: Meetings and Public Hearings

During EIR preparation, key Rincon staff will attend up to two virtual meetings with staff (two hours in length each). These meetings would be scheduled at the discretion of the District but are anticipated to occur upon receipt of District/legal comments on the Administrative Draft Focused EIR and upon receipt of public comments on the Draft Focused EIR. This is in addition to the kickoff meeting and the three one-hour meetings assumed during preparation of the project description. Rincon's Project Manager and/or Principal-in-Charge will also attend and present the conclusions of the Focused EIR at one virtual District Board meeting.

Assumptions

Rincon assumes the following:

- One round of consolidated comments will be provided on each deliverable
- The Focused EIR will contain two technical chapters (*Biological Resources* and *Hydrology and Water Quality*); any additional technical chapters will require an amendment
- No project disturbance will occur within a stream channel and no permits from CDFW or RWQCB will be required
- The Focused EIR will rely on AB 52 consultation already completed by the District for the IS-MND



- In addition to the no project alternative, two alternatives will be presented to reduce potential impacts to biological resources and/or hydrology
- One lengthy (over 20 pages) and substantive letter will be submitted, and that up to five additional short (under two pages) and non-substantive letters
- The District will be responsible for payment of the County Clerk and CDFW filing fees
- Rincon will not provide hard copies of any deliverables

Estimated Timeline

Rincon has an excellent reputation for adhering to schedules and meeting milestones. Based on our project understanding and the analysis required Rincon proposes to adhere to a schedule that allows for completion of the environmental review process in approximately nine to 12 months depending on the time required to prepare and peer review the salmonid tech memo, timing of our receipt of a complete and stable project description, District review times, and number and complexity of public comments.

1. **Kickoff.** Rincon will schedule a kickoff meeting within one week of notice to proceed.
2. **Project Description.** Rincon will coordinate with the District and prepare a draft Project Description within four weeks of the kickoff meeting (concurrent with IS and NOP).
3. **IS-NOP.** Rincon will submit the revised IS and NOP within four weeks of District acceptance of the Project Description.
4. **Administrative Draft Focused EIR.** Rincon will submit the Administrative Draft EIR within six weeks of end of the 30-day public scoping period, or three weeks after receipt of the salmonid tech memo (revised per peer review comments), whichever is later.
5. **Draft Focused EIR.** The Screencheck Draft Focused EIR will be completed within three weeks of receipt of comments on the Administrative Draft Focused EIR. The Draft Focused EIR will be prepared within two weeks of receipt of comments on the Screencheck Draft Focused EIR.
6. **Final Focused EIR.** The Administrative Draft Final EIR/Responses to Comments will be completed within three to six weeks after receipt of all written comments received during the review period, depending on the number and complexity of public comments received. We will submit the Final EIR/Responses to Comments and MMRP within two weeks of receipt of comments on the draft responses.

Meetings and public hearings will be scheduled as needed during the process.

Cost

The scope of work outlined herein will be completed on a time and materials basis, in accordance with our 2021 fee schedule, not to exceed **\$145,449**. This would increase the total budget for our services from \$77,530 to **\$222,979**. A breakdown of cost by task is provided at the end of this proposal. Costs have been allocated to tasks based upon Rincon's proposed approach. Rincon may re-allocate costs among tasks and/or direct costs as circumstances warrant so long as the adjustments maintain the total price within its authorized amount.



The terms of this amendment request are fully negotiable to meet the needs of SLVWD. Please do not hesitate to contact us if you have questions about this proposal or need additional information.

Sincerely,

Rincon Consultants, Inc.

A handwritten signature in blue ink, appearing to read "Megan Jones".

Megan Jones, MPP
Principal/Project Manager

Phone: 831-920-5424

Email: mjones@rinconconsultants.com

Contact for Clarification

A handwritten signature in blue ink, appearing to read "Jennifer Haddow".

Jennifer Haddow, PhD
Principal Environmental Scientist

Phone: 831-440-3899 x44

Email: jhaddow@rinconconsultants.com

Authorized to contractually obligate and negotiate on behalf of Rincon Consultants, Inc.



Conjunctive Use Plan Focused EIR Cost Estimate

	Rate	Hours	Labor Budget	Direct Expenses	Total Budget
Task 1: EIR Kickoff and Notice of Preparation		75.50	13,449.00	141.00	13,590.00
Task 1.1: EIR Kickoff Meeting		10.00	2,114.00	0.00	2,114.00
<i>Principal II</i>	270.00	2.00	540.00		
<i>Principal I</i>	250.00	2.00	500.00		
<i>Senior Planner I</i>	179.00	6.00	1,074.00		
Task 1.2: Initial Study Revisions		32.00	5,240.00	0.00	5,240.00
<i>Principal II</i>	270.00	2.00	540.00		
<i>Principal I</i>	250.00	4.00	1,000.00		
<i>Senior Planner I</i>	179.00	6.00	1,074.00		
<i>GIS/CADD Specialist II</i>	135.00	2.00	270.00		
<i>Planner II</i>	135.00	16.00	2,160.00		
<i>Production Specialist I</i>	98.00	2.00	196.00		
Task 1.3: Notice of Preparation		18.00	3,106.00	0.00	3,106.00
<i>Principal II</i>	270.00	2.00	540.00		
<i>Principal I</i>	250.00	2.00	500.00		
<i>Senior Planner I</i>	179.00	4.00	716.00		
<i>GIS/CADD Specialist II</i>	135.00	2.00	270.00		
<i>Planner II</i>	135.00	8.00	1,080.00		
Task 1.4: Public Scoping Meeting		15.50	2,989.00	141.00	3,130.00
<i>Principal II</i>	270.00	0.50	135.00		
<i>Principal I</i>	250.00	6.00	1,500.00		
<i>Senior Planner I</i>	179.00	4.00	716.00		
<i>Planner II</i>	135.00	4.00	540.00		
<i>Production Specialist I</i>	98.00	1.00	98.00		
Travel - Mileage				56.00	
Vehicle Day Rate				85.00	
Task 2: Project Description		46.00	8,171.00	0.00	8,171.00
<i>Principal II</i>	270.00	5.00	1,350.00		
<i>Principal I</i>	250.00	8.00	2,000.00		
<i>Senior Planner I</i>	179.00	10.00	1,790.00		
<i>GIS/CADD Specialist II</i>	135.00	5.00	675.00		
<i>Planner II</i>	135.00	16.00	2,160.00		
<i>Production Specialist I</i>	98.00	2.00	196.00		
Task 3: Modeling Consultation and Peer Review		17.00	3,455.00	35,535.00	38,990.00
Task 3.1: Coordination and Input on Modeling Approach		3.00	569.00	7,475.00	8,044.00
<i>Senior Biologist II</i>	195.00	2.00	390.00		
<i>Senior Planner I</i>	179.00	1.00	179.00		
<i>Biology Subconsultant</i>				7,475.00	
Task 3.2: Review Preliminary Results/Analysis		0.00	0.00	4,025.00	4,025.00
<i>Senior Biologist II</i>	195.00	0.00	0.00		



Senior Planner I	179.00	0.00	0.00		
Biology Subconsultant				4,025.00	
Task 3.3: Formal Peer Review		14.00	2,886.00	19,550.00	22,436.00
Principal I	250.00	4.00	1,000.00		
Senior Biologist II	195.00	6.00	1,170.00		
Senior Planner I	179.00	4.00	716.00		
Biology Subconsultant				19,550.00	
Task 3.4: Review of Revisions		0.00	0.00	4,485.00	4,485.00
Senior Biologist II	195.00	0.00	0.00		
Senior Planner I	179.00	0.00	0.00		
Biology Subconsultant				4,485.00	
Task 4: Administrative Draft Focused EIR		191.50	33,208.00	755.00	33,963.00
Executive Summary		6.50	1,104.00	0.00	1,104.00
Principal II	270.00	0.50	135.00		
Principal I	250.00	1.00	250.00		
Senior Planner I	179.00	1.00	179.00		
Planner II	135.00	4.00	540.00		
Introduction and Environmental Setting		14.50	2,191.00	0.00	2,191.00
Principal II	270.00	0.50	135.00		
Principal I	250.00	1.00	250.00		
Senior Planner I	179.00	2.00	358.00		
GIS/CADD Specialist II	135.00	2.00	270.00		
Planner II	135.00	8.00	1,080.00		
Production Specialist I	98.00	1.00	98.00		
Biological Resources		62.00	11,510.00	755.00	12,265.00
Principal II	270.00	7.00	1,890.00		
Principal I	250.00	3.00	750.00		
Senior Biologist II	195.00	9.00	1,755.00		
Senior Biologist I	179.00	10.00	1,790.00		
Biologist IV	164.00	30.00	4,920.00		
GIS/CADD Specialist II	135.00	3.00	405.00		
Record Search				690.00	
Travel - Mileage				65.00	
Vehicle Day Rate				0.00	
Hydrology and Water Quality		29.00	5,250.00	0.00	5,250.00
Principal II	270.00	2.00	540.00		
Principal I	250.00	3.00	750.00		
Senior Planner II	195.00	12.00	2,340.00		
GIS/CADD Specialist II	135.00	2.00	270.00		
Planner II	135.00	10.00	1,350.00		
Cumulative Analysis		20.00	3,532.00	0.00	3,532.00
Principal II	270.00	1.00	270.00		
Principal I	250.00	3.00	750.00		
Senior Planner I	179.00	8.00	1,432.00		
Planner II	135.00	8.00	1,080.00		
Alternatives		36.00	6,474.00	0.00	6,474.00
Principal II	270.00	2.00	540.00		



<i>Principal I</i>	250.00	4.00	1,000.00		
<i>Senior Biologist II</i>	195.00	4.00	780.00		
<i>Senior Planner I</i>	179.00	12.00	2,148.00		
<i>Biologist IV</i>	164.00	4.00	656.00		
<i>Planner II</i>	135.00	10.00	1,350.00		
Other CEQA-Required Sections					
<i>Principal II</i>	270.00	0.50	135.00	0.00	3,147.00
<i>Principal I</i>	250.00	1.00	250.00		
<i>Senior Planner I</i>	179.00	2.00	358.00		
<i>Planner II</i>	135.00	12.00	1,620.00		
<i>Production Specialist I</i>	98.00	8.00	784.00		
Task 5: Draft Focused EIR		58.00	9,533.00	0.00	9,533.00
<i>Principal II</i>	270.00	4.00	1,080.00		
<i>Principal I</i>	250.00	4.00	1,000.00		
<i>Senior Biologist II</i>	195.00	2.00	390.00		
<i>Senior Biologist I</i>	179.00	3.00	537.00		
<i>Senior Planner I</i>	179.00	12.00	2,148.00		
<i>Biologist IV</i>	164.00	5.00	820.00		
<i>GIS/CADD Specialist II</i>	135.00	6.00	810.00		
<i>Planner II</i>	135.00	16.00	2,160.00		
<i>Production Specialist I</i>	98.00	6.00	588.00		
Task 6: Final Focused EIR		92.50	16,449.00	0.00	16,449.00
Task 6.1: Response to Comments/Administrative Final Focused EIR					
<i>Principal II</i>	270.00	10.00	2,700.00	0.00	15,164.00
<i>Principal I</i>	250.00	10.00	2,500.00		
<i>Senior Biologist II</i>	195.00	6.00	1,170.00		
<i>Senior Biologist I</i>	179.00	4.00	716.00		
<i>Senior Planner I</i>	179.00	16.00	2,864.00		
<i>Biologist IV</i>	164.00	8.00	1,312.00		
<i>GIS/CADD Specialist II</i>	135.00	2.00	270.00		
<i>Planner II</i>	135.00	24.00	3,240.00		
<i>Production Specialist I</i>	98.00	4.00	392.00		
Task 6.2: MMRP		8.50	1,285.00	0.00	1,285.00
<i>Principal II</i>	270.00	0.50	135.00		
<i>Principal I</i>	250.00	1.00	250.00		
<i>Planner IV</i>	164.00	1.00	164.00		
<i>Planner II</i>	135.00	4.00	540.00		
<i>Production Specialist I</i>	98.00	2.00	196.00		
Task 7: CEQA Findings		23.00	3,646.00	0.00	3,646.00
<i>Principal II</i>	270.00	1.00	270.00		
<i>Principal I</i>	250.00	2.00	500.00		
<i>Senior Planner I</i>	179.00	4.00	716.00		
<i>Planner II</i>	135.00	16.00	2,160.00		
Task 8: Administrative Record		17.50	2,559.00	0.00	2,559.00



<i>Principal II</i>	270.00	0.50	135.00		
<i>Principal I</i>	250.00	1.00	250.00		
<i>Senior Planner I</i>	179.00	2.00	358.00		
<i>Planner II</i>	135.00	12.00	1,620.00		
<i>Production Specialist I</i>	98.00	2.00	196.00		
Task 9: Project Management and Coordination		88.00	18,548.00	0.00	18,548.00
Task 9.1: Project Management		64.00	13,178.00	0.00	13,178.00
<i>Principal II</i>	270.00	8.00	2,160.00		
<i>Principal I</i>	250.00	14.00	3,500.00		
<i>Senior Planner I</i>	179.00	42.00	7,518.00		
Task 9.2: Meetings and Public Hearings		24.00	5,370.00	0.00	5,370.00
<i>Principal II</i>	270.00	4.00	1,080.00		
<i>Principal I</i>	250.00	10.00	2,500.00		
<i>Senior Planner I</i>	179.00	10.00	1,790.00		
Project Total		609	\$109,018	\$36,431	\$145,449

Direct Expenses Summary	Amount
Record Search	\$690
Travel - Mileage	\$121
Vehicle Day Rate	\$85
Stillwater Sciences	\$35,535
Direct Expenses Subtotal	\$36,431

Conjunctive Use Plan for the San Lorenzo River Watershed

Draft IS-MND Public Comments and Suggested Response Matrix

Commenter	Comment/Request	Suggested Response (additional analysis or input needed from others noted in bold)
California Department of Transportation (Caltrans)	Caltrans states that all work in, on, under, over, or affecting State highway right of way would be subject to a Caltrans encroachment permit. Caltrans further states that Caltrans Oversight may be the more appropriate avenue for project review and approval by Caltrans. Caltrans requests that the District Permit Engineer be consulted to determine the most appropriate Caltrans project permitting system.	Although this comment does not pertain to the environmental analysis, this comment is noted and will be passed on to District decision-makers.
	Caltrans states that the project would be required to conform to the Caltrans Encroachment Permits Manual, Chapter 600. Additionally, utility installation requirements would be required to comply with Chapter 17 of the Project Development Procedures Manual	Although this comment does not pertain to the environmental analysis, this comment is noted and will be passed on to District decision-makers.
	Caltrans requires that all non-operational or vacated pipes be removed or obtain a waiver.	Although this comment does not pertain to the environmental analysis, this comment is noted and will be passed on to District decision-makers.
	Caltrans states that all existing facilities and utilities in plan and profile where the scope of work is located shall be listed using Caltrans approved datums.	Although this comment does not pertain to the environmental analysis, this comment is noted and will be passed on to District decision-makers.
	Caltrans states that all future project documents would be subject to additional evaluation and approval at the time of their review.	This comment is noted.
State Water Resources Control Board (SWRCB)	SWRCB states that the project would require a new or amended drinking water supply permit.	This comment is noted.
	SWRCB provides a summary of the proposed project.	This comment is noted.
	SWRCB summarizes the Loch Lomond scenario and states that an application for an amended domestic water supply permit would be required to be submitted to the State Board prior to the addition of a new source or the addition or change in treatment, including design capacity and process.	This comment is noted; a new or amended drinking water supply permit will be sought if required.
	SWRCB requests information on if a water supply permit would be needed from the District and/or other partnering water systems. If a water supply permit would be needed from the District, SWRCB requests that discussion of how the District would obtain a water supply permit	Further investigation is needed prior to response. The District will confirm if permit is necessary and how it will

San Lorenzo Valley Water District
Conjunctive Use Plan for the San Lorenzo River Watershed

Commenter	Comment/Request	Suggested Response (additional analysis or input needed from others noted in bold)
	<p>from the State Water Board, and DDW be included in Table 1 - Summary of Potentially Required Approvals, of the IS-MND.</p> <p>SWRCB requests that when the CEQA review process has ended, documents be forwarded to SWRCB, including the draft and final MND, Mitigation Monitoring and Reporting Plan, Resolution or Board Minutes adopting the MND and MMRP, comment letters received and lead agency responses, and a copy of the stamped Notice of Determination.</p>	<p>proceed prior to approval of the CEQA Analysis” for grant purposes.</p> <p>This comment is noted and copies will be provided as requested.</p>
<p>California Department of Fish and Wildlife (CDFW)</p>	<p>CDFW summarizes the proposed project, existing setting of the project site, and regulatory requirements for the project.</p> <p>CDFW summarizes the proposed modification of the existing Fall Creek Diversion water right and states that the existing SLRBT streamflow bypass obligations are intended to be protective of juvenile Central California Coast steelhead trout rearing in the mainstem San Lorenzo River during critical low flow periods. CDFW states that the proposed project would conflict with the goals of the City of Santa Cruz HCP and states that there is no detailed evaluation included in the IS-MND regarding potential impacts increased diversions would have on existing instream flow or how impacts could affect habitat conditions for salmonids. CDFW recommends that SLVWD does not alter the existing SLRBT bypass flow requirement in order to protect San Lorenzo River flows during dry periods and droughts for rearing juvenile steelhead trout. If SLVWD were to pursue the alteration of the existing SLRBT bypass flow requirement, an in-depth analysis of the potential downstream impacts associated with this change would be required and discussions and coordination with CDFW and NOAA fisheries should occur. CDFW also states that altering existing bypass flows per the project description would present a risk for take of CESA listed species which would require a CESA permit.</p> <p>CDFW states that the proposed project should cite that SLVWD surface water diversions are subject to Fish and Game Code section 1602. CDFW expresses concern that current SLVWD diversion practices, particularly summer and fall diversions during low flows already negatively impact Coho salmon and steelhead trout. Areas of greatest concern are Boulder Creek, mainstem San Lorenzo River, Fall Creek and Clear Creek and provides an explanation of potential significant impacts. CDFW recommends that SLVWD apply for and obtain LSA agreements for</p>	<p>This comment is noted.</p> <p>Although the District maintains that the current bypass requirement does not benefit salmonids or habitat quality in the San Lorenzo River and that the proposed elimination of this requirement would not conflict with the goals of the yet-to-be-finalized Santa Cruz HCP, this comment is noted and will be passed on to District decision-makers.</p> <p>This comment is noted and will be passed on to District decision-makers.</p>

San Lorenzo Valley Water District
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Commenter	Comment/Request	Suggested Response (additional analysis or input needed from others noted in bold)
	<p>operations of all SLVWD’s surface water diversions. CDFW recommends SLVWD initiate discussions with CDFW and NOAA Fisheries regarding diversion compliance, and methodology to develop protective bypass flows considerate of the City of Santa Cruz’s HCP, for anadromous salmonids for all points of diversion with a river, lake, or stream.</p>	
	<p>CDFW expresses concern that operational practices associated with the proposed project would result in increased diversion of streamflow at all SLVWD diversions. Further, CDFW expresses concern that the IS-MND relies on Appendix A and Appendix B, which acknowledge limitations of the analysis and states that the studies would not adequately support findings that the project has less than significant impacts. CDFW states that the limited analysis does not demonstrate a good faith effort to determine whether there is substantial evidence that the proposed project would result in any significant environmental effect. CDFW states there may be potentially significant negative impacts to Coho salmon, steelhead trout and other aquatic life due to operational practices at SLVWD diversions as a result of the proposed project. CDFW recommends implementation of the recommendations for Comment 2.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>CDFW states that the IS-MND fails to adequately assess or address potential downstream impacts from the reduction in the amount of water in the system. CDFW recommends SLVWD conduct a comprehensive assessment of biological resources downstream of the diversions, collect necessary data to determine whether flow reductions would significantly impact these downstream resources, and perform the detailed analysis needed to demonstrate if there is a less than significant impact. Additional mitigation, including minimum flow releases, should be identified.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>CDFW determined that this project would have an impact on fish and/or wildlife, and assessment of filing fees would be necessary pursuant to Fish and Game Code, section 711.4; Public Resources Code, Section 21089.</p>	<p>The comment is noted; the CDFW filing fee will be submitted as required.</p>
<p>City of Santa Cruz</p>	<p>The commenter requests that a full Environmental Impact Report (EIR) be prepared for the proposed project.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>The commenter states that the proposed project is vaguely defined and the impact analysis is inadequate.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>

San Lorenzo Valley Water District
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Commenter	Comment/Request	Suggested Response (additional analysis or input needed from others noted in bold)
	<p>The commenter summarizes the “Fair Argument” standard for EIR preparation and provides a summary of suggested applicable legal cases. The commenter states that the reliance on the WAA and Fisheries Effects Study provided for the proposed project is insufficient and states that the analysis should have used the Confluence model, using daily time-steps.</p>	<p>The comment is noted.</p>
	<p>Based on analysis of outside experts, the commenter concludes that the project is too vaguely defined. The project description lacks both physical and operational terms to allow for meaningful impact analysis. Specifically, the use of the term scenario is confusing and suggests the use of the word “scenarios” imply they are alternatives. City review of the project suggest the proposed project would consist of three components, not alternatives.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>The commenter states that the Loch Lomond Scenario is insufficiently defined. Additionally, the commenter states that the analysis of the Loch Lomond Scenario is based on a potentially antiquated 11-year-old Loch Lomond Reservoir Source Development Study which will be updated next year. The commenter further notes that there is a lack of coordination between the City and the District on the details of the District’s connection to the City’s Newell Creek water line.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>Based on analysis of outside experts, the commenter concludes that the biological resources impact analysis is insufficient. The analysis includes erroneous assumptions that lead to erroneous conclusions and fails to address key issues, and focuses on too limited of a geographic area. Specifically, the commenter states the Loch Lomond Scenario erroneously assumes the availability of “free” water not needed for fishery habitat. This also affects the ability to address potential impacts of the proposed District’s withdrawals of stored water from Loch Lomond Reservoir under its unexercised storage reservation.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>Based on analysis of outside experts, the commenter concludes that the project description lacks detail regarding the timing and amount of proposed new diversions which creates potential for adverse effects on special status aquatic species.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>The commenter states that the geographic scope of analysis is too limited, particularly projects downstream. The commenter states that the proposed project was required to analyze how the proposed changes</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>

San Lorenzo Valley Water District
Conjunctive Use Plan for the San Lorenzo River Watershed

Commenter	Comment/Request	Suggested Response (additional analysis or input needed from others noted in bold)
	<p>to the District’s water rights, and the implementation of those changes, would impact the water supplies available to the City and other water users, and how any such effects on the reliability of those supplies might foreseeably lead to indirect environmental effects.</p>	
	<p>The commenter states that the environmental baselines used in the IS-MND does not accurately reflect the existing conditions in the aquatic environment at the time the document was prepared. The commenter states that the use of the 2019 baseline does not accurately reflect the existing conditions, including bypass flows.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>The commenter states that the proposed project’s Water Availability Analysis and Fisheries Effects Study on which the Loch Lomond Scenario IS-MND analysis relies on are insufficiently detailed to support accurate and meaningful environmental impact analysis, including the need to analyze daily-time step methodology.</p>	<p>The District maintains that the potential effects of the diversion, storage, and withdrawal of the District’s Loch Lomond allotment are the City’s responsibility as the sole operator of the associated water supply infrastructure.</p>
	<p>The commenter opines that the IS-MND and supporting studies make unsupported assumptions, and contain informational omissions, that understate potential environmental impacts. Specifically, the commenter states that the Fisheries Effect Study draws erroneous conclusions about impact significance based on relative changes in diversion percentages of bypass flows. Additionally, the commenter states that the District failed to consider how increased groundwater pumping under the Project might adversely affect aquatic species indirectly and the potential impacts of new diversions at all relevant times of the year. The commenter further states that the IS-MND analysis did not address the special status fish species of concern – the tidewater goby. The commenter suggests the preparation of an EIR, supported by Confluence.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>The commenter opines that the SLRBT Low-Flow Requirements Scenario could result in significant environmental effects. Specifically, the commenter, based on analysis of outside experts, states that the IS-MND analysis did not evaluate the degree of changed flows and the potential of these changes to adversely alter habitat conditions for steelhead and coho. The commenter opines that there are potentially significant adverse effects possible related to the SLRBT Low-Flow Requirements Modification Scenario.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>

San Lorenzo Valley Water District
Conjunctive Use Plan for the San Lorenzo River Watershed

Commenter	Comment/Request	Suggested Response (additional analysis or input needed from others noted in bold)
	<p>The commenter opines that the proposed project is inconsistent with applicable and pending habitat conservation plans and other plans and policies intended to protect biological resources and to avoid or minimize effects on such resources. The commenter opines that the proposed project should have been analyzed for consistency with the City’s OMHCP, which was adopted in January 2021. Further, the commenter suggests the preparation of an EIR and suggests that if the draft City of Santa Cruz Anadromous Species Habitat Conservation Plan (ASHCP) is in effect, the Draft EIR should also address any inconsistencies with the HCP as well.</p> <p>Additionally, the commenter opines that the IS-MND analysis did not address consistency with the following regulatory plans and policies:</p> <ul style="list-style-type: none"> ▪ The Federal Central California Coastal Coho Recovery Plan Action Step 4.1.1.6 ▪ Policy 5.6.1 of the Conservation and Open Space Element of the County of Santa Cruz General Plan ▪ The July 2021 draft Santa Margarita Groundwater Sustainability Plan 	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>The commenter opines that the IS-MND analysis of cumulative impacts is deficient and does not meet legal standards, in particular it fails to account for flows proposed under the City’s Water Rights Project. Additionally, the commenter states that the IS-MND analysis should have considered existing and probable future projects including, but not necessarily limited to, the City of Santa Cruz Water Rights Project, the draft Santa Margarita Groundwater Sustainability Plan, the City of Santa Cruz Operations and Maintenance Habitat Conservation Plan, the Administrative Draft Anadromous Salmonid Habitat Conservation Plan, the City of Santa Cruz Graham Hill Water Treatment Plant Facilities Improvement Project, the City of Santa Cruz Newell Creek Pipeline Rehabilitation Plan, and other ongoing water diversions by the multitude of private diverters in the watershed.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
	<p>The commenter opines that the IS-MND fails to address a reasonably foreseeable consequence of the proposed project, which would force the City to seek supplemental water supplies. The commenter cites CEQA Guidelines Section 15384 and expresses concern that the IS-MND failed to consider whether indirect effects may result from reasonably</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>

San Lorenzo Valley Water District
Conjunctive Use Plan for the San Lorenzo River Watershed

Commenter	Comment/Request	Suggested Response (additional analysis or input needed from others noted in bold)
	<p>foreseeable actions the City might need to take if the proposed project should result in reduced water supplies available to the City.</p> <p>The commenter opines that the IS-MND does not disclose or analyze possible limitations imposed on existing water system operations by terms in the District’s water rights or the possible impacts of those terms on the District’s ability to implement the proposed project. Specifically, the commenter opines that the IS-MND is “defective” because the District does not address these issues directly or explain how likely it is that SWRCB will approve the District’s water right change petitions or what impact a denial of those petitions would have on the proposed project.</p>	<p>This comment is noted and will be passed on to District decision-makers.</p>
<p>National Oceanic and Atmospheric Administration</p>	<p>The commenter summarizes the purpose of the plan and expresses support for the SLVWD and the County of Santa Cruz’s proactive approach to improving water supply reliability and instream habitat conditions for salmonids in the San Lorenzo River basin, and remain committed to assisting with the development of the plan.</p> <p>The commenter states that the San Lorenzo River watershed supports federally endangered Central California Coast (CCC) Environmentally Significant Unit (ESU) coho salmon (<i>Oncorhynchus kisutch</i>) and threatened CCC Distinct Population Segment (DPS) steelhead (<i>O. mykiss</i>). The commenter further states that the implementation of water diversions are a major threat to population recovery. The commenter summarizes the provisions and regulations of “Incidental take.” The commenter recommends that the SLVWD thoroughly analyze the effects of the proposed plan on listed salmonids and their habitat and obtain appropriate coverage under the ESA and the Magnuson-Stevens Fishery Conservation and Management Act for existing and future water operations.</p> <p>The commenter states that climate change is a threat to CCC coho salmon and CCC steelhead and explains the potential long-term effects of climate change and potential direct and indirect effects of the proposed project. The commenter suggests that the plan incorporate an adaptive management approach that includes:</p> <ul style="list-style-type: none"> ▪ Adequate monitoring of climate and biological variables; 	<p>This comment is noted.</p> <p>This comment is noted and will be passed on to District decision-makers.</p> <p>This comment is noted and will be passed on to District decision-makers.</p>

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Commenter	Comment/Request	Suggested Response (additional analysis or input needed from others noted in bold)
	<ul style="list-style-type: none"> ▪ Identification of appropriate triggers related to those variables; and ▪ Identification of protective measures that can be implemented without reinitiating when triggers are reached or, alternatively, identification of triggers that inform the decision to reinitiate. 	