



# moulton niguel water district

**ENGINEERING & OPERATIONS  
BOARD OF DIRECTORS' MEETING  
MOULTON NIGUEL WATER DISTRICT**

**27500 La Paz Road, Laguna Niguel**

**July 17, 2017**

**8:30 AM**

**Approximate Meeting Time: 3 Hours**

1. CALL MEETING TO ORDER
2. APPROVE THE MINUTES OF THE JUNE 12, 2017 ENGINEERING AND OPERATIONS BOARD OF DIRECTORS' MEETING

3. PUBLIC COMMENTS

*Persons wishing to address the Board of Directors on matters not listed on the Agenda may do so at this time. "Request To Be Heard" forms are available at the entrance to the Board Room. Comments are limited to five minutes unless further time is granted by the Presiding Officer. Submit form to the Recording Secretary prior to the beginning of the meeting.*

*Those wishing to address the Board of Directors on any item listed on the Agenda should submit a "Request To Be Heard" form to the Recording Secretary before the Presiding Officer announces that agenda item. Your name will be called to speak at that time.*

## **DISCUSSION ITEMS**

4. Adoption of Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project
5. Fiscal Year 2017-18 Meter Maintenance and Replacement Program Meter Purchase
6. Request for Approval to Join the Orange County 800MHz Radio System

## **INFORMATION ITEMS**

7. Cedar Brook Line Break Update
8. Operations Center Consolidation Improvement Project Update
9. Future Agenda Items (Any items added under this section are for discussion at future meetings only)

10. Late Items (Appropriate Findings to be Made)
  - a. Need to take immediate action; and
  - b. Need for action came to District's attention after Agenda Posting. [Requires 2/3 vote (5 members) or unanimous vote if less than 2/3 are present]

### **CLOSED SESSION**

#### 11. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9

Claimants - MARK & CANDICE HARGAN

#### 12. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Government Code Section 54956.9)

Name of case: SOCWA, City of Laguna Beach, South Coast Water District and Emerald Bay Service District v. Moulton Niguel Water District

Case number 30-2017-00923143-CU-BC-CJC

### **ADJOURNMENT**

The Board of Directors' Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary's office at (949) 831-2500 at least forty-eight (48) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least forty-eight (48) hours prior to the scheduled meeting.

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA ("District Office"). If such writings are distributed to members of the Board less than seventy-two (72) hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed except that, if such writings are distributed immediately prior to, or during the meeting, they will be available in the Board meeting room and on the District website at [www.mnwd.com](http://www.mnwd.com).



# moulton niguel water district

DRAFT

## MINUTES OF THE REGULAR MEETING OF THE ENGINEERING & OPERATIONS BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT

June 12, 2017

A Regular Meeting of the Engineering & Operations Board of Directors of the Moulton Niguel Water District was held at the District offices, 27500 La Paz Road, Laguna Niguel, California, at 8:30 AM on June 12, 2017. There were present and participating:

**DIRECTORS**

Duane Cave	Director
Scott Colton	Vice President/Chair
Richard Fiore	Director
Donald Froelich	President
Gary Kurtz	Director (via teleconference)
Larry Lizotte	Director
Brian Probolsky	Vice President (arrived at 9:05 a.m.)

Also present and participating were:

**STAFF MEMBERS, LEGAL COUNSEL, AND MEMBERS OF THE PUBLIC**

Joone Lopez	General Manager
Matt Collings	Assistant General Manager
Gina Hillary	Director of Human Resources
Drew Atwater	Director of Planning
Jake Vollebregt	Director of Regional & Legal Affairs
Jeff Ferre	Best, Best, & Krieger (General Counsel)
Paige Gulck	Board Secretary
Tim Bonita	Recording Secretary
Trevor Agrelius	MNWD
Dori Dennis	MNWD
Todd Dmytryshyn	MNWD
David Larsen	MNWD
Steve Merk	MNWD
Todd Novacek	MNWD

## #2.

Medha Patel	MNWD
Alex Thomas	MNWD
Rod Woods	MNWD
Frank Benchanan	AVI SPL
Stephen Wisner	AVI SPL
Jeffrey Dunn	Best, Best, & Krieger
Doug Chotkevys	Chotkevys Consulting
Roger Faubel	Faubel Public Affairs
Glen Allen	Newport Real Estate Services
Jose Solorio	Nossaman, LLP
Heather Shreve	Ware Malcomb

### 1. CALL MEETING TO ORDER

*The meeting was called to order by Scott Colton at 8:30 a.m.*

### 2. APPROVE THE MINUTES OF THE MAY 15, 2017 ENGINEERING AND OPERATIONS BOARD OF DIRECTORS' MEETING

*MOTION DULY MADE BY RICHARD FIORE AND SECONDED BY DUANE CAVE, MINUTES OF THE MAY 15, 2017 ENGINEERING AND OPERATIONS BOARD OF DIRECTORS' MEETING WERE APPROVED AS PRESENTED. A ROLL CALL VOTE WAS TAKEN AND THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, AND LARRY LIZOTTE ALL VOTING 'AYE'. DIRECTOR BRIAN PROBOLSKY WAS ABSENT.*

### 3. PUBLIC COMMENTS

*None.*

## **PRESENTATION**

### 4. Audio-Visual Board Room Design Plan

*Stephen Wisner from AVI/SPL provided a brief presentation on the proposed Audio-Visual elements in the Board Room for the proposed Operations Center. Key topics covered included team introductions and design concepts.*

*Brian Probolsky arrived at 9:05 a.m.*

## **ACTION ITEMS**

### 5. Long-term Efficiency Framework Policy Principles and Legislative Positions

*Joone Lopez provided a presentation on the Long-term Efficiency Framework Policy*



*Principles and Legislative Positions. Key topics covered included policy principles, bill comparisons and status. Discussion ensued regarding the framework and the various bills.*

**CLOSED SESSION**

**18. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

(Paragraph (1) of subdivision (d) of Government Code Section 54956.9)

Name of case: SOCWA, City of Laguna Beach, South Coast Water District and Emerald Bay Service District v. Moulton Niguel Water District

Case number 30-2017-00923143-CU-BC-CJC

*This item was take after item 5. The Board entered closed session at 10:17 a.m. and exited at 12:01 p.m. Jeff Ferre stated that there was no reportable action.*

**CLOSED SESSION**

**16. CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code Section 54957.6

Agency designated representative: Board President Donald Froelich

Unrepresented employee: General Manager

*This item was taken next on the agenda. The Board met closed session under labor negotiations regarding the General Manager at 12:02 p.m. and exited at 12:13 p.m. Jeff Ferre stated that there was no reportable action.*

**RETURN TO OPEN SESSION**

**17. CONSIDERATION AND POSSIBLE ACTION TO APPROVE AMENDMENT TO THE GENERAL MANAGER'S CONTRACT**

It is recommended that the Board of Directors consider, and possibly take action to approve, Amendment No. 6 to the Employment Contract for Services as General Manager of the Moulton Niguel Water District.

*President Froelich called upon legal counsel to make the required report to summarize the recommendations for possible action on the compensation and benefits of the General Manager under the proposed changes to the employment agreement. Jeff Ferre provided the following summary:*

- 1) *It is proposed that the Board approve Amendment No. 6 to the General Manager Employment Agreement;*
- 2) *The General Manager's salary would be increased based on the CPI adjustment of 2.7% resulting in a revised annual salary of \$282,322, to be effective June 24, 2017;*

## #2.

- 3) *The annual salary would be subject to an adjustment based on the CPI beginning in July of 2018, 2019, and 2020, however, the minimum increase would be no less than 2%;*
- 4) *The General Manager would receive a \$10,000 bonus and the Board would likewise review the General Manager's accomplishments and may consider bonus amounts by December 31<sup>st</sup> of 2017, 2018, 2019, and 2020; and*
- 5) *The term of the agreement shall remain in effect through June 30, 2021.*

*A MOTION WAS MADE BY LARRY LIZOTTE AND SECONDED BY RICHARD FIORE, TO APPROVE AMENDMENT NO. 6 TO EMPLOYMENT CONTRACT FOR SERVICES AS GENERAL MANAGER OF MOULTON NIGUEL WATER DISTRICT ALONG WITH THE REVISION TO REPLACE THE TERM "INCREASE" WITH "ADJUST" IN REGARD TO THE CPI CALCULATION AS REFERENCED IN RECITAL A AND SECTION 2 OF THE AMENDMENT. A ROLL CALL VOTE WAS TAKEN AND THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, LARRY LIZOTTE, AND BRIAN PROBOLSKY ALL VOTING 'AYE'.*

### **DISCUSSION ITEMS**

#### **6. Fiscal Year 2017-18 Proposed Budget**

*Matt Collings provided information on the item. Staff recommends that the Board of Directors approve the resolution entitled, "Approving a Budget Appropriation and Adopting the Operating Budget and Capital Improvement Program Budget for Fiscal Year 2017-18". Discussion ensued regarding the proposed budget.*

#### **7. Reimbursement Agreement with Joint Regional Water Supply System for Vault Abandonments**

*Matt Collings provided details on the agreement. Staff recommends that the Board of Directors approve the Reimbursement Agreement with JRWSS and authorize the General Manager or Assistant General Manager to execute the Agreement. Discussion ensued regarding the agreement.*

#### **8. Professional Services Agreement for Regional Lift Station Force Main Replacement**

*Matt Collings provided information on the item. Staff recommends that the Board of Directors approve the Professional Services Agreement with Tetra Tech, Inc. in an amount of \$655,000; authorize the General Manager or Assistant General Manager to execute the agreement; and to approve amendments up to 10% of the contract value. Discussion ensued regarding the scope of work.*

**9. Construction Contract Award for Upper Salada Lift Station Electrical Switchgear Replacement**

*Matt Collings provided details on the item. Staff recommends that the Board of Directors award the construction services contract to Southern Contracting Company in the amount of \$476,000; authorize the General Manager or Assistant General Manager to execute the contract; and to approve change orders up to 10% of the contract.*

**10. Del Avion Lift Station Auxiliary Generator Replacement Construction Contract Adjustment**

*Matt Collings provided information on the item. Staff recommends that the Board of Directors increase the construction contract for Pacific Hydrotech Corporation by \$141,886 for a total contract amount of \$583,786; and authorize the General Manager or Assistant General Manager to execute the contract change order. Discussion ensued regarding the details of the change order.*

**11. On-Call Construction Management and Inspection Support Services**

*Matt Collings provided information on the contracts. Staff recommends that the Board of Directors authorize the General Manager or Assistant General Manager to execute one-year Construction Management and Inspection Support Services Agreements with Krieger & Stewart, Inc. and Vali Cooper & Associates, Inc. for total not-to-exceed agreement amounts of \$350,000 each, with the option to renew for two additional one-year, \$200,000 extensions.*

**12. Pump Refurbishment Service Agreements**

*Matt Collings provided details on the item. Staff recommends that the Board of Directors approve and authorize the General Manager or Assistant General Manager to execute the following agreement documents:*

- 1) Pump Refurbishment Services Agreement with Evans Hydro, Inc. for a not-to-exceed amount of \$125,000 for FY 2017-18, a not-to-exceed amount of \$125,000 for FY 2018-19, and a not-to-exceed amount of \$125,000 for FY 2019-20 for a total three-year agreement amount of \$375,000.*
- 2) Pump Refurbishment Services Agreement with Weber Water Resources for a not-to-exceed amount of \$65,000 for FY 2017-18, a not-to-exceed amount of \$65,000 for FY 2018-19, and a not-to-exceed amount of \$65,000 for FY 2019-20 for a total three-year agreement amount of \$195,000.*

*Scott Colton left at 12:30 p.m.*

**INFORMATION ITEMS**

13. Cedarbrook Line Break Update

*This item will be brought back at a future meeting.*

14. Future Agenda Items (Any items added under this section are for discussion at future meetings only)

*None.*

15. Late Items (Appropriate Findings to be Made)

*None.*

**ADJOURNMENT**

*The meeting was adjourned at 12:37 p.m.*

Respectfully submitted,

Tim Bonita  
Recording Secretary



# moulton niguel water district

## STAFF REPORT

**TO:** Board of Directors **MEETING DATE:** July 17, 2017

**FROM:** Rod Woods, Assistant Director of Engineering  
David Larsen, Principal Engineer

**SUBJECT:** Adoption of Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

**DIVISION:** District-wide

### SUMMARY:

Issue: Staff has finalized the Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project, Project 2016.001

Recommendation: It is recommended that the Board of Directors approve the resolution entitled, “Approving the Mitigated Negative Declaration and the Mitigation, Monitoring, and Reporting Program for the ETM Pipeline Removal in San Juan Creek Projects (MNWD Project 2016.001).”

Fiscal Impact: Project 2016.001 has a project budget of \$250,000. SMWD, as co-owner of the facility, will reimburse 50 percent of the project costs.

Reviewed by Legal: Yes

### BACKGROUND:

Plant 3A provides wastewater treatment to Moulton Niguel Water District (MNWD) and Santa Margarita Water District (SMWD) service areas. A portion of the treated effluent is supplied to MNWD and SMWD to meet recycled water demands. The portion of treated effluent that is not used as recycled water is discharged to a land outfall pipeline, the Plant 3A Effluent Transmission Main (ETM). The last reach of the ETM is located along the west bank of San Juan Creek, approximately 1,000 feet downstream of the confluence of Trabuco and San Juan Creeks. The terminus of this last reach of the ETM crosses underneath San Juan Creek and connects to the Chiquita Land Outfall. MNWD and SMWD are co-owners of the ETM, and by

## #4.

### Adoption of Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

July 17, 2017

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agreement, MNWD is responsible for operation of the pipeline. Costs for this facility are allocated 50 percent to MNWD and 50 percent to SMWD.

In October 2016, MNWD completed a project to micro-tunnel a new pipe casing and replacement pipe under San Juan Creek, Project 2009.115. As a condition of obtaining a permit for the project, Orange County Public Works required that the existing pipeline be removed from the creek-bed after the new pipeline was installed.

In January 2017, MNWD executed an agreement for consulting services with Dudek & Associates, Inc. to provide environmental services associated with the ETM Pipeline Removal in San Juan Creek Project, Project 2016.001. The scope of work includes project management, preparation of an Initial Study, preparation of a Mitigated Negative Declaration, completion of formal regulatory permit applications, and regulatory agency coordination for jurisdictional waters.

#### **DISCUSSION:**

In accordance with the California Environmental Quality Act (CEQA) guidelines, the notice of intent to adopt the Initial Study/Mitigated Negative Declaration (MND) for the ETM Pipeline Removal in San Juan Creek Project, Project 2016.001 was published in the Orange County Register on May 10, 2017, for a thirty (30) day public review period. The MND was sent to the State Clearinghouse on May 9, 2017 for processing.

The public review period ended on June 8, 2017, and comments were received from:

- The State Clearinghouse (one comment letter from the Native American Heritage Commission)
- The Native American Heritage Commission (duplicate letter sent to the State Clearinghouse)
- Orange County Public Works

The response to the comments from these entities are included in the Final MND provided as an attachment to this staff report. The key findings from the MND include:

- No findings of potential significance were found as a result of the proposed project.
- The proposed project would have less than significant impacts or no impacts on the following areas: aesthetics, agriculture and forestry resources, air quality, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, and utilities and service systems.
- The mitigation measures include:

Adoption of Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project  
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- MM-BIO-1 – Obtain and comply with applicable permits from the U.S. Army Corps of Engineers, Regional Water Quality Control Board, and Department of Fish and Wildlife

SUMMARY OF PROJECT BUDGET:

	<b>Project Budget</b>	<b>Proposed / Approved Contract</b>	<b>Proposed / Authorized Contingency</b>	<b>Total Proposed / Authorized Amount</b>
<b>Project Items</b>				
Environmental Consultant*	\$60,000	\$60,000	\$0	\$60,000
CEQA Compliance*	\$35,000	\$35,000	\$0	\$35,000
Construction	\$125,000	\$125,000	\$0	\$125,000
Inspection / Permits / Other*	\$30,000	\$30,000	\$0	\$30,000
<b>Totals</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$0</b>	<b>\$250,000</b>

\*\$26,392 has been expended to date.

\*\*Santa Margarita Water District owns 50% of the capacity of the 30-inch ETM. Cost reimbursement for this project will occur accordingly.

Attachments:

1. Resolution entitled, "Approving the Mitigated Negative Declaration and the Mitigation, Monitoring, and Reporting Program for the ETM Pipeline Removal in San Juan Creek Projects (MNWD Project 2016.001)."
2. Final Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project





**RESOLUTION NO. 17-\_\_\_\_**

**RESOLUTION OF THE BOARD OF DIRECTORS OF  
MOULTON NIGUEL WATER DISTRICT  
APPROVING THE MITIGATED NEGATIVE DECLARATION AND THE  
MITIGATION, MONITORING, AND REPORTING PROGRAM FOR  
THE ETM PIPELINE REMOVAL IN SAN JUAN CREEK PROJECT  
(MNWD PROJECT 2016.001)**

**WHEREAS**, the Moulton Niguel Water District (“District”) has recently completed the Plant 3A Effluent Transmission Main Replacement (“ETM”) Project near the San Juan Creek confluence with Trabuco Creek to replace an exposed reach of the ETM;

**WHEREAS**, as a condition of permit approval for the Plant 3A Effluent Transmission Main Replacement Project, the County of Orange required the removal of the abandoned pipe within the limits of the San Juan Creek channel;

**WHEREAS**, the District has proposed to complete the ETM Pipeline Removal in San Juan Creek Project as further described in this Resolution (“Project”);

**WHEREAS**, in order to remove the abandoned ETM pipeline within the limits of the San Juan Creek, it is necessary to enter the channel, which requires new environmental documents to be completed;

**WHEREAS**, the Project is more particularly described in the Mitigated Negative Declaration prepared for the Project, entitled “Final Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project” dated June 2017 (“Final MND”), which is on-file at the District’s Administrative Office and available on request;

**WHEREAS**, the Final MND is incorporated in this Resolution by this reference;

**WHEREAS**, the District, acting as lead agency as defined in Section 21067 of the Public Resources Code, undertook the preparation of an “Initial Study” and draft mitigated negative declaration (“IS/MND”) for the Project;

**WHEREAS**, the District circulated the draft IS/MND, by way of a Notice of Intent to Adopt Mitigated Negative Declaration (“NOI”), for an extended public review period commencing on May 9, 2017, through and including June 8, 2017, in compliance with the California Environmental Quality Act (CEQA) and related regulations as set forth in Section 15105 of Title 14 of the California Code of Regulations (“CEQA Guidelines”);

**WHEREAS**, the draft IS/MND and NOI for the Project were circulated both to the public and affected governmental agencies for review and comment, and all comments have been received and considered;

## #4.

**WHEREAS**, the District published the NOI in *The Orange County Register* on May 10, 2017;

**WHEREAS**, the Project, as set forth and described in the Final MND, includes those “Mitigation Measures” necessary to ensure the identified potentially significant environmental effects of the Project remain at less than significant levels (“Mitigation Measures”);

**WHEREAS**, the Final MND includes a Mitigation Monitoring and Reporting Program (“MMRP”), which is set forth in Section 4.0 of the Final MND;

**WHEREAS**, the District has determined based on the Initial Study, which is incorporated within the Final MND, that the potentially significant impacts resulting from the construction and operation of the Project will be reduced to a level below significance because of the Mitigation Measures that have been incorporated into the Project, and based thereon, the District has prepared the Final MND in accordance with the requirements of the CEQA;

**WHEREAS**, the District’s Board of Directors (“Board”) has determined that the Final MND, along with the MMRP, are adequate, complete, and have been prepared in accordance with CEQA, and reflect the Board’s independent judgment and analysis;

**WHEREAS**, the Board has reviewed and considered all written and oral comments made to the District in connection with the Project and the Final MND by affected governmental agencies and other interested persons and responded, as appropriate, to comments received; and

**WHEREAS**, the Final MND and all supporting materials, which constitute a record of these proceedings, are kept at the District’s operations offices, located at 26161 Gordon Road, Laguna Hills, California 92653, under the care and control of the Engineering Department.

**NOW, THEREFORE**, the Board of Directors of the Moulton Niguel Water District does hereby **RESOLVE, DETERMINE** and **ORDER** as follows:

**Section 1.** Each of the recitals set forth above is true and correct and incorporated in this Resolution.

**Section 2.** The Final MND for the Project, inclusive of the MMRP contained therein, is adequate and in compliance with CEQA.

**Section 3.** The Final MND reflects the Board’s independent judgment and analysis.

**Section 4.** The Board has considered all comments received in regard to the Project.

**Section 5.** The Board hereby finds that there is no fair argument that the Project, with the incorporated Mitigation Measures and the MMRP, will have a significant impact on the environment, based on the whole of the record before the Board including, but not limited to, the IS/MND and comments received relative to the Project and IS/MND.

**Section 6.** The Board hereby approves and adopts the Final MND for the Project, inclusive of the MMRP set forth therein.

**Section 7.** The Board hereby directs staff to proceed with the Project and solicit cost proposals for the completion of the construction work in accordance with provisions of the Final MND.

**Section 8.** The Board hereby delegates authority to the District’s General Manager, or her designee, to take any action reasonably required to cause a Notice of Determination to be filed with the Orange County Clerk and the State Clearinghouse including, but not limited to, the issuance of payment of those Fish and Game fees that may be required pursuant to Fish and Game Code Section 711.4.

**Section 9.** The Final MND and all supporting materials, which constitute a record of these proceedings, will be kept at the District’s operations offices, located at 26161 Gordon Road, Laguna Hills, California 92653, under the care and control of the Engineering Department.

**APPROVED, ADOPTED and SIGNED** this 20th day of July, 2017.

**MOULTON NIGUEL WATER DISTRICT**

By: \_\_\_\_\_  
President  
MOULTON NIGUEL WATER DISTRICT  
and of the Board of Directors thereof

By: \_\_\_\_\_  
Secretary  
MOULTON NIGUEL WATER DISTRICT  
and of the Board of Directors thereof



# **FINAL**

## **Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project MNWD Project 2016.001**

*Prepared for:*

### **Moulton Niguel Water District**

26161 Gordon Road

Laguna Hills, California 92653

*Contact: Rodney Woods, 949.425.3547*

*Prepared by:*

### **DUDEK**

605 Third Street

Encinitas, California 92024

*Contact: Shawn Shamlou, AICP, 760.479.4228*

## **JULY 2017**

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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**Initial Study/Mitigated Negative Declaration for the  
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# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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## 1 INTRODUCTION

### 1.1 Project Overview

#### Project Description and Location

The project site is located in southern Orange County (Figure 1, Regional Map). More specifically, the project site is located in a channelized portion of San Juan Creek, approximately 1,000 feet south of the confluence of San Juan Creek and Trabuco Creek, in the City of San Juan Capistrano, California (Figure 2, Vicinity Map). San Juan Creek is designated critical habitat for steelhead trout (*Oncorhynchus mykiss*), whose migration period spans from December 1 to May 31. Land uses surrounding the project site include recreation and residential to the north and light industrial and industrial park uses to the south. The paved San Juan Creek Trail parallels the creek along its northern bank, and the Rancho Del Avion Mobile Home Community is located to the north of the trail. An assortment of local businesses that reside in two-story concrete tilt-up buildings in the Calle Perfecto Business Park along Calle Perfecto are located to the south of the project site and the San Juan Creek channel. The Burlington Northern Santa Fe railroad track is generally aligned parallel to Calle Perfecto to the south.

As shown in Figure 3, Proposed Project, an approximately 180-linear-foot segment of an abandoned 30-inch-diameter treated effluent pipeline that extends across the channel bed of San Juan Creek is proposed to be removed to prevent the potential for future downstream effects that may occur as a result of instream erosive forces during winter storm events. In addition, the County is requiring removal of the pipeline in accordance with the conditions of County Property Permit 2015-00069 (County of Orange 2015; MNWD 2015). The existing 30-inch-diameter ductile iron pipeline (DIP) is encased in reinforced concrete, and due to erosion of the channel bed in the area, an approximately 30-foot-long segment of the pipeline encasement is exposed. As proposed, Moulton Niguel Water District's (MNWD) contractor would cut the reinforced concrete encasement at the toe of the concrete slope creek channel walls and remove the approximately 180-linear-foot segment of 30-inch-diameter DIP and reinforced concrete encasement from within the creek channel. The project's limits of construction would be approximately 180 feet long by 10 feet wide (approximately 1,800 square feet of disturbance). In accordance with MNWD standards, the segments of the 30-inch pipeline terminating at the concrete slope creek channel walls (i.e., field cut ends of the pipeline) would be filled/sealed with concrete. Further, the void in the earthen and riprap of varying sizes creek channel bottom associated with removal of the pipeline and associated encasement would be backfilled with the same materials currently present within the project site and would be restored to pre-construction contours and conditions in place following construction. The contractor would access the project site via an existing paved access path to the San Juan Creek Trail located off Alipaz Street.

## **Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project**

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Further, the contractor would enter the channel via an existing concrete ramp located approximately 0.5 mile downstream of the confluence of the San Juan Creek and Trabuco Creek and would drive to the pipeline removal site. The effluent treatment main (ETM) pipeline section to be removed and associated limits of construction and the construction access route are depicted on Figure 3, Proposed Project.

Construction would last up to 2 weeks and is targeted to begin in September 2017. The ultimate start date of construction would be dependent upon receipt of necessary permits from the U.S. Army Corps of Engineers (ACOE), California Department of Fish and Wildlife (CDFW), and the Santa Ana Regional Water Quality Control Board (RWQCB). Construction activities would occur along existing pipeline alignment across the channel bed of San Juan Creek and generally within an approximately 180-foot-long by 10-foot-wide area of disturbance. Construction would include utilization of a truck, excavator, jackhammers, and circular saw(s). The void across the channel bed associated with removal of the pipeline and concrete encasement would be backfilled with the same materials currently present within the project site and would be restored to pre-construction contours and conditions in place following construction.

### **Project Objectives**

Objectives for the proposed project are described below:

1. Remove a 180-linear-foot-long segment of an abandoned 30-inch-diameter treated effluent pipeline and partially exposed reinforced concrete encasement that extends across the channel bed of San Juan Creek.
2. Complete construction with minimal impacts to the San Juan Creek corridor.

Prevent future downstream effects that may occur as a result of instream erosive forces during winter storm events.

## **1.2 California Environmental Quality Act Compliance**

MNWD is the lead agency under the California Environmental Quality Act (CEQA) responsible for the review and approval of the proposed ETM Pipeline Removal in San Juan Creek Project. MNWD has made the determination that a Mitigated Negative Declaration (MND) is the appropriate environmental document to be prepared in compliance with CEQA. As provided for by CEQA Section 21064.5, an MND may be prepared for a project subject to CEQA when an Initial Study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur; and (2) there

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment (California Public Resources Code, Section 21000 et seq.).

MNWD has prepared a draft MND in conformance with Section 15070(a) of the CEQA Guidelines (14 CCR 15000 et seq.). The purpose of the MND and the Initial Study Checklist/Environmental Evaluation is to determine any potentially significant impacts associated with the proposed project and to incorporate mitigation measures into the project design as necessary to reduce or eliminate the potentially significant effects of the project.

### 1.3 Public Review Process

In reviewing the MND and Initial Study, affected public agencies and the interested public should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment, as well as the ways in which the significant effects of the project are proposed to be avoided or mitigated.

Comments may be made on the MND in writing before the end of the comment period. A 30-day review and comment period from May 9, 2017, to June 8, 2017, has been established, in accordance with Section 15105(b) of the CEQA Guidelines. While the MND was distributed and received by the Governor's Office of Planning and Research (OPR) State Clearinghouse on May 9, 2017, a technology glitch at the Orange County Register delayed publication of the Notice of Intent (NOI) to Adopt a MND for the project one day from May 9 to May 10. To accommodate the publication of the NOI, MNWD requested and subsequently received approval from the State Clearinghouse to extend the public review period one day. Following the close of the public comment period, the District will consider this MND and comments thereto in determining whether to approve the proposed project. Written comments on the MND should be sent to the following address by June 8, 2017:

Moulton Niguel Water District  
Attention: Rodney Woods, Assistant Director of Engineering  
26161 Gordon Road  
Laguna Hills, California 92653

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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## 2 SUMMARY OF FINDINGS

### 2.1 Environmental Factors Potentially Affected

The discussion provided in Section 3 of this Initial Study/MND found that no items would be considered potentially significant as a result of the proposed project. The proposed project would have less-than-significant impact or no impact on the follow areas: aesthetics, agriculture and forestry resources, air quality, cultural and paleontological resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, and utilities and service systems. Due to incorporation of the recommended mitigation measures, potentially significant impacts related to biological resources would be reduced to a level below significance.

### 2.2 Environmental Determination

MNWD finds that the proposed project would not have a significant adverse effect on the environment. Potentially significant effects have been identified and mitigation measures have been incorporated to ensure that these effects remain at less-than-significant levels. An MND has been prepared to satisfy the requirements of CEQA and the CEQA Guidelines (California Public Resources Code, Section 21000 et seq.; 14 CCR 15000 et seq.).

### 2.3 Mitigation Measures

The following mitigation measure is ~~recommended~~required. For the full Mitigation Monitoring and Reporting Program, please see Section 4.

#### Biological Resources

**MM-BIO-1** Prior to the initiation of construction activities in San Juan Creek, Moulton Niguel Water District shall obtain applicable permits from the U.S. Army Corps of Engineers (Clean Water Act Section 404 Nationwide Permit 12), Regional Water Quality Control Board (Clean Water Act Section 401 Water Quality Certification (or waiver)), and California Department of Fish and Wildlife (Section 1602 Streambed Alteration Agreement) for temporary construction impacts to jurisdictional non-wetland “waters of the United States” or “waters of the state.” Moulton Niguel Water District and/or their contractor shall comply with all applicable permit conditions.

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### 3 INITIAL STUDY CHECKLIST

**1. Project title:**

ETM Pipeline Removal in San Juan Creek Project

**2. Lead agency name and address:**

Moulton Niguel Water District  
26161 Gordon Road  
Laguna Hills, California 92653

**3. Contact person and phone number:**

Rodney Woods, 949.425.3547

**4. Project location:**

The project site is located in southern Orange County (Figure 1) within a channelized portion of San Juan Creek, approximately 1,000 feet south of the confluence of San Juan Creek and Trabuco Creek in San Juan Capistrano, California (Figure 2). Surrounding land uses include the San Juan Creek Trail traveling along the northern edge of the creek channel, the Rancho Del Avion Mobile Home Community to the north, and the Calle Perfecto Business Park along Calle Perfecto to the south of the creek. Dual AMTRAK rail track is generally aligned parallel to Calle Perfecto to the south.

**5. Project sponsor's name and address:**

N/A

**6. General plan designation:**

The San Juan Capistrano General Plan Land Use Element designates the area within San Juan Creek as General Open Space, the area immediately north of the creek as Medium High Density Residential (3.5 to 8 dwelling units/acre), and the area immediately to the south of the creek as General Commercial and Industrial Park. The construction access route generally borders lands designated Medium High Density, Medium Density Residential, and Neighborhood Park. City of San Juan Capistrano General Plan Land Use designations are depicted on Figure 4, General Plan Land Use Designations.

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### 7. Zoning:

San Juan Creek (and the San Juan Creek Trail) is currently zoned General Open Space by the City of San Juan Capistrano. The area immediately north of the creek and project site is zoned Mobile Home Park (MHP) District, while the area immediately south is zoned as Commercial Manufacturing (CM) and Industrial Park (IP) Districts. The construction access route generally borders lands zoned as Planned Residential Development (PRD) District, Single-Family 7,000 (RS-7,000) District, and Neighborhood Park (NP) District. City of San Juan Capistrano Zoning applied to the project site and surrounding area is depicted on Figure 5.

### 8. Description of project. (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.):

As shown in Figure 3, Proposed Project, an approximately 180-linear-foot segment of an abandoned 30-inch-diameter ETM that extends across the channel bed of San Juan Creek is proposed to be removed by MNWD. The existing 30-inch-diameter DIP is encased in reinforced concrete and due to erosion of the channel bed in the area, an approximately 30-foot-long segment of the encasement is exposed. As proposed, MNWD's contractors would cut the reinforced concrete encasement at the toe of the concrete slope creek channel walls and remove the approximately 180-linear-foot segment of 30-inch-diameter DIP and reinforced concrete encasement from within the creek channel. The project's limits of construction would be approximately 180 feet long by 10 feet wide (approximately 1,800 square feet of disturbance). In accordance with MNWD standards, the segments of the 30-inch pipeline terminating at the concrete slope creek channel walls (i.e., field cut ends of the pipeline) would be filled/sealed with concrete. The void in the earthen channel bottom associated with removal of the pipeline and encasement would be backfilled with the same materials currently present within the project site and would be restored to pre-construction contours and conditions in place following construction. The contractor would access the ~~project site~~ San Juan Creek Trail via Del Obispo Street, Blue Fin Drive, Via La Pluma, Calle Jardin, and Alipaz Street. ~~An~~ existing paved access path to the San Juan Creek Trail is located off Alipaz Street. ~~Further,~~ ~~†~~ The contractor would enter the channel via an existing concrete ramp located approximately 0.5 mile downstream of the confluence of the San Juan Creek and Trabuco Creek and would drive directly to the project site.



## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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Construction would last approximately 2 weeks and is targeted to begin in September 2017. The ultimate start date of construction would be dependent upon receipt of necessary permits from the ACOE, CDFW, and the Santa Ana RWQCB. Construction activities would occur along the existing pipeline alignment across the channel bed of San Juan Creek and generally within an approximately 180-foot-long by 10-foot-wide area of disturbance. Construction would include utilization of a truck, excavator, jackhammers, and circular saw(s).

The City of San Juan Capistrano's municipal code exempts noise from construction activities provided the construction does not occur between the hours of 6:00 p.m. to 7:00 a.m. on Monday through Friday, or from 4:30 p.m. to 8:30 a.m. on Saturday, or at any time on Sunday or a national holiday (City of San Juan Capistrano 2013). As such, construction activities would occur between the hours permitted by the City of San Juan Capistrano Municipal Code and would comply with other construction noise-related regulations of the municipal code (see Section 3.12, Noise, for more detail). Construction activities would also comply with the requirements of the Migratory Bird Treaty Act. While the targeted construction schedule would avoid the bird nesting season (February 15 to August 31), if construction were to be delayed and occur during this period, standard nesting bird survey protocol would be implemented by a qualified biologist prior to the initiation of construction activities. Further, if an active nest is identified during the survey, appropriate buffers shall be established and construction work within the buffer zone would be placed on hold until the nest is no longer active.

As part of the CEQA process and as required under Assembly Bill (AB) 52, MNWD contacted Native American tribes to learn about potential tribal cultural resources in the project area (see Appendix B, Native American Contact Letters and Response Log). As a result of that coordination, MNWD has agreed to monitor the project site during construction for potential tribal cultural resources. Prior to construction, construction personnel would receive worker environmental awareness and protection (WEAP) training to understand Native American cultural and archaeological sensitivity in the project area, to recognize potential archaeological discoveries during construction, and to provide information on how to react in the event of a discovery. A Native American monitor would be present on site during proposed excavation activities. If unexpected, potentially significant Native American or archeological resources are encountered during construction, excavation would be temporarily redirected or suspended, and a qualified archaeologist would be contacted to evaluate the potential significance of the find. Such materials could include dense and/or intact artifact-bearing deposits, features (such as fire pits, privies, foundations), or human remains and grave goods. Also refer to Item 11 below for additional information.

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### 9. **Surrounding land uses and setting (Briefly describe the project's surroundings):**

The proposed project would be located in an urbanized and developed area of San Juan Capistrano with varying surrounding land uses. San Juan Creek is developed and channelized with the San Juan Creek Trail running along the northern edge of the creek channel. As of September 2005, San Juan Creek is designated critical habitat for steelhead trout, whose migration period spans from December 1 to May 31.

The adjacent areas to the north and south of the creek are urban and developed with residential, commercial, and industrial uses. The general plan and zoning designations of adjacent areas are described in Sections 6 and 7 above. Beyond adjacent land uses, the land to the west and southwest is designated for Medium High Density use and is a developed Planned Community zone (i.e., the Casitas del Rio residential development). Land uses to the north includes a mix of residential, agri-business (i.e., South Coast Farms), and community park (i.e., San Juan Capistrano Community Center and Sports Park) uses. Interstate 5 travels in a general north-south direction and is located southeast of the project area. The Burlington Northern Santa Fe railroad travels in a similar fashion as Interstate 5 and is also located southeast of the project area.

### 10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):**

- Orange County Flood Control District – Encroachment Permit
- City of San Juan Capistrano
- CDFW – Section 1602 Streambed Alteration Agreement
- RWQCB – Clean Water Act Section 401 Water Quality Certification (or waiver)
- ACOE – Clean Water Act Section 404 Nationwide Permit 12

### **11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code Section 21080.3.1? If so, has consultation begun?**

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code Section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code Section 5097.96 and the

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code Section 21082.3(c) contains provisions specific to confidentiality.

In August 2015 and in accordance with AB 52, the Juaneño Band of Mission Indians requested formal notices of and information on all proposed projects of the MNWD. On May 17, 2017, Dudek archaeologist Brad Comeau, MSc, RPA, contacted representatives of the Juaneño Band of Mission Indians in order to assist the MNWD with consultation efforts under AB 52. Tribal representatives were provided a letter containing a summary of the proposed project, a figure indicating the location of the proposed project, and a general request as to whether the representative or their tribal community had any knowledge of cultural resources, tribal cultural resources, or places that may be impacted by the proposed project. Two of the of the four representatives responded to the letter and stated that while no specific sites were known at the project site, drainages are generally sensitive for resources, and village sites are located nearby. Also, tribal representatives requested that an archaeologist and Native American monitor be present on site during ground-disturbing activities to assess the situation. Lastly, responding representatives requested that they be notified if archaeological resources are discovered during ground-disturbing activities.

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact,” as indicated by the checklist on the following pages.

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Aesthetics                          | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality                   |
| <input type="checkbox"/> Biological Resources                | <input type="checkbox"/> Cultural Resources                 | <input type="checkbox"/> Geology and Soils             |
| <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards and Hazardous Materials    | <input type="checkbox"/> Hydrology and Water Quality   |
| <input type="checkbox"/> Land Use and Planning               | <input type="checkbox"/> Mineral Resources                  | <input type="checkbox"/> Noise                         |
| <input type="checkbox"/> Population and Housing              | <input type="checkbox"/> Public Services                    | <input type="checkbox"/> Recreation                    |
| <input type="checkbox"/> Transportation and Traffic          | <input type="checkbox"/> Tribal Cultural Resources          | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Mandatory Findings of Significance  |   |  |

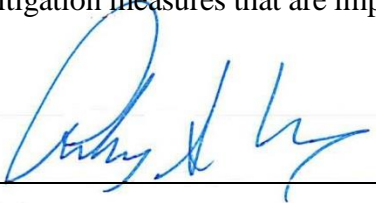
## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature

7-5-17

Date

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### EVALUATION OF ENVIRONMENTAL IMPACTS

1. A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an Environmental Impact Report (EIR) is required.
4. “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less-than-significant level (mitigation measures from “Earlier Analyses,” as described in (5) below, may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a. Earlier Analysis Used. Identify and state where they are available for review.
  - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c. Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
  - a. The significance criteria or threshold, if any, used to evaluate each question; and
  - b. The mitigation measure identified, if any, to reduce the impact to less than significance.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
<b>3.1 AESTHETICS – Would the project:</b>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.2 AGRICULTURE AND FORESTRY RESOURCES – In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</b>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.3 AIR QUALITY</b> – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>3.4 BIOLOGICAL RESOURCES</b> – Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>3.5 CULTURAL RESOURCES – Would the project:</b>				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.6 GEOLOGY AND SOILS – Would the project:</b>				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.7 GREENHOUSE GAS EMISSIONS – Would the project:</b>				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>3.8 HAZARDS AND HAZARDOUS MATERIALS – Would the project:</b>				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
<b>3.9 HYDROLOGY AND WATER QUALITY – Would the project:</b>				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.10 LAND USE AND PLANNING – Would the project:</b>				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
<b>3.11 MINERAL RESOURCES – Would the project:</b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.12 NOISE – Would the project result in:</b>				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.13 POPULATION AND HOUSING – Would the project:</b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.14 PUBLIC SERVICES</b>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.15 RECREATION</b>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.16 TRANSPORTATION/TRAFFIC – Would the project:</b>				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
<b>3.17 TRIBAL CULTURAL RESOURCES</b> — Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>3.18 UTILITIES AND SERVICE SYSTEMS</b> – Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
<b>3.1819 MANDATORY FINDINGS OF SIGNIFICANCE</b>				
a) Does the project have the potential to 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, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 3.1 Aesthetics

a) *Would the project have a substantial adverse effect on a scenic vista?*

**No Impact.** The proposed project site is located within channelized San Juan Creek, which is surrounded by urban land uses including residential, commercial, and industrial uses to the north and south. The San Juan Capistrano General Plan does not identify any scenic vistas within the proposed project area (City of San Juan Capistrano 2002a). Moreover, the proposed project is located within a creek channel and entails the removal of an existing, partially exposed pipeline from the earthen and riprap of varying sizes creek bed. As such, the proposed project would not introduce visible features that would substantially affect existing views. Therefore, no impact to scenic vistas would occur.

b) *Would the project substantially damage scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?*

**No Impact.** The proposed project site is not located adjacent to a state scenic highway and would not be visible from a state scenic highway. The nearest state scenic highway, Highway 74, (an eligible state scenic highway), is located approximately 0.5 mile to the north of the project site (Caltrans 2017). As Highway 74 motorists span the San Juan

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Creek, brief views to the south along the creek corridor are available; however, due to the alignment of the creek channel and intervening land uses adjacent to the creek, views do not extend to the project site. Further, the project does not entail the removal of or damage to trees, rock outcroppings, or historic buildings. Because the project site is not located within the viewshed of a state scenic highway, and construction activities would not damage scenic resources including trees, rock outcroppings, or historic buildings, no impacts would occur.

- c) *Would the project substantially degrade the existing visual character or quality of the site and its surroundings?*

**Less-Than-Significant Impact.** The proposed project site is located within channelized San Juan Creek, which is situated in a largely developed and urbanized area of the City of San Juan Capistrano. Short-term construction, lasting approximately 2 weeks, would entail construction workers, vehicles, and equipment, including a truck, excavator, jackhammers, and circular saw(s), entering the creek channel and operating/working along the creek bed. The introduction of workers, vehicles, and equipment would temporarily alter the existing visual character of the earthen-bottom flood control channel, and these elements would primarily be visible to recreationists on the San Juan Creek Trail and workers at industrial land uses to the south. The void across the earthen with varying sizes of riprap channel bed resulting from removal of the pipeline and concrete encasement would be backfilled with the same materials currently present within the project site. Further, this area would be restored to pre-construction contours and conditions in place following construction. Following the 2-week construction period, the visual character and quality of the flood control channel would resemble existing conditions. As such, the proposed project would not result in a permanent degradation of the existing visual character of the area, and impacts would be less than significant.

- d) *Would the project create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?*

**No Impact.** Construction of the proposed project would occur during daylight hours, and the use of nighttime work lights would not be required. Once the existing pipeline is removed, any remaining void in the channel bed would be backfilled and would be restored to pre-construction contours and conditions in place following construction. As the project does not entail the introduction of new lighting or new features that would produce glare that would affect day or nighttime views in the area, no impact would occur.



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### 3.2 Agriculture and Forestry Resources

- a) *Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

**No Impact.** According to most recently prepared California Department of Conservation’s Important Farmland map for Orange County, the proposed project site and immediately surrounding areas are identified as “Urban and Built-Up Land,” and the nearest designated farmland is located approximately 0.3 mile away (DOC 2014). Located west of the proposed project site, South Coast Farms is designated Prime Farmland and Unique Farmland by the DOC. Because the project is designated Urban and Built-Up Land, no impact regarding the conversion of farmland would occur.

- b) *Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?*

**No Impact.** The proposed project area is developed and urbanized. Further, the project site consists of an existing channelized creek that is designated and zoned General Open Space by the City of San Juan Capistrano. Surrounding land uses includes residential, commercial, and industrial. The area immediately north of the creek and project site is zoned Mobile Home Park (MHP) District, while the area immediately south is zoned Commercial Manufacturing (CM) and Industrial Park (IP) Districts. No lands underlying the proposed project site or the likely construction route ~~from Camino Capistrano~~ is zoned for agriculture use. Lastly, no land associated with the proposed project site or along the likely construction route is under a Williamson Act contract (Orange County 2004). Therefore, no impact concerning conflicts with existing zoning for agricultural use or a Williamson Act contract would occur.

- c) *Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?*

**No Impact.** The proposed project site is located within a channelized creek that is zoned General Open Space by the City of San Juan Capistrano. There are no zoned forest land or timberlands in the creek channel or in the immediate surrounding area (City of San Juan Capistrano 2002b). Further, the City of San Juan Capistrano zoning map does not include existing zoning for forest land, timberland, or timberland zoned Timberland Production (City of San Juan Capistrano 2002b). Therefore, no impact would occur.

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- d) *Would the project result in the loss of forest land or conversion of forest land to non-forest use?*

**No Impact.** As discussed above in responses 3.2a, 3.2b, and 3.2c, the proposed project site is located in channelized San Juan Creek where forest land does not occur. Therefore, the proposed project would not result in the loss or conversion of forest land to non-forest use, and no impact would occur.

- e) *Would the project involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use, or conversion of forest land to non-forest use?*

**No Impact.** The proposed project site occurs within a channelized creek designated as Urban and Built-Up Land by the California Department of Conservation and zoned General Open Space by the City of San Juan Capistrano. As no farmland or forest land occurs in the creek channel, project activities would not convert farmland to non-agricultural use or convert forest land to non-forest use. As such, no impact would occur.

### 3.3 Air Quality

- a) *Would the project conflict with or obstruct implementation of the applicable air quality plan?*

**Less-Than-Significant Impact.** The proposed project is located in the South Coast Air Basin (SCAB) and is under the jurisdiction of the South Coast Air Quality Management District (SCAQMD). The most recent, formally adopted Air Quality Management Plan (AQMP) is the SCAQMD 2012 Final AQMP (SCAQMD 2013), which is designed to meet applicable federal and state requirements for ozone (O<sub>3</sub>) and particulate matter with an aerodynamic diameter equal to or less than 2.5 microns (PM<sub>2.5</sub>). The 2012 AQMP demonstrates attainment of the federal 24-hour PM<sub>2.5</sub> standard by 2014 in the SCAB through adoption of all feasible measures and accommodates planned growth in the SCAB. Based on general plans for cities and counties in the SCAB, demographic growth forecasts for various socioeconomic categories (e.g., population, housing, employment by industry) developed by the Southern California Association of Governments for their 2012 Regional Transportation Plan were used in the 2012 AQMP. The 2012 AQMP reduction and control measures, which are outlined to mitigate emissions, are based on existing and projected land use and development. Projects are considered consistent with, and would not conflict with or obstruct implementation of, the AQMP if the growth in socioeconomic factors is consistent with the underlying regional plans used to develop the AQMP.

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The project would not conflict with or propose to change existing land uses or applicable policies as designated in the City of San Juan Capistrano General Plan; thus, the project would not conflict with the applicable AQMP. The project entails removal of a 180-linear-foot segment of an existing, partially exposed pipeline within the creek bed of San Juan Creek. As such, the project would not increase population nor generate additional long-term employment in the area. While project construction would generate temporary emissions over the approximate two-week construction period, the land use of the project area would remain the same and no permanent pollution emitting structure would be introduced. Therefore, the proposed project would result in a less-than-significant impact regarding conflicts with the applicable air quality plan.

*b) Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?*

**Less-Than-Significant Impact.** Project-generated construction emissions of criteria pollutants would occur over an approximate 2-week period. Given the short-term duration of construction and the limited amount of construction equipment anticipated to be used, emissions generated during construction would be substantially less than the SCAQMD significance thresholds. The proposed pipeline removal project would not generate operational air pollutant emissions.

**SCAB Attainment Designation.** An area is designated as in attainment when it is in compliance with the National Ambient Air Quality Standards (NAAQS) and/or the California Ambient Air Quality Standards (CAAQS). These standards are set by the U.S. Environmental Protection Agency and California Air Resources Board (CARB), respectively, for the maximum level of a given air pollutant that can exist in the outdoor air without unacceptable effects on human health or the public welfare. The criteria pollutants of primary concern that are considered in this assessment include ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), and particulate matter with a diameter less than or equal to 10 microns (PM<sub>10</sub>) and PM<sub>2.5</sub>. Although there are no ambient standards for volatile organic compounds (VOCs) or oxides of nitrogen (NO<sub>x</sub>), they are important as precursors to O<sub>3</sub>.

The entire SCAB is designated as a nonattainment area for both federal and state O<sub>3</sub> standards and PM<sub>2.5</sub> standards. All of California has been designated unclassifiable/nonattainment for the federal NO<sub>2</sub> standard, which was revised in 2010. The SCAB is designated as a nonattainment area for the state NO<sub>2</sub> standards and as an attainment area for federal and state CO and SO<sub>2</sub> standards. In addition, the SCAB is designated as an attainment area for the federal PM<sub>10</sub> standard and as a nonattainment area for the state PM<sub>10</sub> standards.

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**SCAQMD Thresholds.** Removal of the existing ETM pipeline in San Juan Creek would result in the temporary generation criteria air pollutants emissions for which CARB and the EPA have adopted ambient air quality standards (i.e., the NAAQS and CAAQS). Projects that emit these pollutants have the potential to cause or contribute to violations of these standards. The SCAQMD has adopted significance thresholds, which, if exceeded, would indicate the potential to contribute to violations of the NAAQS or CAAQS. The relevant SCAQMD thresholds are shown in Table 3-1. Only those thresholds related to potentially significant construction impacts are identified in Table 3-1 as the proposed project would not generate substantial criteria pollutant emissions or related impacts associated with pipeline removal activities.

**Table 3-1  
SCAQMD Air Quality Significance Thresholds**

Pollutant	Construction
<i>Criteria Pollutants Mass Daily Thresholds</i>	
VOC	75 pounds/day
NO <sub>x</sub>	100 pounds/day
CO	550 pounds/day
SO <sub>x</sub>	150 pounds/day
PM <sub>10</sub>	150 pounds/day
PM <sub>2.5</sub>	55 pounds/day

Source: SCAQMD 2011.

**Construction Emissions.** Pipeline removal activities would result in the temporary addition of criteria pollutants to the local airshed primarily caused by combustion pollutants from on-site construction equipment, as well as from personal vehicles and off-site trucks hauling construction materials. Construction emissions can vary substantially from day to day, depending on the level of activity and the specific type of operation. However, given the small scale of the proposed project and the short duration of construction activities, daily emissions of criteria pollutants during construction are not anticipated to exceed maximum construction emission thresholds.

For comparison purposes, the air quality analysis associated with the MNWD's 2014 Plant 3A Effluent Transmission Main Replacement Project (Dudek 2014) was reviewed. For the 2014 analysis, it was generally assumed that heavy construction equipment including tractors/loaders/backhoes and excavators would be operating at the ETM replacement project site for approximately 8 hours per day, 5 days per week (22 days per month) and that construction would last approximately 9 weeks (Dudek 2014). Because the estimated maximum unmitigated daily construction emissions associated with the construction of the 2014 project (including on-

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site sources (off-road equipment) and off-site sources (hauling trucks and worker vehicles)) were calculated to be substantially less than the applicable significance threshold for the pollutants identified in Table 3-1 above, and because less equipment and a substantially shorter construction period is associated with the current proposed project, the proposed project is anticipated to result in a less-than-significant impacts during construction.

**Operational Emissions.** Once the existing pipeline is removed, no routine daily operational activities or emergency maintenance activities that would generate air pollutant emissions would occur. There would be no additional routine vehicular traffic or associated mobile source emissions. Because the project would not result in a new land use that would involve operational activities, air quality impacts associated with operational air pollutant emissions would be less than significant.

- c) ***Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?***

**Less-Than-Significant Impact.** The SCAB is a nonattainment area for O<sub>3</sub>, NO<sub>2</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> under the NAAQS and/or CAAQS. The poor air quality in the SCAB is the result of cumulative emissions from motor vehicles, off-road equipment, commercial and industrial facilities, and other emission sources. Projects that emit these pollutants or their precursors (e.g., VOC and NO<sub>x</sub> for O<sub>3</sub>,) potentially contribute to poor air quality. As indicated above, the construction emissions from the proposed project are not anticipated to exceed SCAQMD significance thresholds and the proposed project would not generate long-term operational emissions. Also, the project would not conflict with the SCAQMD 2012 AQMP, which addresses the cumulative emissions in the SCAB. Therefore, the proposed project would not result in a cumulatively considerable increase in emissions of nonattainment pollutants, and impacts would be less than significant.

- d) ***Would the project expose sensitive receptors to substantial pollutant concentrations?***

**Less-Than-Significant Impact.** Residences are located to the north and west of the project site. However, as discussed above, construction activities would occur over an approximate 2-week period and would not generate substantial emissions of criteria air pollutants or air contaminants, specifically diesel exhaust particulate matter, and impacts to sensitive receptors in the vicinity of project construction would be less than significant. Diesel equipment operating during construction would be subject to the Airborne Toxic Control Measure for in-use mobile construction equipment promulgated by CARB, which would minimize diesel particulate matter emissions.

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Once removed, maintenance activities would not be required and the proposed project would not result in the introduction of direct emissions (e.g., those from a point source such as boilers or engines). Thus, the proposed project would not expose sensitive receptors to substantial pollution concentrations, and impacts would be less than significant.

e) *Would the project create objectionable odors affecting a substantial number of people?*

**Less-Than-Significant Impact.** Odors are a form of air pollution that is most obvious to the general public. Although offensive odors seldom cause physical harm, they can be annoying and cause concern. Pipeline removal activities would not create objectionable odors affecting a substantial number of people.

**Construction Odor Impacts.** Potential sources that may emit odors during construction activities include diesel equipment and gasoline fumes. Odors from these sources, however, would be localized and generally confined to the project site. Additionally, the proposed project would utilize typical construction techniques in compliance with SCAQMD rules and potential project-generated construction odors would occur over an approximate 2-week period. As such, proposed project construction would not cause an odor nuisance, and odor impacts would be less than significant.

**Operational Odor Impacts.** Once removed, the operation of diesel equipment and generation of gasoline fumes would not occur. No maintenance activities are associated with the project once the existing pipeline is removed from the San Juan Creek bed, and therefore, no odors would be created.

### 3.4 Biological Resources

The following analysis relies on the biological resources assessment conducted by Dudek for the related Plant 3A Effluent Transmission Main Replacement Project (Dudek 2013). Dudek conducted an updated biological assessment on February 23, 2017, which is presented in this section. The assessment included a review of available relevant literature and data on special-status habitats and species distribution to determine those resources that have the potential for occurrence within approximately 500 feet of the project site and conduit/pipeline alignment (i.e., the study area). All appropriate and available biological documentation, surveys, published research, and maps were compiled, reviewed, and analyzed.

The most recent versions of the California Natural Diversity Database (CDFW 2017e) and the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants (CNPS 2017) were reviewed to identify sensitive biological resources present or potentially present for the U.S. Geological Survey 7.5-minute quadrangle on which the project site is located (i.e., Dana Point) and

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the five surrounding quadrangles (i.e., Canada Gobernadora, Laguna Beach, San Juan Capistrano, San Clemente, and San Onofre Bluff). Potentially occurring sensitive biological resources were also compiled from CDFW (CDFW 2017a–d). The results of these database and records searches are included as Appendix A of this document.

Substantial biological studies and extensive analyses have been conducted for the project area over an approximate 16-year period to support development of the County of Orange Southern Subregion Natural Community Conservation Plan/ Master Streambed Alteration Agreement/Habitat Conservation Plan (NCCP/MSAA/HCP) and Joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS). Although MNWD is not a signatory to the plan, the biological resources assessment included a thorough review of the comprehensive biological database of vegetation community and land covers, special-status species surveys, and other biological resources identified in the Southern Subregion NCCP/MSAA/HCP documents.

Following the literature review, Dudek biologists conducted a general survey and jurisdictional delineation of the study area on February 23, 2017, to confirm existing biological resources and confirm potential biological constraints. Dudek biologists Ryan Henry and Karen Mullen conducted the assessment from 1254 to 1403; weather conditions were favorable with clear skies, wind speeds from 5 to 8 miles per hour, and a temperature range from 57° Fahrenheit (°F) to 59°F. During the field survey, land covers and vegetation communities were confirmed, and a general inventory of plant and wildlife species detected by sight, calls, tracks, scat, or other sign was compiled, as well as a determination of potential special-status species that could occur within the study area.

Results from the general biological survey confirmed the non-natural land cover and more specifically identified the following non-natural land covers: developed and flood control channel. The developed land cover includes several areas of ornamental landscaping that support planted species of acacia (*Acacia* sp.), milkweed (*Asclepias* sp.), pampas grass (*Cortaderia selloana*), coral tree (*Erythrina* sp.), eucalyptus (*Eucalyptus* sp.), sweet gum (*Liquidambar* sp.), California pepper tree (*Schinus molle*), California sycamore (*Platanus racemosa*), Australian cheesewood (*Pittosporum undulatum*), Mexican fan palm (*Washingtonia robusta*), and California fan palm (*Washingtonia filifera*). Vegetation within the San Juan Creek channel was limited to isolated pockets along the upper, western bank and included mustard (*Brassica geniculata*), longbeak stork's bill (*Erodium botrys*), barley (*Hordeum* sp.), fountain grass (*Pennisetum setaceum*), and common sowthistle (*Sonchus oleraceus*). Wildlife species detected include domestic dog (*Canis lupus familiaris*), red-tailed hawk (*Buteo jamaicensis*), turkey vulture (*Cathartes aura*), American crow (*Corvus brachyrhynchos*), house finch (*Haemorhous mexicanus*), western gull (*Larus occidentalis*), western fence lizard (*Sceloporus occidentalis*), and California ground squirrel (*Spermophilus (Otospermophilus) beecheyi*). None of the above-listed plant or wildlife species detected during the biological reconnaissance are considered special-status.

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- a) *Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

**Less-Than-Significant Impact.** The study area included the construction footprint of the proposed pipeline removal, access route, and a 500-foot buffer (Figure 6, Biological Resources Study Area).

### Plant Species

Impacts associated with the pipeline removal would be limited to a small footprint within the Flood Control Channel land cover (San Juan Creek). No plant species listed or proposed for listing as rare, threatened, or endangered by either the CDFW or the U.S. Fish and Wildlife Service (USFWS) were detected within the study area during the previous survey conducted in 2013 or updated survey conducted in 2017. Additionally, no plant species considered sensitive by the CNPS were observed.

Dudek performed an extensive review of literature, existing documentation, and geographic information systems (GIS) data to evaluate the potential for special-status plant species to occur within the study area. Each special-status plant species was given a rating of not expected, low, medium, or high based on relative location to known occurrences, vegetation communities, soils, and elevation. Based on review of USFWS data and the California Natural Diversity Database, special-status plant and wildlife species have been known to occur within the project area. Two special-status plant species, white rabbit-tobacco (*Pseudognaphalium leucocephalum*) and Coulter's saltbush (*Atriplex coulteri*), which are not state- or federally listed, but have a California Rare Plant Rank of 2B.2 and 1B.2, respectively, are known to occur within the area. These plants are both perennial herbs that would have been detected during the biological surveys of the site and are therefore considered absent from the project area. Additionally, there is no USFWS-designated critical habitat for listed plant species within the study area. As a result, direct or indirect impacts to special-status plant species would be less than significant.

### Wildlife Species

As discussed previously, the proposed impact footprint occurs within the Flood Control Channel land cover. No wildlife species listed or proposed for listing as rare, threatened, or endangered by either the CDFW or USFWS were detected within the study area during the previous survey conducted in 2013 or updated survey conducted in 2017. Additionally, no



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steelhead trout were identified during the April 2016 dawn and dusk focused steelhead surveys conducted prior to initiation of construction for MNWD's Plant 3A Effluent Transmission Main Replacement Project (RCD of Santa Monica Mountains and Davey Resource Group 2016). Lastly, no steelhead trout were observed on or near the project site during steelhead trout monitoring conducted during 11 days of construction activities, between April 18, 2016, and June 15, 2016, for MNWD's Plant 3A Effluent Transmission Main Replacement Project (Davey Resource Group 2016).

Dudek performed an extensive review of literature, existing documentation, and GIS data to evaluate the potential for special-status wildlife species to occur within the study area. Each special-status wildlife species was given a rating of not expected, low, medium, or high based on relative location to known occurrences, vegetation communities, and elevation. Several special-status wildlife species are known to occur in the area: the federally listed threatened coastal California gnatcatcher (*Polioptila californica californica*), state and federally listed endangered least Bell's vireo (*Vireo belli pusillus*), state species of special concern coast horned lizard (*Phrynosoma blainvillii*), federally listed endangered arroyo toad (*Anaxyrus californicus*), state species of special concern arroyo chub (*Gila orcuttii*), federally listed tidewater goby (*Eucyclogobius newberryi*), and the federally listed endangered southern steelhead trout (*Oncorhynchus mykiss irideus*). These listed federal special-status species are also considered state species of special concern.

There is no suitable habitat within the study area for coastal California gnatcatcher, least Bell's vireo, coast horned lizard, or arroyo toad. The occurrences of tidewater goby are listed as being extirpated from this area. Therefore, these species are considered absent from the study area.

The portion of the study area within San Juan Creek is designated as critical habitat for steelhead trout, and there is potential for both steelhead trout and arroyo chub to occur seasonally within the creek. Critical habitat is defined as a specific geographic area(s) that contains features essential for the conservation of a threatened or endangered species and that may require special management and protection. Critical habitat may include an area that is not currently occupied by the species but will be needed for its recovery. Essential features, also known as Primary Constituent Elements, are habitat components that are essential for the lifecycle needs of steelhead. The USFWS and National Marine Fisheries Service have defined the as follows (-70 FR 52488–52626):

- Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development;

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- Freshwater rearing sites with:
  - Water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility;
  - Water quality and forage supporting juvenile development; and
  - Natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks.
- Freshwater migration corridors free of obstruction and excessive predation with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival.
- Estuarine areas free of obstruction and excessive predation with:
  - Water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater;
  - Natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels; and
  - Juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation.

The actively maintained portion of San Juan Creek within the project footprint is characterized by concrete side slopes and a primary earthen and riprap of varying sizes streambed. The existing pipeline is protected from erosion and scour by a concrete encasement; however, the pipeline is partially exposed and may act as a barrier to steelhead trout movement in the channel. As such, removal of the pipeline may improve opportunities for seasonal movement of steelhead trout. While this portion of San Juan Creek and designated critical habitat does not appear to support steelhead Primary Constituent Elements, during high rainfall years this reach of the creek would provide a seasonal freshwater migration corridor for steelhead. As shown in Figure 6, Biological Resources Study Area, the proposed project site would be located within the creek channel and would thus result in direct impacts to the critical habitat and potentially impact sensitive wildlife species within San Juan Creek. As such, construction would be scheduled to occur outside the steelhead trout migration period, December 1 through May 31, or until surface flows are no longer present within the creek, to avoid significant direct and indirect impacts to migration of steelhead trout and arroyo chub. Further, temporary disturbance areas would be restored to pre-construction contours and conditions in place following

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construction. As such, restored areas would not impede fish passage and migration. Because restoration activities would be limited to the unvegetated stream bottom of San Juan Creek (between two concrete-lined slopes) and the area of temporary disturbance would be restored to pre-construction contours and conditions, a written habitat restoration and revegetation plan is not proposed. However, a post-project report documenting the final impact and restoration of the construction area of temporary disturbance to pre-construction contours and conditions would be prepared. Construction is targeted to begin September 2017 but would ultimately be dependent on receipt of necessary permits from ACOE, CDFW, and the Santa Ana RWQCB. Avoidance of the migration period and restoration of the temporary disturbance areas to pre-construction contours and conditions would ensure that impacts to species identified as a candidate, sensitive, or special status during the approximate 2-week construction period would be less than significant.

- b) *Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

**No Impact.** Removal of the existing, abandoned, partially exposed ETM pipeline segment would occur within a portion of the San Juan Creek channel characterized as a Flood Control Channel land cover. No riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW and USFWS would be substantially and adversely affected by the proposed project. As such, no impact would occur.

- c) *Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

**Less-than-Significant Impact with Mitigation Incorporated.** According to the federal Clean Water Act, Section 404, wetlands are defined as:

Those areas that are inundated or saturated by surface or ground water (hydrology) at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation (hydrophytes) typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs, and similar areas.

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Based on the site visits, the study area does not contain any federal jurisdictional wetlands as defined above. However, the study area supports non-wetland aquatic resources regulated by the ACOE, RWQCB, and the CDFW as jurisdictional “waters of the United States” or “waters of the state.” Jurisdictional non-wetland drainages include two flood control channels maintained by the County of Orange, San Juan Creek and Trabuco Creek. Minimal temporary disturbance (0.03 acre) would occur within San Juan Creek as a result of the pipeline removal, and temporarily affected areas associated with construction activities within the creek would be restored to pre-construction contours and conditions in place following construction. In conclusion, no impacts to federally protected wetlands would occur; however, jurisdictional non-wetland “waters of the United States” or “waters of the state” would be affected. As such, construction activities within the San Juan Creek could result in potentially significant impacts to jurisdictional non-wetland “waters of the United States” or “waters of the state.” Incorporation of mitigation measure MM-BIO-1 listed below would reduce impacts to resources subject to Section 404 of the Clean Water Act to below a level of significance.

**MM-BIO-1** Prior to the initiation of construction activities in San Juan Creek, Moulton Niguel Water District shall obtain applicable permits from the U.S. Army Corps of Engineers (Clean Water Act Section 404 Nationwide Permit 12), Regional Water Quality Control Board (Clean Water Act Section 401 Water Quality Certification (or waiver)) and the California Department of Fish and Wildlife (Section 1602 Streambed Alteration Agreement) for temporary construction impacts to jurisdictional non-wetland “waters of the United States” or “waters of the state.” Moulton Niguel Water District and/or their contractor shall comply with all permit conditions (if applicable).

- d) *Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

**Less-Than-Significant Impact.** The existing, abandoned ETM pipeline is partially exposed and may act as a barrier to steelhead trout movement in the channel. Through the removal of the pipeline, opportunities for seasonal movement of steelhead trout may be improved. Also, as discussed above, construction of the proposed project could result in direct and indirect impacts to steelhead trout migration. However, through avoidance of the trout migration season (December 1 to May 31), impacts would be less than significant.

Ornamental trees within the developed areas near the project site have potential to support nesting birds protected under the Migratory Bird Treaty Act and California Fish and Game Code Section 3500. However, as previously stated, construction activities

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would avoid the bird nesting season (generally February through August) to ensure compliance with federal and state laws. If avoidance of the bird nesting season is not feasible, then a pre-construction nesting bird survey would be conducted in accordance with the Migratory Bird Treaty Act by a qualified biologist to ensure that birds are not engaged in active nesting within 300 feet of the project's construction limits. If the biologist finds any nesting birds within 300 feet of the limits of construction, the biologist shall clearly mark the location of the nest and, if warranted, identify feasible measures to avoid any potential adverse effects on nesting birds. Appropriate measures may include limiting disturbances within a certain distance of the nest until nesting is complete. If the biological monitor considers it necessary to avoid potential impacts, the biological monitor shall be present during construction activities to ensure that nesting birds are not disturbed. The biological monitor shall have authority to halt any construction activity determined to be potentially disturbing to the nesting of any bird. Construction may continue when the monitor determines the activity can be carried out without disruption of nesting, or when the nest is determined to have fledged or failed.

As currently proposed, construction of the proposed project would avoid the bird nesting season. If avoidance of the bird nesting season is determined to be infeasible and construction occurs between February through August, compliance with the Migratory Bird Treaty Act and deployment of standard survey protocol would ensure that impacts concerning interference with the movement of wildlife species would be less than significant.

- e) *Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

**No Impact.** The proposed project involves the removal of an existing partially exposed ETM pipeline within San Juan Creek. Construction would not conflict with local biological resource policies, including General Plan policies, and would not result in removal of trees. Therefore, no impact would occur.

- f) *Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

**Less-Than-Significant Impact.** While the proposed project site is within the Orange County Southern Subregional NCCP/MSAA/HCP boundary (USFWS 2006), it is located in an urbanized area of San Juan Capistrano. Further, the proposed project site is located outside of designated NCCP/MSAA/HCP reserves and would not substantially affect species covered under the plan. Therefore, impacts would be less than significant.

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### 3.5 Cultural Resources

- a) *Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?*

**No Impact.** The proposed project area has previously subject to mass grading and development. The project site encompasses the concrete banks of San Juan Creek channel and the creek bed of San Juan Creek, which was previously disturbed during installation of the existing pipeline. As such, it is likely that any cultural resources in the immediate area were destroyed by the previous development associated with the flood control channel and installation of the existing pipeline, resulting in very low potential for historical resources to be present. Therefore, no impact would occur.

- b) *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?*

**Less-Than-Significant Impact.** As discussed in the above response, archaeological resources in the immediate project area were likely destroyed by the previous development associated with the flood control channel and installation of the existing pipeline. As such, no archaeological resources are anticipated to be within the proposed project area. Further, given past disturbance to the creek bed associated with pipeline installation, the likelihood for unknown archaeological resources to be present in the project's limits of construction (i.e., an area 180 feet long by 10 feet wide) along the existing pipeline alignment in the creek bed is very low. Also, as indicated in Sections 3.8 and 3.11, construction personnel would receive WEAP training to understand Native American cultural and archaeological sensitivity in the project area, to recognize potential archaeological discoveries during construction, and to provide information on how to react in the event of a discovery. An archaeologist and a Native American monitor would be present on site during excavation activities within the San Juan Creek channel. If unexpected, potentially significant Native American or archeological resources are encountered during construction, the Native American monitor and/or archeological monitor would be able to temporarily redirect or suspend trenching and contact a qualified archaeologist to evaluate the potential significance of the find. Therefore, given the degree of past disturbance associated with the creek bed, ~~and~~ because the project entails removal of an existing partially exposed pipeline, and with implementation of these components of the project, impacts would be less than significant.

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- c) *Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

**No Impact.** Construction of the proposed project would occur within a developed channelized creek. Due to prior development of San Juan Creek into a flood control channel, as well as mass grading and development urban uses in the surrounding area, impacts to paleontological or unique geologic resources during pipeline removal activities are not expected. Further, the existing pipeline would be removed from its existing alignment within the creek bed, which was previously disturbed during installation of the pipeline. As such, no impacts would occur.

- d) *Would the project disturb any human remains, including those interred outside of formal cemeteries?*

**No Impact.** As discussed above in responses 3.5a–c, the proposed project site is located in an existing channelized creek that has previously undergone excavation and grading. Further, the pipeline would be removed from its existing alignment within the creek bed, which was previously disturbed during pipeline installation, and an archaeologist and Native American monitor would be present on site to assess and if need be, respond to, unanticipated discoveries during excavation. As such, human remains are not anticipated to be encountered during construction activities, and no impacts would occur.

### 3.6 Geology and Soils

- a) *Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:*

- i) *Rupture of a known earthquake fault, as delineated on the most recent Alquist–Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.*

**No Impact.** The project entails the removal of an existing partially exposed pipeline from the San Juan Creek bed. The project would not introduce new structures to the landscape, and the project site is not found on an Alquist–Priolo Earthquake Fault Zoning Map and is not located on an earthquake fault. The Newport–Inglewood Rose Canyon Fault, located approximately 6 miles away, is the nearest fault to the project site. Due to the nature of project activities, the brief duration of construction, and the distance between the project site and the

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nearest fault, the project would not expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture. No impact concerning fault rupture and substantial adverse effects to people or structures would occur.

ii) *Strong seismic ground shaking?*

**Less-Than-Significant Impact.** During construction, the project site may be subjected to strong ground motion due to the seismic activity of the region and proximity to the Newport–Inglewood Rose Canyon Fault. However, the project site is not within any Fault–Rupture Hazard Zone and is located approximately 6 miles from the nearest fault (City of San Juan Capistrano 2002). As such, the site would not be substantially affected by ground shaking any more than any other area in seismically active Southern California. Therefore, impacts would be less than significant.

iii) *Seismic-related ground failure, including liquefaction?*

**Less-Than-Significant Impact.** Liquefaction involves the substantial loss of shear strength in saturated soil, usually taking place within a soil medium exhibiting a uniform, fine-grained characteristic, loose consistency, and low-confining pressure when subjected to impact by seismic or dynamic loading. Liquefaction is also associated with lateral spreading, excessive settlement, and failure of shallow bearing foundations. According to the Seismic Hazard Zones Dana Point Quadrangle Map, the project site and generally, lands adjacent to the San Juan Creek channel, are located in an area with historic occurrence of liquefaction (DOC 2001). In addition, Figure S-1, Geologic Hazards, of the City of San Juan Capistrano General Plan, identifies the project site and much of the City’s boundary as major alluvial valleys with potentially high liquefaction risk (City of San Juan Capistrano 2002a). However, the proposed project does not involve any uses that would expose people or structures to potential adverse effects, including the risk of loss, injury, or death. The project consists of the removal of an existing partially exposed pipeline segment from the San Juan Creek bed, and construction activities would occur over an approximate 2-week period. As the project would not expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving seismic-related ground failure, impacts would be less than significant.



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*iv) Landslides?*

**No Impact.** According to the DOC's Seismic Hazard Zones Dana Point Quadrangle Map, the project site is not located in an area with historic occurrence of seismically induced landslides (DOC 2001). Further, the project site is not mapped in the City of San Juan Capistrano General Plan as being particularly susceptible to landslides (i.e., the site is not mapped as confirmed, known, highly suspected, possible, or conjectured for experiencing or potentially experiencing a landslide) (Figure S-1; City of San Juan Capistrano 2002a). Additionally, construction activities would take place within the San Juan Creek bed, which is generally flat and surrounded by sloping concrete walls. Construction work would require shallow excavation along the pipeline's alignment and would not create unstable slopes. Therefore, no impact would occur.

*b) Would the project result in substantial soil erosion or the loss of topsoil?*

**Less Than Significant Impact.** The proposed project would involve shallow trenching within the project's limits of construction (i.e., an area 180 feet long by 10 feet wide) to access and remove the existing partially exposed pipeline. As the creek bed is largely unvegetated and has been previously disturbed, no vegetation would be removed, and existing riprap adjacent to the limits of construction would remain in place. Upon completion of construction, any remaining void in the channel bed associated with pipeline removal would be backfilled and restored to pre-construction contours and conditions in place. Thus, the potential for soil erosion or loss of topsoil during the approximate 2-week construction period would be low, and impacts would be less than significant.

*c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?*

**No Impact.** The geologic unit underlying the project site is mapped as younger (Holocene, not active) alluvial flood plain deposits by the U.S. Geological Survey (USGS 1999). Further, the unit is described as unconsolidated sediment comprised of sandy silt and some clay (USGS 1999). According to the U.S. Department of Agriculture National Resources Conservation Science (NRCS), underlying soils consist of riverwash, which displays a typical profile of gravelly sand (0 to 6-inch depth) and stratified gravelly coarse sand to sandy loam (6 to 60-inch depth) (USDA 2017).

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The project consists of the removal of an existing pipeline segment within existing right-of-way, where the pipeline is currently installed. Because the existing pipeline would be removed and new features or structures would not be introduced to the creek channel, the proposed project would not be characterized as having the potential to result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. Further, any remaining void in the channel bed associated with pipeline removal would be backfilled and restored to pre-construction contours and conditions in place following construction. As such, the geological unit or soil underlying the creek bed would not become unstable as a result of the project, and no impact would occur.

- d) *Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?*

**No Impact.** Expansive soils have a significant amount of clay particles, which can shrink and swell with water, exerting stress on infrastructure within or above the surface. The occurrence of these soils is often associated with geologic units having marginal stability. Expansive soils can be widely dispersed and can be found in hillside areas as well as low lying alluvial basins. For example, according to the City's General Plan Safety Element, the relatively significant amounts of clay present in the underlying bedrock of the Capistrano and Monterey formations in the City pose an expansive soils hazard (City of San Juan Capistrano 2002a).

Soils underlying the project site and San Juan Creek channel are mapped as riverwash, which displays a typical profile of gravelly sand (0- to 6-inch' depth) and stratified gravelly coarse sand to sandy loam (6- to 60-inch' depth) (USDA 2017). While expansive soils can be found in low lying alluvial valleys and in creek beds, the project entails the removal of an existing pipeline section. No new facilities or structures are proposed and as such, the project would not create substantial risks to life or property. No impacts would occur.

- e) *Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?*

**No Impact.** The proposed project does not include septic tanks or alternative wastewater disposal systems. Therefore, no impact would occur.

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### 3.7 Greenhouse Gas Emissions

- a) *Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

**Less-Than-Significant Impact.** Global climate change is a cumulative impact. A project participates in this potential impact through its incremental contribution combined with the cumulative increase of all other sources of greenhouse gases (GHGs). Thus, GHG impacts are recognized as exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective (CAPCOA 2008). This approach is consistent with that recommended by the California Natural Resources Agency, which noted in its Public Notice for the proposed CEQA amendments that, in most cases, the evidence indicates the impact of GHG emissions should be considered in the context of a cumulative impact, rather than a project-level impact (CNRA 2009a). Similarly, the *Final Statement of Reasons for Regulatory Action* for amendments to the CEQA Guidelines confirms that an EIR or other environmental document must analyze the incremental contribution of a project to GHG levels and determine whether those emissions are cumulatively considerable (CNRA 2009b).

Neither the State of California nor the SCAQMD has adopted emission-based thresholds for GHG emissions applicable to the proposed project. The Governor’s Office of Planning and Research issued a technical advisory titled *CEQA and Climate Change: Addressing Climate Change through California Environmental Quality Act (CEQA) Review*, which states that “public agencies are encouraged but not required to adopt thresholds of significance for environmental impacts. Even in the absence of clearly defined thresholds for GHG emissions, the law requires that such emissions from CEQA projects must be disclosed and mitigated to the extent feasible whenever the lead agency determines that the project contributes to a significant, cumulative climate change impact” (OPR 2008). Furthermore, the advisory document indicates that “in the absence of regulatory standards for GHG emissions or other scientific data to clearly define what constitutes a ‘significant impact,’ individual lead agencies may undertake a project-by-project analysis, consistent with available guidance and current CEQA practice” (OPR 2008).

**Construction GHG Emissions.** Construction activities associated with removal of a 180-linear foot segment of an abandoned ETM pipeline in the San Juan Creek bed would result in GHG emissions during the approximate 2-week construction period. GHG emissions are primarily associated with use of off-road construction equipment, on-road hauling, and worker vehicles; however, given the relatively brief duration of construction activities and the limited volume of construction workers, vehicles, and equipment required for pipeline

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removal activities, estimated construction GHG emissions would be low. Further, GHG emissions generated during construction would not represent a long-term source of GHG emissions that would be cumulatively considerable. As such, the project's contribution would be less than significant and would not result in a cumulative impact in terms of GHG emissions. As the project consists of removal of a pipeline segment from the San Juan Creek bed and would not include an operational component, the project would not generate operational GHG emissions.

- b) *Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

**Less-Than-Significant Impact.** Approved by CARB on December 12, 2008, the Climate Change Scoping Plan provides a framework for actions to reduce California's GHG emissions and requires CARB and other state agencies to adopt regulations and other initiatives to reduce GHGs. Therefore, the Scoping Plan is not directly applicable to specific projects. Moreover, the *Final Statement of Reasons for Regulatory Actions* for the amendments to the CEQA Guidelines reiterates the statement in the Initial Statement of Reasons that "[t]he Scoping Plan may not be appropriate for use in determining the significance of individual projects ... because it is conceptual at this stage and relies on the future development of regulations to implement the strategies identified in the Scoping Plan" (CNRA 2009b). Under the Scoping Plan, however, there are several state regulatory measures aimed at the identification and reduction of GHG emissions. CARB and other state agencies have adopted many of the measures identified in the Scoping Plan. Neither MNWD, local jurisdictions, nor the SCAQMD have adopted GHG-reduction measures that would apply to the GHG emissions associated with pipeline removal activities. At this time, no mandatory GHG regulations or finalized agency guidelines would apply to implementation of the proposed project, and no conflicts with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions would occur. Therefore, impacts would be less than significant.

### 3.8 Hazards and Hazardous Materials

- a) *Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*

**Less-Than-Significant Impact.** The proposed project would temporarily involve the transport of fuels, lubricants, and various other standard materials needed for operation of construction equipment at the project site. Workers would also commute to the project site via company vehicles, and would operate construction vehicles on both public and

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private streets/routes. As such, fuels, lubricants, cleaning solutions, solvents, and other materials hazardous to humans, wildlife, and sensitive environments would be present during project construction within the San Juan Creek. Direct impacts to human health and biological resources from accidental spills of small amounts of hazardous materials from construction equipment during pipeline removal activities could potentially occur. However, compliance with federal, state, and City Municipal Code regulations that provide safety and control measures for the handling of these materials on site would ensure that potentially significant impacts would not occur. Compliance with existing regulations concerning the transport, use, or disposal of hazardous materials would ensure that significant hazards to the public or environment would not occur. As such, impacts would be less than significant.

- b) *Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

**No Impact.** The proposed project entails the removal of an existing abandoned pipeline segment from the San Juan Creek bed. Since the pipeline is abandoned and is no longer in operation, there is no potential for accidental release of wastewater or other significant hazardous conditions involving the pipeline during construction activities within the San Juan Creek channel. As discussed above, compliance with existing regulations concerning the transport, use, or disposal of hazardous materials during construction would ensure that reasonably foreseeable upset and accident conditions involving the release of hazardous materials would not occur. Therefore, no impact would occur.

- c) *Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

**No Impact.** No existing or proposed schools are located within 0.25 mile of the proposed project. The nearest schools, Kinoshita Elementary School, Marco Forster Middle School, and Del Obispo Elementary are located approximately 0.58 mile, 0.62 mile, and 0.70 mile northwest and west of the proposed project site, respectively. Because no schools are located within 0.25 mile of the proposed project site, no impact would occur.

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- d) *Would the project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

**Less-Than-Significant Impact.** The proposed project site is surrounded by mobile home residential uses to the north and industrial business park uses to the south. The public Department of Toxic Substances Control EnviroStor database was searched to identify cleanup and permitted sites (and other sites associated with the State Water Resources Control Board's GeoTracker database) in the vicinity of the proposed project site. No sites are mapped within the San Juan Creek channel (DTSC 2017). The nearest sites consist of a California Highway Patrol leaking underground storage tank cleanup site (case closed) located approximately 400 feet east of the proposed project site on Camino Capistrano (DTSC 2017). The nearest open case listing, a leaking underground storage tank cleanup site, occurs at Capistrano Car Wash, which is located approximately 430 feet southeast of the project site (DTSC 2017). As there are no hazardous materials sites immediately adjacent to the project site, and project activities would consist of removal of an existing pipeline from a previously disturbed creek bed, construction activities would not create a significant hazard to the public or the environment. Impacts would be less than significant.

- e) *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?*

**No Impact.** The project site is not located within 2 miles of a public airport or public use airport. John Wayne Airport (SNA) and Fullerton Municipal Airport (FUL) are the nearest airports within Orange County and are located approximately 17 miles and 31 miles from the project site, respectively. Also, the project entails the removal of an existing pipeline segment from within the San Juan Creek and would not involve the construction of a new structure or facility that may create a safety hazard associated with air navigation for people residing or working in the project area. Therefore, no impact would occur.

- f) *For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?*

**No Impact.** No private airstrips are located within 2 miles of the proposed project area. The nearest private airstrip/helipad is the Southern California Edison (SCE) SONGS Mesa Heliport located east of the San Onofre Generating Station and approximately 9.7 miles from the proposed project site (AirNav 2017). As the project would not involve the construction of a new structure or facility that would create a safety hazard associated with private air navigation for people residing or working in the project area, no impact would occur.

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- g) *Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

**Less-Than-Significant Impact.** The proposed project would not impair implementation of or physically interfere with the City of San Juan Capistrano's Emergency Management Program. While the program essentially consists of preparedness links that residents can access to learn how to prepare for an emergency (City of San Juan Capistrano 2017), and the City's General Plan does not identify evacuation routes, project construction would take place within the San Juan Creek channel over an approximate 2-week period. As such, construction activities would not conflict with evacuation procedures should an event warranting evacuation occur within the City. While the proposed project would generate temporary traffic on City roadways, the small scale and isolated nature of construction within the San Juan Creek channel would not interfere with adopted emergency plans. Construction would be short-term in nature and would conform to City ordinances for traffic control management (if determined to be necessary). As such, impacts would be less than significant.

- h) *Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?*

**No Impact.** The project site is located in a primarily unvegetated creek channel armored with sloped concrete walls. In addition, the project site is situated in a developed and urbanized setting and according to the City's General Plan (see Figure S-5, Very High Fire Hazard Areas, in the General Plan), it is not within a Very High Fire Hazard Area (City of San Juan Capistrano 2002a). Therefore, project construction would not expose people or structures to significant risk concerning wildland fires. No impact would occur.

### 3.9 Hydrology and Water Quality

- a) *Would the project violate any water quality standards or waste discharge requirements?*

**Less-Than-Significant Impact.** The project involves the removal of an existing (and abandoned) ETM pipeline segment via trenching, jackhammering, and sawing. It does not propose to install infrastructure that would require waste discharge permits. During construction activities, there would be potential for waste discharges from vehicles and equipment along the creek channel access route and within the project limits of construction. However, potential (and inadvertent) waste discharge is not expected to be substantial as MNWD's contractor would ensure that vehicles are properly maintained, and

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no permit requirements are expected. Further, the project contractor would incorporate standard Best Management Practices (BMPs) to ensure compliance with the RWQCB waste discharge regulations. Therefore, impacts would be less than significant.

- b) *Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (i.e., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?*

**No Impact.** Construction activities would not rely on groundwater supplies and removal of the existing, abandoned pipeline segment would not require dewatering of the limits of construction. Since there would be no substantial depletion of groundwater supplies and activities would not impact existing wells, no impact would occur.

- c) *Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?*

**Less-Than-Significant Impact.** Construction activities would be limited to the identified limits of construction, which generally parallel and encompass the existing pipeline alignment in the San Juan Creek bed. The existing pipeline segment would be removed, and any void in the earthen channel creek bottom associated with removal of the pipeline and encasement would be backfilled and restored to pre-construction contours and conditions in place following construction. Restoration of the void to pre-construction contours and conditions would minimize potential impacts concerning substantial alterations to the course of the creek such that substantial downstream erosion or siltation would occur. Because the project limits of construction would be returned to pre-construction contours and conditions following construction, drainage patterns would not be substantially altered from existing conditions. Therefore, impacts would be less than significant.

- d) *Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?*

**Less-Than-Significant Impact.** See response 3.9c above. The project would not substantially alter the course of San Juan Creek and any void in the earthen channel creek bottom associated with removal of the pipeline and encasement would be backfilled and



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restored to pre-construction contours and conditions in place following construction. Therefore, impacts would be less than significant.

- e) *Would the project create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*

**No Impact.** The project would not result in permanent new hardscape or impervious surfaces. The project would involve the removal of an approximately 180-linear-foot segment of an existing partially exposed pipeline within the San Juan Creek channel. No increase in runoff water would occur following removal of the existing pipeline segment and restoration of the associated void to pre-construction contours and conditions. Further, the project site is located within an existing flood control channel that is directly connected to the Pacific Ocean. As such, no impacts would occur.

- f) *Would the project otherwise substantially degrade water quality?*

**Less-Than-Significant Impact.** As discussed in response 3.9a above, the proposed project would implement standard BMPs during construction to comply with the RWQCB and prevent waste discharges that could degrade water quality. Construction BMPs may include the installation of straw wattles near the temporary area of disturbance. With these BMPs in place, impacts would be less than significant.

- g) *Would the project place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?*

**No Impact.** The project does not propose to construct housing. Therefore, no impact would occur.

- h) *Would the project place within a 100-year flood hazard area structures which would impede or redirect flood flows?*

**No Impact.** The proposed project does not involve placing structures within a flood hazard area. The proposed project entails the removal of a 180-linear-foot segment of an existing pipeline from the San Juan Creek bed. As no new structures are proposed, no impact would occur.

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- i) *Would the project expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?*

**No Impact.** The proposed project involves the removal of an existing pipeline segment from the San Juan Creek channel. While the project site and downstream reach of San Juan Creek are mapped as dam inundation areas by the City of San Juan Capistrano's General Plan (see Figure S-4, Dam Inundation Areas), construction activities do not involve the use of a dam, levee, or other similar infrastructure whose failure poses a risk for flooding. Further, construction activities in and of themselves would not expose people to a significant risk of loss, injury, or death involving flooding. Construction is targeted to begin in September 2017, but would ultimately be dependent on receipt of necessary permits from ACOE, CDFW, and the Santa Ana RWQCB. Also, construction activities would occur over a 2-week period and would generally avoid the wet weather season. Therefore, no impact would occur.

- j) *Inundation by seiche, tsunami, or mudflow?*

**No Impact.** A seiche, or standing wave, typically occurs in partially or fully enclosed bodies of water such as lakes, reservoirs, or bays, often resulting from seismic disturbance. A seiche is not likely to occur within San Juan Creek, and the nearest enclosed bodies of water include Lake Laguna Niguel (located 4.3 miles to the northwest) and Upper Oso Reservoir (located 12 miles to the northeast) are not within the vicinity of proposed project site. Further, the proposed project consists of the removal of an existing pipeline segment from the San Juan Creek channel and would not introduce new structures or facilities that would be susceptible to seiche-induced damage. Therefore, no impact from seiches would occur.

The proposed project site is situated approximately 2 miles inland and is located outside of the Dana Point Quadrangle/San Juan Capistrano Quadrangle tsunami inundation zone, as determined by the California Emergency Management Agency (CalEMA 2009). Therefore, the project site and construction activities would not expose construction workers to a significant risk of loss, injury, or death associated with tsunamis. No impacts from tsunamis are anticipated during the approximate 2-week construction period.

As discussed in Section 3.6, Geology and Soils, the proposed project area is not identified in the San Juan Capistrano General Plan as an area susceptible to landslides or other debris flows. Construction activities would not create unstable surfaces or slopes that would lead to increased risk of landslides, mudflows, or other debris flows, and land disturbances would generally be limited to the limits of construction. Project construction would

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generally occur along a perpendicular alignment across the creek bed and would not expose construction workers to a significant risk of loss, injury, or death associated with mudflows. Therefore, no impact from mudflows would occur.

### 3.10 Land Use and Planning

*a) Would the project physically divide an established community?*

**No Impact.** Project construction activities would occur within channelized San Juan Creek and along the earthen and riprap of varying sizes creek bed. The existing creek channel divides portions of the City of San Juan Capistrano from one another. Construction activities within the creek channel would occur over an approximate 2-week period and would not divide the community. No new structures or facilities are proposed. As such, no impacts concerning the physical division of an established community would occur.

*b) Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*

**No Impact.** The construction of the proposed pipeline would not conflict with adopted planning documents, including the City of San Juan Capistrano General Plan. The designated land uses within the project area include general open space within the creek, mobile home residential north of the creek, and commercial south of the creek. Installation of the existing ETM pipeline within the creek channel was previously permitted, and MNWD is now proposing to remove this feature from the creek bed. No new land uses would be introduced to the creek channel following removal of the existing pipeline segment. The proposed project is located outside the jurisdiction of the local coastal program in neighboring City of Dana Point. Therefore, no impact concerning conflicts with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect would occur.

*c) Would the project conflict with any applicable habitat conservation plan or natural community conservation plan?*

**Less-Than-Significant Impact.** While the proposed project site is within the Orange County Southern Subregional NCCP/MSAA/HCP boundary (USFWS 2006), it is located in an urbanized area of San Juan Capistrano. Further, the proposed project site is located

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outside of designated NCCP/MCAA/HCP reserves and would not substantially affect species covered under the plan. Therefore, impacts would be less than significant.

### 3.11 Mineral Resources

- a) *Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*

**No Impact.** According to the Department of Conservation's Generalized Mineral Land Classification of Orange County, California map, the proposed project is located in an area classified as Mineral Resource Zone (MRZ) - 3 (DOC 1994). An MRZ-3 area is defined as "areas containing mineral deposits the significance of which cannot be evaluated from available data" (DOC 1994). The San Juan Capistrano General Plan and the San Juan Capistrano General Plan Program EIR do not identify mineral resources within the City's jurisdiction (City of San Juan Capistrano 1999, 2002a). While there is potential for unidentified mineral resources, the project site has been previously disturbed and is located in a highly developed and urbanized area. Furthermore, the project entails the removal of an existing pipeline segment from the San Juan Creek bed and would not require substantial earthwork or the displacement of significant volumes of soil. Therefore, no impact concerning the loss of availability of a known mineral resource that would be of value to the region and the residents of the state is anticipated.

- b) *Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*

**No Impact.** See response 3.11a above. Neither the San Juan Capistrano General Plan nor the General Plan Program EIR identify mineral resources of local importance within the City's jurisdiction. As such, the project would not result in the loss of availability of a locally important mineral resource recovery site and no impact would occur.

### 3.12 Noise

- a) *Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

**Less-Than-Significant Impact.** Sound is mechanical energy transmitted by pressure waves in a compressible medium, such as air. Noise is defined as sound that is loud, unpleasant, unexpected, or undesired. The sound-pressure level has become the most common descriptor used to characterize the loudness of an ambient sound level. The unit of

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measurement of sound pressure is a decibel (dB). Under controlled conditions in an acoustics laboratory, the trained, healthy human ear is able to discern changes in sound levels of 1 dB when exposed to steady, single-frequency signals in the mid-frequency range. Outside such controlled conditions, the trained ear can detect changes of 2 dB in normal environmental noise. Since the human ear is not equally sensitive to all sound frequencies within the entire spectrum, noise levels at maximum human sensitivity are factored more heavily into sound descriptions in a process called “A-weighting,” the measurement of which is expressed as dBA.

The City of San Juan Capistrano divides exterior noise standards based on residential (including public and institutional districts) and non-residential (commercial districts). Table 3-2 below outlines the noise standards defined by the City’s municipal code.

**Table 3-2  
City of San Juan Capistrano Exterior Noise Standards**

Time Period	Noise Level, Residential (dBA)	Noise Level, Commercial (dBA)
7:00 a.m. to 7:00 p.m.	65	65
7:00 p.m. to 10:00 p.m.	55	65
10:00 p.m. to 7:00 a.m.	45	65

**Notes:** dBA = A-weighted decibels.

**Source:** City of San Juan Capistrano 2013.

The City’s municipal code exempts noise from construction activities provided the construction does not occur between the hours of 6:00 p.m. to 7:00 a.m. on Monday through Friday, or from 4:30 p.m. to 8:30 a.m. on Saturday, or at any time on Sunday or a national holiday (City of San Juan Capistrano 2013).

Short-term noise impacts may occur during the approximately 2-week construction period. Construction of the proposed project would occur within the San Juan Creek channel. Pipeline removal would require the use of construction equipment including a truck, excavator, jackhammers, and circular saw(s). The typical maximum noise levels for various pieces of construction equipment at a distance of 50 feet are presented in Table 3-3, Construction Equipment Noise Levels. Note that the equipment noise levels presented in Table 3-3 are maximum noise levels. The equipment operates in alternating cycles of full power and low power, thus, producing noise levels less than the maximum level. The average sound level of the construction activity also depends upon the amount of time that the equipment operates and the intensity of the construction during the time period.

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**Table 3-3  
Construction Equipment Noise Levels**

Equipment Type	“Typical” Equipment dBA at 50 feet	“Quiet” <sup>1</sup> Equipment dBA at 50 feet
Air compressor	81	71
Backhoe	85	80
Concrete pump	82	80
Concrete vibrator	76	70
Crane	83	75
Truck	88	80
Dozer	87	83
Generator	78	71
Loader	84	80
Paver	88	80
Pneumatic tools	85	75
Water pump	76	71
Power hand saw	78	70
Shovel	82	80
Trucks	88	83

**Notes:** dB(A) = A-weighted decibels

<sup>1</sup> Estimated levels obtainable by selecting quieter procedures or machines and implementing noise control features requiring no major redesign or extreme cost.

**Source:** DOT 2006

The maximum noise levels at 50 feet for typical equipment would range up to 88 A-weighted decibels (dBA) for the type of equipment anticipated to be used for the proposed project, although the hourly noise levels would vary. Construction noise in a well-defined area typically attenuates at approximately 6 dB per doubling of distance. When the sites have an absorptive ground surface, such as soft dirt, grass, or scattered bushes and trees, an excess ground attenuation value of 1.5 dB per doubling distance can be assumed.

The nearest residential receptors are located within 150 feet of the identified limits of construction within the San Juan Creek channel. At a distance of 150 feet, noise generated by construction trucks could generate noise levels of up to 76 dbA at nearby residential land uses; however, the construction activities would take place exclusively during the hours permitted in Title 8, Chapter 2, Section 8-2.04, *Permitted Hours of Construction Operation*, of the City of San Juan Capistrano Municipal Code (7:00 a.m. – 6:00 p.m. Monday through Friday, 8:30 a.m. – 4:30 p.m. on Saturdays). Further, construction activities would occur over an approximate 2-week timeframe and the relatively small number of truck trips and worker trips that would be associated with the project would not result in a noticeable or measureable increase in traffic noise along local City arterials.

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Therefore, because the City's municipal code exempts noise from construction activities and because the project would generate nominal construction traffic, the proposed project would not be subject to the City's exterior noise standards during the approximate 2-week time frame, and impacts would be less than significant.

Although noise impacts would be less than significant, the following construction noise control measures are recommended to reduce potential annoyance or complaints from nearby residences, to the extent possible:

- Construction shall not occur between the hours of 6:00 p.m. and 7:00 a.m. Monday through Friday or at any time on weekends or federal holidays. The hours of construction, including noisy maintenance activities and all spoils and material transport, shall be restricted to the periods and days permitted by the local noise or other applicable ordinance.
- All noise-producing project equipment and vehicles using internal-combustion engines shall be equipped with mufflers, air-inlet silencers where appropriate, and any other shrouds, shields, or other noise-reducing features in good operating condition that meet or exceed original factory specifications. Mobile or fixed "package" equipment (e.g., arc welders, air compressors) shall be equipped with shrouds and noise-control features that are readily available for that type of equipment.
- All mobile or fixed noise-producing equipment used on the project that are regulated for noise output by a local, state, or federal agency shall comply with such regulations while in the course of project activity.
- Electrically powered equipment shall be used instead of pneumatic or internal-combustion-powered equipment, where feasible.
- Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors.
- The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.
- No project-related public address or music system shall be audible at any adjacent receptor.

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- b) *Would the project result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?*

**Less-Than-Significant Impact.** Ground-borne vibration is a small, rapidly fluctuating motion transmitted through the ground that diminishes (attenuates) fairly rapidly over distance. Ground-borne vibration from heavy equipment operations during construction of the proposed project was evaluated and compared with relevant vibration impact criteria using the Federal Transit Administration's Transit Noise and Vibration Impact Assessment, which provides vibration impact criteria and recommended methodologies and guidance for assessment of vibration effects (FTA 2006).

Construction activities associated with the proposed project are anticipated to require the use of trucks, an excavator, jackhammers, and a circular saw(s). At a distance of approximately 25 feet, the vibration level from a small bulldozer would be approximately 0.003 peak particle velocity (PPV), in inches per second (see Table 12-2, Vibration Source Levels for Construction Equipment, in FTA 2006). Assuming construction equipment associated with the proposed project generate similar vibration, vibration levels of this (0.003 PPV at 25 feet) magnitude would be below the FTA threshold (0.20 PPV inches per second) of potential damage for non-engineered timber and masonry buildings (see Table 12-3, Construction Vibration Damage Criteria, in FTA 2006) and would not be considered excessive. Therefore, short-term construction related vibration impacts would be less than significant.

- c) *Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?*

**No Impact.** Noise would be generated during construction but once the pipeline section is removed, equipment and vehicles would cease to operate, and permanent increases in ambient noise levels would not occur. Increases in noise would be limited to temporary construction that would occur over a 2-week period. Therefore, no impact concerning permanent increases in ambient noise levels would occur.

- d) *Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*

**Less-Than-Significant Impact.** There would be short-term noise associated with construction activities, as discussed above (Refer to Section 3.12(a).) The temporary increase in ambient noise levels would occur over a 2-week period during the time frame permitted by Title 8, Chapter 2, Section 8-2.04 *Permitted Hours of Construction Operation*, of the City's Municipal Code and would not be substantial. Therefore, impacts would be less than significant.



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- e) *Would the project be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*

**No Impact.** The proposed project is not located within 2 miles of a public airport or within an airport land use plan. See Section 3.8, Hazards and Hazardous Materials, above for additional detail. Therefore, no impact would occur.

- f) *Would the project be within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?*

**No Impact.** The proposed project is not located within 2 miles of a private airstrip. See Section 3.8, Hazards and Hazardous Materials, above for additional detail. Therefore, no impact would occur.

### 3.13 Population and Housing

- a) *Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

**No Impact.** The proposed project entails the removal of an approximate 180-linear-foot section of an existing abandoned pipeline within channelized San Juan Creek. It would not introduce new homes, businesses, or other structures or infrastructure that would directly induce population growth. Therefore, no impact concerning population growth would occur.

- b) *Would the project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?*

**No Impact.** The proposed project would not result in the displacement of existing housing. See response 3.13a above. No impacts concerning displacement of existing housing would occur.

- c) *Would the project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?*

**No Impact.** The proposed project would not result in the displacement of people. See response 3.13a above. No impacts concerning displacement of people that would necessitate the construction of replacement housing elsewhere would occur.

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### 3.14 Public Services

- a) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:*

*Fire protection?*

**No Impact.** The project would remove a segment of an existing ETM pipeline within San Juan Creek. Construction activities associated with the proposed project would not result in an increased demand for fire protection services. Therefore, no impact would occur.

*Police protection?*

**No Impact.** See response 3.14a, Fire Protection, above. The proposed project would not result in an increased demand for police protection services, and no impact would occur.

*Schools?*

**No Impact.** See response 3.14a, Fire Protection, above. The project would not result in an increased demand for educational services, and no impact would occur.

*Parks?*

**No Impact.** See response 3.14a, Fire Protection, above. The project would not result in an increased demand for parks and recreation. Therefore, no impact would occur.

*Other public facilities?*

**No Impact.** See response to 3.14a, Fire Protection, above. Short-term construction activities associated removal of the existing pipeline segment would not result in an increased demand for any public service, including those listed above. Therefore, no impact would occur.

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### 3.15 Recreation

- a) *Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*

**No Impact.** The proposed project involves the removal of an existing ETM pipeline section from within channelized San Juan Creek. As discussed in Section 3.13, Population and Housing, the proposed project would not directly or indirectly induce population growth that would potentially increase the use of existing parkland or recreational facilities. As such, deterioration of these recreational facilities would not be accelerated. No impacts regarding the deterioration of existing recreational facilities would occur.

- b) *Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?*

**No Impact.** The proposed project involves the removal of an approximate 180-linear-foot segment of an existing ETM pipeline. The proposed project does not include recreational facilities, and, as discussed in Section 3.13, Population and Housing, it would not induce population growth that would increase demand for recreational facilities. Therefore, no impact would occur.

### 3.16 Transportation and Traffic

- a) *Would the project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?*

**Less-than-Significant Impact.** Traffic generated by construction activities would be short-term and temporary. Construction would last approximately 2 weeks and is expected to utilize between two to three construction-related vehicles. When feasible, transport to and from the project site within the creek channel would avoid peak AM and PM hours in order to avoid contributing to peak hour traffic conditions on the local roadway network, including roadway segments and intersections. The construction access route ~~off Camino Capistrano~~ along the San Juan Creek Trail would likely interfere with use of the San Juan Creek Trail, requiring the temporary re-routing of pedestrians and bicyclists. Construction

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vehicles would utilize surrounding roadways including ~~Camino Capistrano~~ Del Obispo Street, Blue Fin Drive, Via La Pluma, Calle Jardin, and Alipaz Street for the transport of workers, materials, and waste. However, due to the small number of vehicles planned for use and the short-term duration of the construction phase, traffic-related impacts would be temporary and would not substantially affect intersection operations and roadway segment operating conditions. Therefore, impacts would be less than significant.

- b) *Would the project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?*

**Less-Than-Significant Impact.** See response 3.16a, above. Traffic generated by construction would be short-term and would occur over an approximate 2-week time frame. Construction related vehicles planned for use would not substantially increase roadway traffic volumes or result in a decline of existing level of service at area intersections. Therefore, impacts would be less than significant.

- c) *Would the project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?*

**No Impact.** The proposed project location is not located within 2 miles of a public or private airstrip and is not within an airport land use plan. Therefore, no impact would occur.

- d) *Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?*

**No Impact.** The proposed project entails the removal of an existing segment of abandoned pipeline from within channelized San Juan Creek. It does not include any roadway designs or alterations to existing roadways that would otherwise potentially increase traffic hazards. Therefore, no impact would occur.

- e) *Would the project result in inadequate emergency access?*

**No Impact.** See response to 3.16a, above. Construction impacts would be short term and temporary. Additionally, the construction areas would not directly interfere with a roadway that would otherwise impede emergency response. Therefore, no impacts concerning inadequate emergency access would occur.

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- f) *Would the project conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?*

**Less-Than-Significant Impact.** See response to 3.16a, above. The nominal traffic generated by construction would not conflict with public transit routes. While use of the San Juan Creek Trail would be affected by ~~the construction access route~~ traffic from Camino Capistrano to the San Juan Creek bed, traffic would not be constant as trucks would access the site at the beginning of the work day and leave at the end of the work day. Also, the potential re-routing of pedestrians and bicyclists on the trail would be short-term, and would return to normal operation once construction ceases at the end of the approximate 2-week construction period. Therefore, impacts would be less than significant.

### 3.17 Tribal Cultural Resources

- a) *Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:*

- i. *Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?*

**Less-Than-Significant Impact.** On May 17, 2017, representatives of the Juaneño Band of Mission Indians were contacted by MNWD and Dudek staff who explained the scope of the proposed project and solicited comments regarding cultural resources, tribal cultural resources, or places that may be impacted by the proposed project. While representatives of the Juaneño Band of Mission Indians were unaware of specific sacred sites or sites of Native American cultural value in the proposed project area of potential effect, two of the four representatives stated that in general, drainages are sensitive for resources. In addition, a tribal representative stated that there were many known village sites in the project area. Per comments received during tribal outreach, the Juaneño Band of Mission Indians consider San Juan Creek to culturally sensitive.

The proposed project area has previously subject to mass grading and development. In addition, the project site encompasses the concrete banks of San Juan Creek channel and the creek bed of San Juan Creek, which was previously

## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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disturbed during installation of the existing pipeline. Despite previous ground-disturbing activities that have occurred in the creek channel, monitoring would be implemented during construction of the proposed project. The monitoring entails WEAP training for construction personnel training to understand Native American cultural and archaeological sensitivity in the project area, to recognize potential archaeological discoveries during construction, and to provide information on how to react in the event of a discovery. Based on the sensitivity of the San Juan Creek area as expressed by responding representatives of the Juaneño Band of Mission Indians, the project also provides for an archaeologist and a Native American monitor to be present on site during excavation activities within the San Juan Creek channel. Therefore, with these project components, impacts would be less than significant.

- ii. *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

Less-Than-Significant Impact. Please refer to response to 3.17 (a)(i), above.

### **3.18 Utilities and Service Systems**

- a) *Would the project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?*

**No Impact.** The proposed project involves the removal of an existing, abandoned ETM pipeline segment from within San Juan Creek. It would not increase wastewater usage, resulting in an exceedance of wastewater treatment requirements of the applicable RWQCB. Therefore, no impact would occur.

- b) *Would the project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

**No Impact.** The proposed project would not result in a development that would increase the demand for water or wastewater services. The project itself is the removal of an existing ETM pipeline segment located within San Juan Creek. Because the proposed project would not introduce new land uses to an area, it would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities. As such, no impacts would occur.

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- c) *Would the project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

**No Impact.** See responses 3.17a and 3.17b above. The proposed project entails the removal of an existing segment of an abandoned pipeline from within the San Juan Creek channel. As such, the proposed project does not include uses that would require the construction of any new stormwater facilities or the expansion of existing facilities. Therefore, no impact would occur.

- d) *Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?*

**No Impact.** Removal of the existing segment of ETM pipeline within the San Juan Creek channel would not require potable water usage. The pipeline segment would be removed through the use of an excavator, jackhammers, circular saw(s), and trucks, and would not require regular applications of potable water to the limits of construction area. Therefore, no impact would occur.

- e) *Would the project result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*

**No Impact.** The proposed project would not generate demand for wastewater services. As proposed, the project would remove an existing segment of an abandoned pipeline from within the San Juan Creek channel. Therefore, no impact concerning capacity of a wastewater treatment provider would occur.

- f) *Would the project be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?*

**Less-Than-Significant Impact.** The proposed project's solid waste generation and disposal needs would be limited to the construction phase. Construction debris generated from pipeline removal as well as waste generated by the construction workers would be short-term and temporary and would be generated over an approximate 2-week construction period. Located at 32250 La Pata Avenue in San Juan Capistrano, the Prima Deshecha Sanitary Landfill would serve the project. According to the revised Solid Waste Permit for the Prima Deshecha Landfill, the Deshecha Landfill has two active disposal zones (i.e., Zone 1 and Zone 4) which have an estimated closure date of 2019 and 2067, respectively (County of Orange 2011). Also, according to CalRecycle's

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Solid Waste Information System (SWIS) database, as of August 2005 the landfill had an estimated remaining capacity of 87,384,799 cubic yards (CalRecycle 2017). Due to the limited nature of construction activities and the brief duration of the construction timeframe, the Deshecha Landfill would be expected to have adequate capacity to serve the solid waste generated during construction activities. Therefore, impacts would be less than significant.

- g) *Would the project comply with federal, state, and local statutes and regulations related to solid waste?*

**No Impact.** During construction the proposed project would comply with relevant statutes for proper waste disposal generated by shallow excavation and construction workers. Construction would avoid tracking of materials by properly securing materials during transport to avoid accidental fall or blow over onto the local roadway system. Therefore, no impacts to statutes and regulations related to solid waste would occur.

### **3.4819 Mandatory Findings of Significance**

- a) *Does the project have the potential to 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, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?*

**Less-Than-Significant Impact with Mitigation Incorporated.** The proposed project's potential to degrade the quality of the environment as it relates to fish or wildlife species is analyzed above in Section 3.4, Biological Resources. The area within San Juan Creek was identified as a critical habitat for steelhead trout. Due to proposed excavation activities, construction would directly impact the creek bed. As such, construction activities could potentially disrupt steelhead trout migration, which occurs between December 1 and May 31. Construction is targeted to begin in September 2017 and is expected to last approximately 2 weeks. While construction would avoid the steelhead trout migration season, the actual start date of construction would ultimately be determined by receipt of necessary permits from ACOE, CDFW, and the Santa Ana RWQCB. As such, construction would avoid the steelhead trout migration period and would not result in direct impacts to the species. Further, no steelhead trout were identified during the April 2016 focused steelhead surveys conducted prior to initiation of construction for MNWD's Plant 3A Effluent Transmission Main Replacement Project,



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and no steelhead trout were observed during steelhead trout monitoring conducted for the same project ((RCD of Santa Monica Mountains and Davey Resource Group 2016; Davey Resource Group 2016). Nesting birds could utilize trees found adjacent to and near the San Juan Creek channel between February 15 and August 31. However, as detailed above, construction is targeted to begin in September 2017 and would avoid the nesting season. As such, impacts to nesting birds would be less than significant.

While the study area does not contain federal jurisdictional wetlands as defined in Section 3.4, Biological Resources, the study area supports non-wetland aquatic resources regulated by the ACOE, RWQCB, and the CDFW as jurisdictional “waters of the United States” or “waters of the state.” Minimal temporary disturbance would occur within San Juan Creek as a result of the pipeline removal and temporarily affected areas associated with construction activities within the creek would be restored to pre-construction contours and conditions in place following construction. In conclusion, no impacts to federally protected wetlands would occur; however, jurisdictional non-wetland “waters of the United States” or “waters of the state” would be affected. As such, construction activities within the San Juan Creek could result in potentially significant impacts to jurisdictional non-wetland “waters of the United States” or “waters of the state.” Incorporation of mitigation measure MM-BIO-1 would reduce impacts to resources subject to Section 404 of the Clean Water Act to below a level of significance.

The proposed project’s potential to degrade, threaten, or otherwise eliminate important historical or archaeological resources is analyzed above in Section 3.5, Cultural Resources. Due to previous disturbance associated with construction of the concrete creek channel slopes and installation of the ETM pipeline, the likelihood for encountering archaeological resources during construction is low. In addition, in accordance with construction, personnel would receive WEAP training, and an archaeologist and a Native American monitor would be present on site during excavation activities within the San Juan Creek channel. If needed, the monitors would be able to halt work in order to assess the significance of unanticipated archaeological discoveries. Therefore, for purposes of this analysis, the potential for encountering important Native American resources during removal of the existing 180-linear-foot ETM pipeline segment is low and unlikely, and represents a less-than-significant impact. Therefore, impacts to sensitive fish or wildlife and important historical or archaeological resources would be less than significant.

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- b) *Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

**Less-Than-Significant Impact.** As analyzed throughout Section 3 of this document, the proposed project would result in less-than-significant impacts or no impact to aesthetics, agriculture and forestry resources, air quality, biological resources, cultural resources, geology and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, and utilities and service systems. The proposed project entails the removal of an existing and abandoned approximately 180-linear-foot segment of an ETM pipeline within San Juan Creek. All potential impacts associated with the construction activities would be short term and temporary in nature and would occur over an approximate 2-week period. Therefore, the project does not have impacts that are individually limited, but cumulatively considerable. Impacts would be less than significant.

- c) *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

**Less-Than-Significant Impact.** Direct and indirect environmental effects on human beings were analyzed in the following sections: aesthetics, air quality, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population and housing, and transportation and traffic. As found in discussion of each relevant section, all potential impacts to human beings would be less than significant or no impact. Specifically, all potential impacts would occur over the approximate 2-week construction period and would be associated with noise and vibration associated with construction vehicles and equipment; operation of emission generating equipment; and transport, use, and disposal of hazardous materials. However, the proposed project would comply with federal, state, and local hazardous materials regulations and implement BMPs. Therefore, impacts would be less than significant.

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**4 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Time Frame of Mitigation				Monitoring Reporting Agency	Time Frame for Verification /Frequency to		Date of Completion	Date of Verification
	Planning	Pre-Const.	During Const.	Post Const.		Monitor	Report		
<b>MM-BIO-1</b> Prior to the initiation of construction activities in San Juan Creek, Moulton Niguel Water District shall obtain applicable permits from the U.S. Army Corps of Engineers (Clean Water Act Section 404 Nationwide Permit 12), Regional Water Quality Control Board (Clean Water Act Section 401 Water Quality Certification (or waiver)) and the California Department of Fish and Wildlife (Section 1602 Streambed Alteration Agreement) for temporary construction impacts to jurisdictional non-wetland "waters of the United States" or "waters of the state." Moulton Niguel Water District and/or their contractor shall comply with all permit conditions (if applicable).	X	X	X		MNWD				

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## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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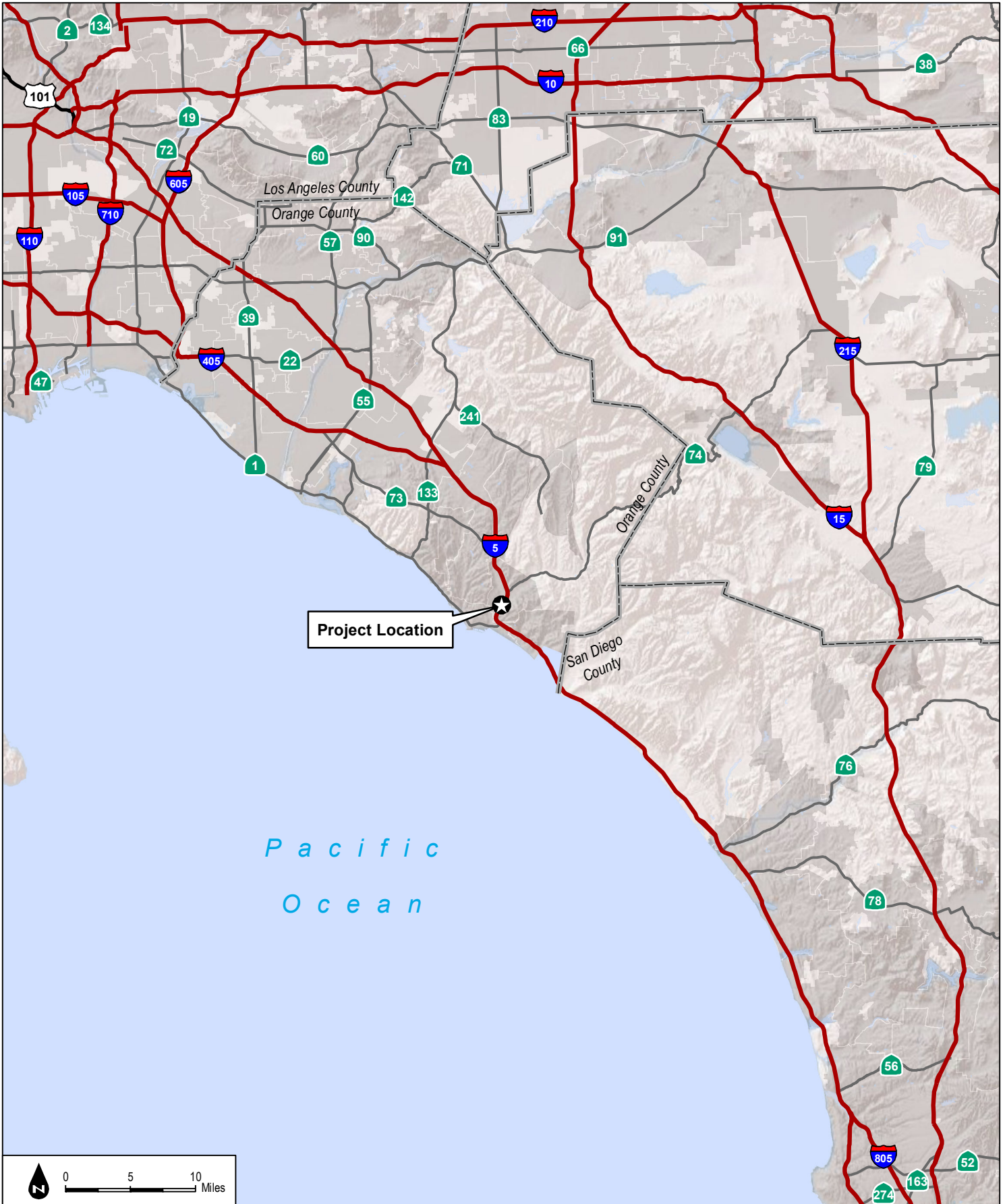
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### **5.2 List of Preparers**

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SOURCE: ESRI 2017

**DUDEK**

**FIGURE 1**  
Regional Map

Initial Study/Mitigated Negative Declaration for the ~~FTTA~~ Pipeline Removal in San Juan Creek

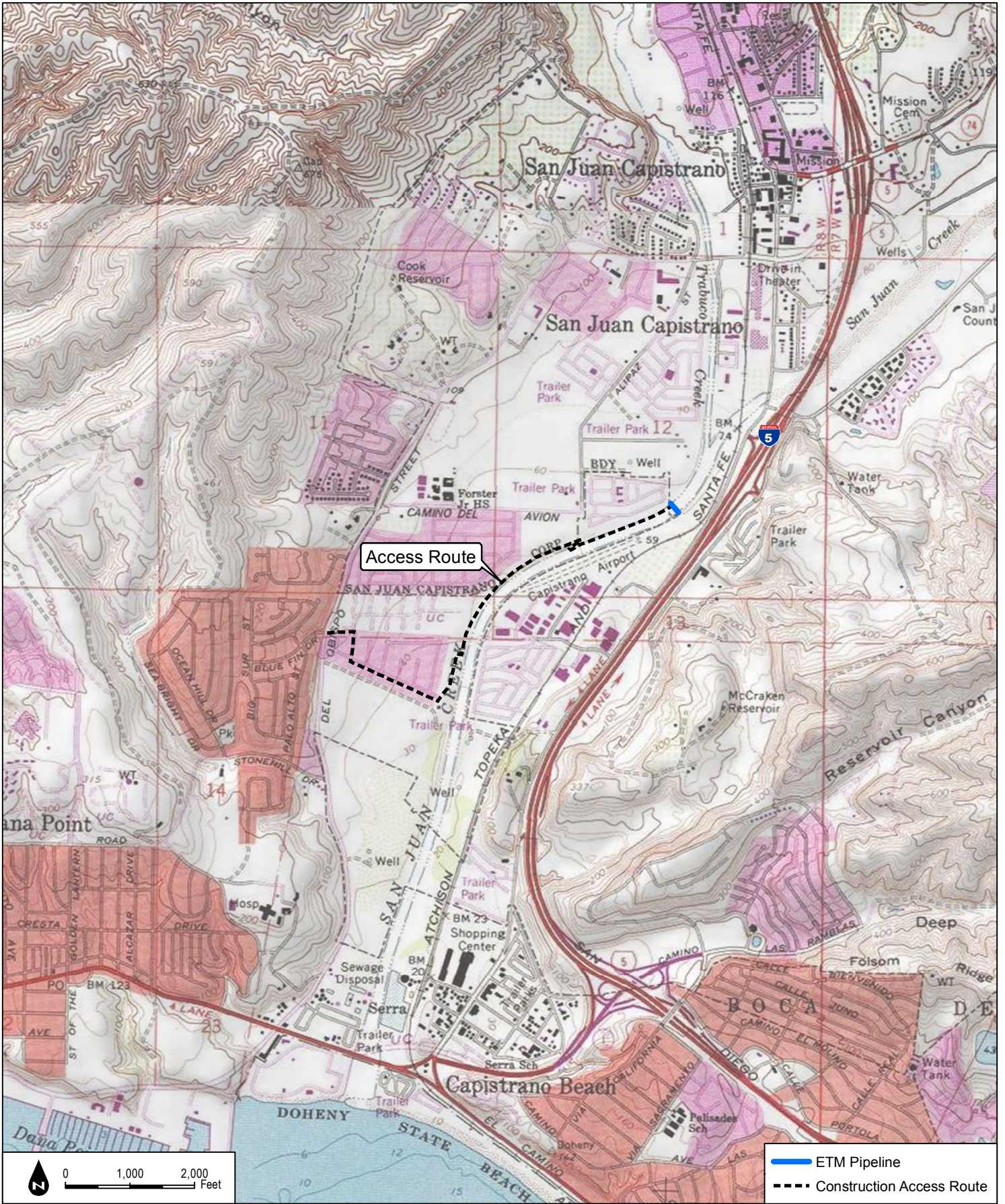
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SOURCE: USGS 7.5-Minute Series Dana Point Quadrangle.

**FIGURE 2**  
Vicinity Map



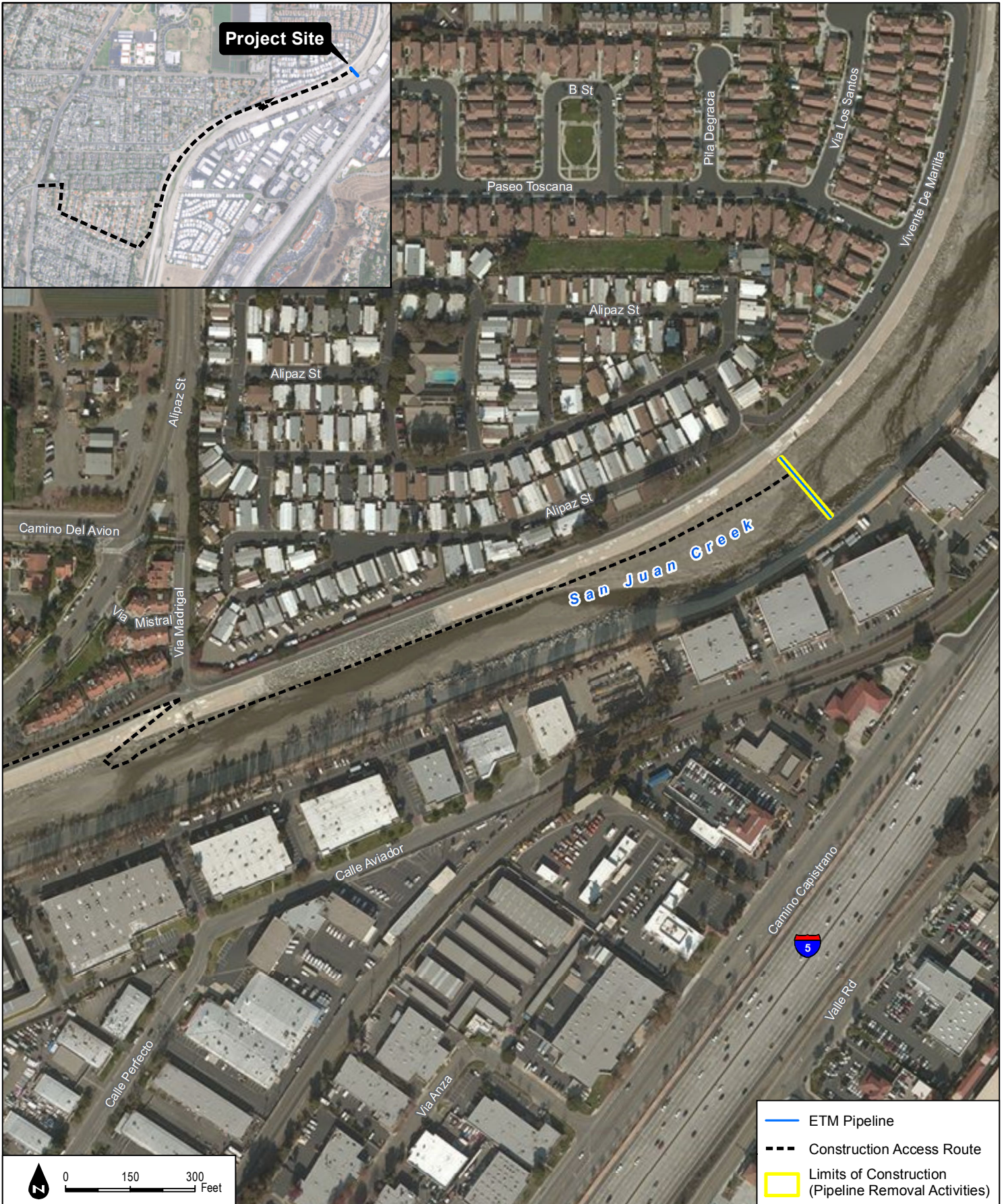


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SOURCE: Bing Maps, 2017

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Initial Study/Mitigated Negative Declaration for the 95 Pipeline Removal in San Juan Creek

**FIGURE 3**  
**Proposed Project**

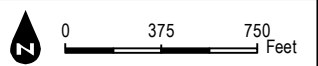
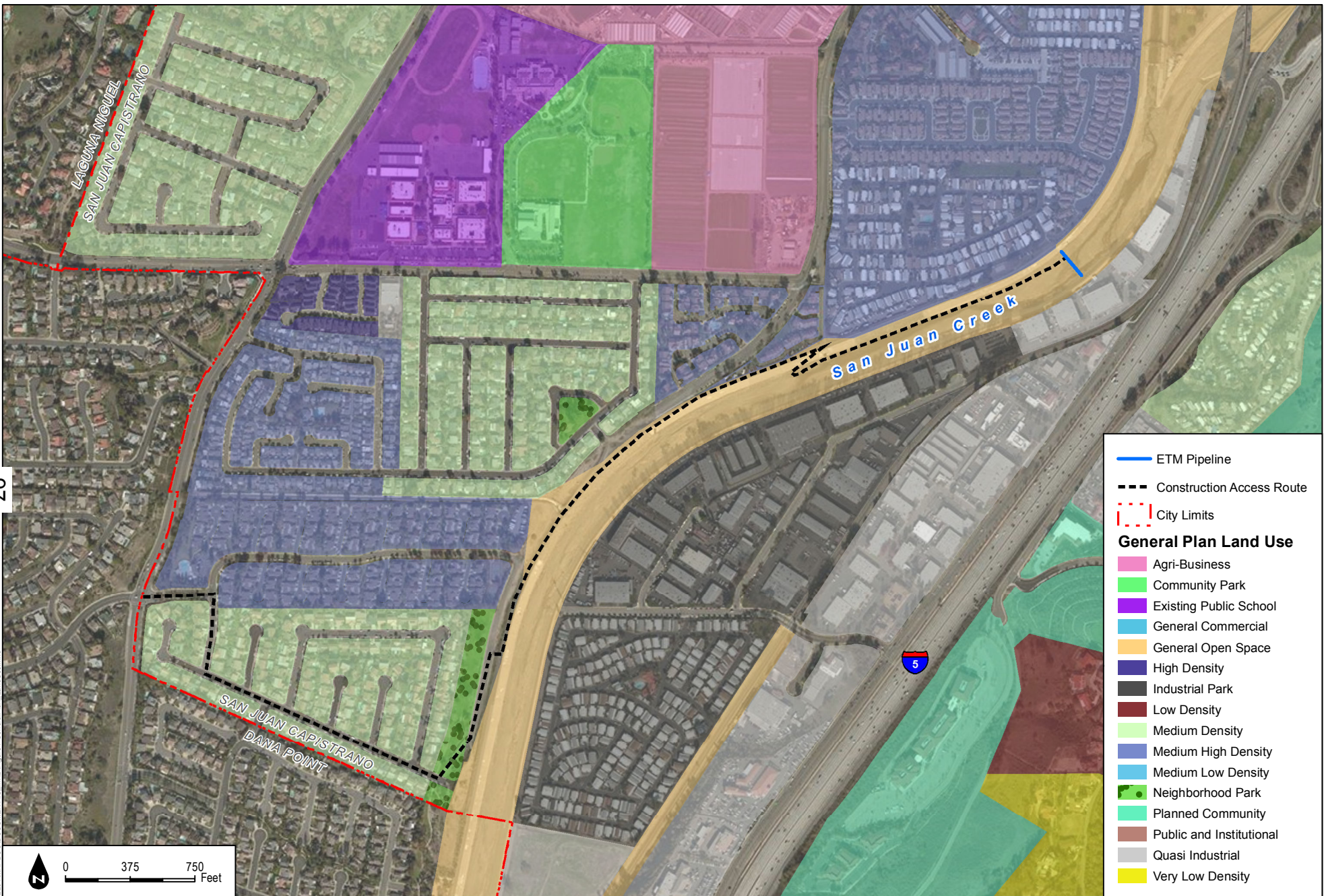
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- ETM Pipeline
- Construction Access Route
- City Limits

**General Plan Land Use**

- Agri-Business
- Community Park
- Existing Public School
- General Commercial
- General Open Space
- High Density
- Industrial Park
- Low Density
- Medium Density
- Medium High Density
- Medium Low Density
- Neighborhood Park
- Planned Community
- Public and Institutional
- Quasi Industrial
- Very Low Density

SOURCE: City of San Juan Capistrano, 2017; Bing Maps, 2017



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**FIGURE 4**  
General Plan Land Use Designations

**#4.**

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— ETM Pipeline

--- Construction Access Route

**Zoning**

- Agri-Business District
- Commercial Manufacturing District
- Community Park District
- General Open Space
- Industrial Park District
- Mobile Home Park District
- Multi-Family District
- Neighborhood Park District
- Planned Community District
- Planned Residential Development District
- Public and Institutional District
- Residential-Garden-4,000 District
- Single-Family-20,000 District
- Single-Family-7,000 District
- Specific Plan/Precise Plan District

SOURCE: City of San Juan Capistrano, 2017; Bing Maps, 2017



Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek

FIGURE 5  
Zoning

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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SOURCE: Bing Maps, 2017



**FIGURE 6**  
**Biological Resources Study Area**

Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### 6 LETTERS OF COMMENT AND RESPONSES

This section of the Final IS/MND presents copies of comments on the Draft IS/MND received in written form during the public review period, and it provides MNWD’s responses to those comments. Each comment letter is lettered and the issues within each comment letter are bracketed and numbered. Comment letters are followed by responses, which are numbered to correspond with the bracketed comment letters.

MNWD’s responses to comments on the Draft IS/MND represent a good-faith, reasoned effort to address the environmental issues identified by the comments. Under the California Environmental Quality Act (CEQA) Guidelines, MNWD is not required to respond to all comments on the Draft EIR, but only those comments that raise environmental issues. See CEQA Guidelines Section 15088, subd. (a). Case law under CEQA recognizes that MNWD need only provide responses to comments show good faith effort to respond to the points raised in the comments themselves. In the case of specific comments, MNWD has responded with specific analysis and detail; in the case of a general comment, the reader is referred to a related response to a specific comment, if applicable. The absence of a specific response to every comment does not violate CEQA if the response would merely repeat other responses.

#### 6.1 List of Agencies and Individuals that Commented on the DEIR

This section contains all written comments received during the public comment period as well as responses to these comments. Table 6-1 provides an index to commenters and comment letters.

**Table 6-1  
Written Comments Received**

Comment Letter	Organization
A	Governor’s Office of Planning and Research State Clearinghouse and Planning Unit
B	Native American Heritage Commission
C	OC Public Works

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

Comment Letter A



Edmund G. Brown Jr.  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Ken Alex  
Director

June 9, 2017

David Larsen  
Moulton Niguel Water District  
26161 Gordon Rd  
Laguna Niguel, CA 92633

Subject: ETM Pipeline Removal in San Juan Creek Project, MNWD Project 2016.001  
SCH#: 2017051032

Dear David Larsen:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on June 8, 2017, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044  
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

A-1

# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

## Document Details Report State Clearinghouse Data Base

**SCH#** 2017051032  
**Project Title** ETM Pipeline Removal in San Juan Creek Project, MNWD Project 2016.001  
**Lead Agency** Moulton Niguel Water District

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**Type** MND Mitigated Negative Declaration  
**Description** Note: Extended Review per lead

An approx 180-lf segment of an abandoned 30-in diameter ETM that extends across the channel bed of San Juan Creek is proposed to be removed by MNWD. The existing 30-in diameter DIP is encased in reinforced concrete and due to erosion of the channel bed in the area, an approx 30-ft long segment of the encasement is exposed. As proposed, MNWD's contractors would cut the reinforced concrete encasement at the toe of the concrete slope creek channel walls and remove the approx 180-lf segment of 30-in diameter DIP and reinforced concrete encasement from within the creek channel.

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**Lead Agency Contact**  
**Name** David Larsen  
**Agency** Moulton Niguel Water District  
**Phone** 949-425-3549 **Fax**  
**email**  
**Address** 26161 Gordon Rd  
**City** Laguna Niguel **State** CA **Zip** 92633

---

**Project Location**  
**County** Orange  
**City** San Juan Capistrano  
**Region**  
**Lat / Long** 33° 29' 13.2" N / 117° 40' 1.2" W  
**Cross Streets** Calle Perfecto and Paseo Toscana  
**Parcel No.** 121-171-15, -18, -44, -668-501-02  
**Township** **Range** **Section** **Base**

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**Proximity to:**  
**Highways** I-5  
**Airports**  
**Railways** Burlington Northern Santa Fe  
**Waterways** San Juan Creek and Trabuco Creek  
**Schools** Kinoshita ES, Del Obispo ES, Marco Foster MS  
**Land Use**

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**Project Issues** Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian

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**Reviewing Agencies** Resources Agency; Central Valley Flood Protection Board; Department of Fish and Wildlife, Region 5; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 12; Native American Heritage Commission; Public Utilities Commission; Resources, Recycling and Recovery; Regional Water Quality Control Board, Region 8

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**Date Received** 05/09/2017 **Start of Review** 05/09/2017 **End of Review** 06/08/2017

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Note: Blanks in data fields result from insufficient information provided by lead agency.



# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

STATE OF CALIFORNIA  
NATIVE AMERICAN HERITAGE COMMISSION  
Environmental and Cultural Department  
1550 Harbor Blvd., Suite 100  
West Sacramento, CA 95691  
Phone (916) 373-3710  
Fax (916) 373-5471

Edmund G. Brown Jr., Governor



Governor's Office of Planning & Research

May 16, 2017

MAY 24 2017

STATE CLEARINGHOUSE

David Larsen  
Moulton Niguel Water District  
26161 Gordon Road  
Laguna Hills, CA 92653

Sent via e-mail: dlarsen@mnwd.com

Re: SCH# 2017051032, ETM Pipeline Removal in San Juan Creek Project, MNWD Project 2016-001, City of San Juan Capistrano; Orange County, California

Dear Mr. Larsen:

The Native American Heritage Commission (NAHC) has reviewed the Negative Declaration prepared for the project referenced above. The review included the Introduction and Project Description, the Initial Study Environmental Checklist, and the Mitigation, Monitoring and Reporting Program prepared by Dudek for the Moulton Niguel Water District. We have the following concerns:

- 1) There is no Tribal Cultural Resources section or subsection in the Executive Summary or Environmental Checklist as per California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form," <http://resources.ca.gov/ceqa/docs/ab52/Clean-final-AB-52-App-G-text-Submitted.pdf>
- 2) There is no documentation of the completion of government-to-government consultation by the lead agency under AB-52 with Native American tribes traditionally and culturally affiliated to the project area as required by statute, or that mitigation measures were developed in consultation with the tribes. Discussions under AB-52 may include the type of document prepared and proposed mitigation. Contact by consultants during the Cultural Resources Assessments is not formal consultation.
- 3) There are no mitigation measures specifically addressing Tribal Cultural Resources separately. Mitigation measures must take Tribal Cultural Resources into consideration as required under AB-52, with or without consultation occurring. Mitigation language for archaeological resources is not always appropriate for or similar to measures specifically for handling Tribal Cultural Resources.

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

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

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

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## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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

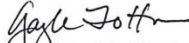
Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal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

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

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

Please contact me at [gayle.totton@nahc.ca.gov](mailto:gayle.totton@nahc.ca.gov) or call (916) 373-3710 if you have any questions.

Sincerely,



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

Attachment

cc: State Clearinghouse



A-3  
Cont.

# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

**Pertinent Statutory Information:**

**Under AB 52:**

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice.

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

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

- a. Alternatives to the project.
  - b. Recommended mitigation measures.
  - c. Significant effects.<sup>11</sup>
1. The following topics are discretionary topics of consultation:
- a. Type of environmental review necessary.
  - b. Significance of the tribal cultural resources.
  - c. Significance of the project's impacts on tribal cultural resources.

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

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process **shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10.** Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.<sup>13</sup>

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

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

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

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

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

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

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

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.

<sup>9</sup> Pub. Resources Code § 21080.3.1, subds. (d) and (e)  
<sup>10</sup> Pub. Resources Code § 21080.3.1 (b)  
<sup>11</sup> Pub. Resources Code § 21080.3.2 (a)  
<sup>12</sup> Pub. Resources Code § 21080.3.2 (a)  
<sup>13</sup> Pub. Resources Code § 21082.3 (c)(1)  
<sup>14</sup> Pub. Resources Code § 21082.3 (b)  
<sup>15</sup> Pub. Resources Code § 21080.3.2 (b)  
<sup>16</sup> Pub. Resources Code § 21082.3 (a)  
<sup>17</sup> Pub. Resources Code § 21082.3 (e)



A-3  
Cont.

# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.<sup>18</sup>  
*This process should be documented in the Tribal Cultural Resources section of your environmental document.*

**Under SB 18:**

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

- SB 18 applies to **local governments** and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf)
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**<sup>19</sup>
- **There is no Statutory Time Limit on Tribal Consultation under the law.**
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,<sup>20</sup> the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction.<sup>21</sup>
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
  - o The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - o Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.<sup>22</sup>

**NAHC Recommendations for Cultural Resources Assessments:**

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

<sup>18</sup> Pub. Resources Code § 21082.3 (d)  
<sup>19</sup> Gov. Code § 65352.3 (a)(2).  
<sup>20</sup> pursuant to Gov. Code section 65040.2,  
<sup>21</sup> Gov. Code § 65352.3 (b).  
<sup>22</sup> Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18.



A-3  
Cont.



# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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

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

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

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



A-3  
Cont.

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

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

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

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### Response to Comment Letter A

Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit  
Scott Morgan, Director  
June 9, 2017

- A-1** This comment confirms that MNWD has complied with the public review requirements of the California Environmental Quality Act (CEQA). The comment states that the review period ended on June 8, 2017. While the original end date of the review period was June 7, 2017, the State Clearinghouse and Planning Unit gave a 1-day extension to MNWD (as requested) to accommodate the delayed publication of the Notice of Intent (NOI) due to a technology glitch at the OC Register until June 8, 2017.
- The State Clearinghouse forwarded one comment letter received during the public review period submitted by the Native American Heritage Commission (NAHC), which is addressed as Letter B.
- A-2** This comment provides data that the State Clearinghouse possesses about the project.
- A-3** MNWD received the attached NAHC letter directly from the NAHC on May 16, 2017. The letter has been included as Comment Letter B, and all responses are included in Response to Comment Letter B.

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

Comment Letter B

STATE OF CALIFORNIA  
NATIVE AMERICAN HERITAGE COMMISSION  
Environmental and Cultural Department  
1550 Harbor Blvd., Suite 100  
West Sacramento, CA 95691  
Phone (916) 373-3710  
Fax (916) 373-5471

Edmund G. Brown Jr., Governor



May 16, 2017

David Larsen  
Moulton Niguel Water District  
26161 Gordon Road  
Laguna Hills, CA 92653

Sent via e-mail: dlarsen@mnwd.com

Re: SCH# 2017051032, ETM Pipeline Removal in San Juan Creek Project, MNWD Project 2016-001, City of San Juan Capistrano; Orange County, California

Dear Mr. Larsen:

The Native American Heritage Commission (NAHC) has reviewed the Negative Declaration prepared for the project referenced above. The review included the Introduction and Project Description, the Initial Study Environmental Checklist, and the Mitigation, Monitoring and Reporting Program prepared by Dudek for the Moulton Niguel Water District. We have the following concerns:

- 1) There is no Tribal Cultural Resources section or subsection in the Executive Summary or Environmental Checklist as per California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form," <http://resources.ca.gov/ceqa/docs/ab52/Clean-final-AB-52-App-G-text-Submitted.pdf>
- 2) There is no documentation of the **completion of government-to-government consultation by the lead agency** under AB-52 with Native American tribes traditionally and culturally affiliated to the project area as required by statute, or that mitigation measures were developed in consultation with the tribes. Discussions under AB-52 may include the **type of document prepared and proposed mitigation**. Contact by consultants during the Cultural Resources Assessments is not formal consultation.
- 3) There are no mitigation measures specifically addressing Tribal Cultural Resources separately. Mitigation measures must take Tribal Cultural Resources into consideration as required under AB-52, **with or without consultation** occurring. Mitigation language for archaeological resources is not always appropriate for or similar to measures specifically for handling Tribal Cultural Resources.

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

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

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



## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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

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

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

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

Please contact me at [gayle.totton@nahc.ca.gov](mailto:gayle.totton@nahc.ca.gov) or call (916) 373-3710 if you have any questions.

Sincerely,



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

Attachment

cc: State Clearinghouse



B-4  
Cont.

# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

**Pertinent Statutory Information:**

**Under AB 52:**

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice.

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

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

- a. Alternatives to the project.
  - b. Recommended mitigation measures.
  - c. Significant effects.<sup>11</sup>
1. The following topics are discretionary topics of consultation:
- a. Type of environmental review necessary.
  - b. Significance of the tribal cultural resources.
  - c. Significance of the project's impacts on tribal cultural resources.

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

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process **shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10.** Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.<sup>13</sup>

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

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

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

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

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

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

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

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.

<sup>9</sup> Pub. Resources Code § 21080.3.1, subds. (d) and (e)

<sup>10</sup> Pub. Resources Code § 21080.3.1 (b)

<sup>11</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>12</sup> Pub. Resources Code § 21080.3.2 (a)

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

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

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

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

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

B-4  
Cont.

# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.<sup>18</sup>  
*This process should be documented in the Tribal Cultural Resources section of your environmental document.*

**Under SB 18:**

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

- SB 18 applies to **local governments** and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf)
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**<sup>19</sup>
- There is no **Statutory Time Limit on Tribal Consultation under the law.**
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,<sup>20</sup> the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction.<sup>21</sup>
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
  - o The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - o Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.<sup>22</sup>

**NAHC Recommendations for Cultural Resources Assessments:**

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

<sup>18</sup> Pub. Resources Code § 21082.3 (d)  
<sup>19</sup> (Gov. Code § 65352.3 (a)(2)).  
<sup>20</sup> pursuant to Gov. Code section 65040.2,  
<sup>21</sup> (Gov. Code § 65352.3 (b)).  
<sup>22</sup> (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).



B-4  
Cont.

# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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

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

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

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

B-4  
Cont.

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

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

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

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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## Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

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### Response to Comment Letter B

Native American Heritage Commission

Gayle Totton

May 16, 2017

- B-1** The document has been revised, and the MND environmental checklist includes a Tribal Cultural Resources subsection consistent with the “Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form,” located here: <http://resources.ca.gov/ceqa/docs/ab52/Clean-final-AB-52-App-G-text-Submitted.pdf>. As disclosed in the Final MND, impacts would be less than significant. Revisions are for clarification purposes only and do not result in any changes to the conclusions or mitigation measures presented in the MND.
- B-2** Please refer to Response B-1, above. Please see Section 3, Initial Study Checklist, and Section 3.17, Tribal Cultural Resources, for a discussion of project outreach to the Juaneño Band of Mission Indians. In August 2015, the Juaneño Band of Mission Indians formally requested notices of and information on all proposed projects of MNWD located in their service area.
- B-3** The Final MND has been revised and incorporates a feature to address potential Tribal Cultural Resources during proposed project construction. Please refer to MND Section 3.17. Revisions are for clarification purposes only and do not result in any changes to the conclusions or mitigation measures presented in the MND.
- B-4** This comment summarizes Public Resources Code Section 21084.1 and AB52 and Senate Bill (SB) 18 requirements. In regards to AB 52, SB 18, and Tribal Cultural Resources, see responses to comments B-1, B-2, and B-3 above.

**#4.**

**Initial Study/Mitigated Negative Declaration for the  
ETM Pipeline Removal in San Juan Creek Project**

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# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

Comment Letter C



June 7, 2017

NCL-2017-035

Rodney Woods, Assistant Director of Engineering  
Moulton Niguel Water District  
26161 Gordon Road  
Laguna Hills, CA 92563

Subject: Notice of Intent to Adopt a MND for ETM Pipeline Removal in the San Juan Creek Project, MNWD Project 2016.001

Dear Mr. Woods:

Thank you for the opportunity to comment on the on the Notice of Intent to Adopt a MND for ETM Pipeline Removal in San Juan Creek Project, MNWD Project 2016.001. The County of Orange offers the following comments for your consideration.

**OC Infrastructure Programs/Flood Program Support Division on behalf of Orange County Flood Control District (OCFCD):**

All work within or adjacent to any OCFCD right-of-way for flood control facilities should be conducted so as not to adversely impact channel's structural integrity, hydraulic flow conditions, access and maintainability. Furthermore, all work within OCFCD's right-of-way should be conducted only after an encroachment permit for the proposed work has been obtained from the County. For information regarding the permit application process and other details please refer to the Encroachment Permits Section link on OC Public Works' website [http://www.ocpublicworks.com/ds/permits/encroachment\\_permits](http://www.ocpublicworks.com/ds/permits/encroachment_permits). Technical reviews and approvals for the proposed work will be accomplished within the permit process.

**OC Infrastructure Programs/Project Management**

OCFCD is planning on a sheet pile installation project along San Juan Creek Channel from Stonehill Drive to 6000' upstream. The construction period is scheduled to be from July 2017 to June 2019. There will be potential conflict with the ETM Pipeline removal project if it impacts the east bank during that period of time.

**OC Infrastructure Programs /Traffic & Design Division**

- MNWD is proposing to enter the channel from the existing concrete access ramp approximately 0.5 mile downstream of the confluence. Due to significant scour, this ramp does not extend all the way to the existing channel invert. The MND



300 N. Flower Street, Santa Ana, CA 92703  
P.O. Box 4048, Santa Ana, CA 92702-4048

www.ocpublicworks.com  
714.667.8800 | Info@OCPW.ocgov.com


# Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project

should address impacts that relate to bringing in material to extend the ramp to the invert.

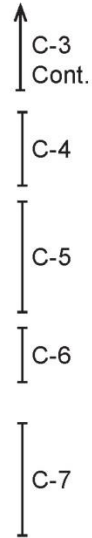
- Is there a contingency plan in the event dewatering is needed? If construction vehicles have to cross any low-flow areas with water, it would be necessary that these areas are dewatered.
- The abandoned pipe is proposed to be removed between the toes of the concrete slopes. To obtain the ultimate condition of the channel in the future, OCFCD will be removing the slopes and the channel will be vertical wall. Does MNWD intend to remove the rest of the abandoned pipe at that time? Does this require a cooperative agreement?
- If tracks in the soil are made from the movement of construction vehicles, would those areas be restored?

If you have any questions regarding these comments, please contact Sahar Parsi at (714) 647-3988 or Robert McLean at (714) 647-3951 in Flood Programs, Tim Nguyen at (714) 245-4517 in Project Management, Samantha Mackey at (714) 647-3974 in Traffic & Design, or Linda Smith at (714) 667-8848 in Development Services.

Sincerely,

  
 Laree Alonso, Manager, Planning Division  
 OC Public Works Service Area/OC Development Services  
 300 North Flower Street  
 Santa Ana, California 92702-4048  
 Laree.alonso@ocpw.ocgov.com

cc: Sahar Parsi, OC Flood Programs  
 Robert McLean, OC Flood Programs  
 Tim Nguyen, Project Management  
 Samantha Mackey, Traffic & Design



## **Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project**

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### **Response to Comment Letter C**

**Orange County Public Works Service Area/OC Development Services  
Laree Alonso, Manager, Planning Division  
June 7, 2017**

- C-1** This first part of this comment is an introduction to the comment letter.
- MNWD understands that proposed construction activities within San Juan Creek channel will require an Encroachment Permit from the County. Dudek is currently assisting MNWD with preparation of the encroachment permit application and other requirements. Dudek has been working with Mustapha Balkis at the County on the encroachment permit application, and proposed work within the San Juan Creek channel will not begin until an Encroachment Permit is obtained.
- C-2** In accordance with OC Public Works Permit 2015-00069, the existing pipeline in the San Juan Creek channel is proposed to be removed from the channel bed. As proposed, MNWD would not impact the east bank of the San Juan Creek Channel. All work would occur within the channel bed and would entail removal of an existing pipeline from the toe of the north concrete slope to the toe of the south concrete slope. MNWD will coordinate with OCPW to confirm no conflicts with OC Public Works' sheet pile project.
- C-3** MNWD conducted a site visit in April 2017 and Dudek visited the site on June 15, 2017. Photographs of the identified access ramp located approximately 0.5 mile downstream of the San Juan Creek and Trabuco Creek confluence show that the ramp is in good condition with little evidence of scour. Also, on June 15, 2017, it appeared that materials had been recently deposited at the bottom of the ramp by a construction crew that was seen working in the channel. Based on these observations, materials to extend the ramp are not required for construction access.
- C-4** MNWD understands that a dewatering plan will be needed during construction and will be required to obtain a Section 1602 Lake or Streambed Alteration Permit from the California Department of Fish and Wildlife. Dudek is assisting MNWD with preparation and processing of necessary Wildlife Agency permits for construction activities and the construction contractor will prepare a dewatering plan to comply with permit conditions.
- C-5** Please refer to response to comment C-2. The scope of the pipeline removal project has previously been reviewed and confirmed with OC Public Works following the completion of County Permit 2015-00069. MNWD's contractor will remove the

## **Initial Study/Mitigated Negative Declaration for the ETM Pipeline Removal in San Juan Creek Project**

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existing pipeline from the toe of the north concrete slope wall to the toe of the south concrete slope. MNWD does not intend to remove pipeline segments beyond the toe of the concrete slope. However, when Orange County Flood Control District is developing the specific project that would remove existing channel slopes, MNWD will work with the County for removal of additional pipeline segments, as appropriate.

- C-6** Once construction activities are complete, the construction access route will be returned to pre-construction conditions. This item will be included as part of the contractor scope of work.
- C-7** This comment provides contact information for staff at OC Public Works that assisted in the development of comments included in this letter. MNWD appreciates OC Public Works' review of the Draft MND.

# **APPENDIX A**

## *Database and Records Search Results: Biological Resources*

**#4.**



Selected Elements by Scientific Name  
 California Department of Fish and Wildlife  
 California Natural Diversity Database



Query Criteria: Quad IS (Canada Gobernadora (3311755) OR Dana Point (3311746) OR Laguna Beach (3311757) OR San Clemente (3311745) OR San Juan Capistrano (3311756) OR San Onofre Bluff (3311735))

Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Accipiter cooperii</i> Cooper's hawk	ABNKC12040	None	None	G5	S4	WL
<i>Agelaius tricolor</i> tricolored blackbird	ABPBXB0020	None	Candidate Endangered	G2G3	S1S2	SSC
<i>Aimophila ruficeps canescens</i> southern California rufous-crowned sparrow	ABPBX91091	None	None	G5T3	S2S3	WL
<i>Ammodramus savannarum</i> grasshopper sparrow	ABPBXA0020	None	None	G5	S3	SSC
<i>Anaxyrus californicus</i> arroyo toad	AAABB01230	Endangered	None	G2G3	S2S3	SSC
<i>Antrozous pallidus</i> pallid bat	AMACC10010	None	None	G5	S3	SSC
<i>Aphanisma blitoides</i> aphanisma	PDCHE02010	None	None	G3G4	S2	1B.2
<i>Aquila chrysaetos</i> golden eagle	ABNKC22010	None	None	G5	S3	FP
<i>Asio otus</i> long-eared owl	ABNSB13010	None	None	G5	S3?	SSC
<i>Aspidoscelis hyperythra</i> orange-throated whiptail	ARACJ02060	None	None	G5	S2S3	WL
<i>Aspidoscelis tigris stejnegeri</i> coastal whiptail	ARACJ02143	None	None	G5T5	S3	SSC
<i>Athene cunicularia</i> burrowing owl	ABNSB10010	None	None	G4	S3	SSC
<i>Atriplex coulteri</i> Coulter's saltbush	PDCHE040E0	None	None	G3	S1S2	1B.2
<i>Atriplex pacifica</i> south coast saltscale	PDCHE041C0	None	None	G4	S2	1B.2
<i>Atriplex parishii</i> Parish's brittle scale	PDCHE041D0	None	None	G1G2	S1	1B.1
<i>Atriplex serenana var. davidsonii</i> Davidson's saltscale	PDCHE041T1	None	None	G5T1	S1	1B.2
<i>Bombus crotchii</i> Crotch bumble bee	IIHYM24480	None	None	G3G4	S1S2	
<i>Branchinecta sandiegonensis</i> San Diego fairy shrimp	ICBRA03060	Endangered	None	G2	S2	
<i>Brodiaea filifolia</i> thread-leaved brodiaea	PMLIL0C050	Threatened	Endangered	G2	S2	1B.1



**Selected Elements by Scientific Name**  
**California Department of Fish and Wildlife**  
**California Natural Diversity Database**



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<b><i>Calochortus weedii</i> var. <i>intermedius</i></b> intermediate mariposa-lily	PMLIL0D1J1	None	None	G3G4T2	S2	1B.2
<b><i>Campylorhynchus brunneicapillus sandiegensis</i></b> coastal cactus wren	ABPBG02095	None	None	G5T3Q	S3	SSC
<b><i>Centromadia parryi</i> ssp. <i>australis</i></b> southern tarplant	PDAST4R0P4	None	None	G3T2	S2	1B.1
<b><i>Chaenactis glabriuscula</i> var. <i>orcuttiana</i></b> Orcutt's pincushion	PDAST20095	None	None	G5T1T2	S1	1B.1
<b><i>Chaetodipus californicus femoralis</i></b> Dulzura pocket mouse	AMAFD05021	None	None	G5T3	S3	SSC
<b><i>Chaetodipus fallax fallax</i></b> northwestern San Diego pocket mouse	AMAFD05031	None	None	G5T3T4	S3S4	SSC
<b><i>Choeronycteris mexicana</i></b> Mexican long-tongued bat	AMACB02010	None	None	G4	S1	SSC
<b><i>Chorizanthe polygonoides</i> var. <i>longispina</i></b> long-spined spineflower	PDPGN040K1	None	None	G5T3	S3	1B.2
<b><i>Clinopodium chandleri</i></b> San Miguel savory	PDLAM08030	None	None	G2	S2	1B.2
<b><i>Coelus globosus</i></b> globose dune beetle	IICOL4A010	None	None	G1G2	S1S2	
<b><i>Comarostaphylis diversifolia</i> ssp. <i>diversifolia</i></b> summer holly	PDERI0B011	None	None	G3T2	S2	1B.2
<b><i>Crotalus ruber</i></b> red-diamond rattlesnake	ARADE02090	None	None	G4	S3	SSC
<b><i>Danaus plexippus</i> pop. 1</b> monarch - California overwintering population	IILEPP2012	None	None	G4T2T3	S2S3	
<b><i>Dipodomys stephensi</i></b> Stephens' kangaroo rat	AMAFD03100	Endangered	Threatened	G2	S2	
<b><i>Dudleya blochmaniae</i> ssp. <i>blochmaniae</i></b> Blochman's dudleya	PDCRA04051	None	None	G3T2	S2	1B.1
<b><i>Dudleya multicaulis</i></b> many-stemmed dudleya	PDCRA040H0	None	None	G2	S2	1B.2
<b><i>Dudleya stolonifera</i></b> Laguna Beach dudleya	PDCRA040P0	Threatened	Threatened	G1	S1	1B.1
<b><i>Dudleya viscida</i></b> sticky dudleya	PDCRA040T0	None	None	G2	S2	1B.2
<b><i>Elanus leucurus</i></b> white-tailed kite	ABNKC06010	None	None	G5	S3S4	FP
<b><i>Empidonax traillii extimus</i></b> southwestern willow flycatcher	ABPAE33043	Endangered	Endangered	G5T2	S1	
<b><i>Emys marmorata</i></b> western pond turtle	ARAAD02030	None	None	G3G4	S3	SSC





Selected Elements by Scientific Name  
 California Department of Fish and Wildlife  
 California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Eremophila alpestris actia</i> California horned lark	ABPAT02011	None	None	G5T3Q	S3	WL
<i>Eryngium pendletonense</i> Pendleton button-celery	PDAP10Z120	None	None	G1	S1	1B.1
<i>Eucyclogobius newberryi</i> tidewater goby	AFCQN04010	Endangered	None	G3	S3	SSC
<i>Eumops perotis californicus</i> western mastiff bat	AMACD02011	None	None	G5T4	S3S4	SSC
<i>Euphorbia misera</i> cliff spurge	PDEUP0Q1B0	None	None	G5	S2	2B.2
<i>Gila orcuttii</i> arroyo chub	AFCJB13120	None	None	G2	S2	SSC
<i>Harpagonella palmeri</i> Palmer's grapplinghook	PDBOR0H010	None	None	G4	S3	4.2
<i>Horkelia cuneata var. puberula</i> mesa horkelia	PDROS0W045	None	None	G4T1	S1	1B.1
<i>Icteria virens</i> yellow-breasted chat	ABPBX24010	None	None	G5	S3	SSC
<i>Imperata brevifolia</i> California satintail	PMPOA3D020	None	None	G4	S3	2B.1
<i>Isocoma menziesii var. decumbens</i> decumbent goldenbush	PDAST57091	None	None	G3G5T2T3	S2	1B.2
<i>Lasiurus blossevillii</i> western red bat	AMACC05060	None	None	G5	S3	SSC
<i>Lasthenia glabrata ssp. coulteri</i> Coulter's goldfields	PDAST5L0A1	None	None	G4T2	S2	1B.1
<i>Lepidium virginicum var. robinsonii</i> Robinson's pepper-grass	PDBRA1M114	None	None	G5T3	S3	4.3
<i>Monardella hypoleuca ssp. intermedia</i> intermediate monardella	PDLAM180A4	None	None	G4T2?	S2?	1B.3
<i>Myosurus minimus ssp. apus</i> little mouseltail	PDRAN0H031	None	None	G5T2Q	S2	3.1
<i>Myotis yumanensis</i> Yuma myotis	AMACC01020	None	None	G5	S4	
<i>Nama stenocarpa</i> mud nama	PDHYD0A0H0	None	None	G4G5	S1S2	2B.2
<i>Navarretia prostrata</i> prostrate vernal pool navarretia	PDPLM0C0Q0	None	None	G2	S2	1B.1
<i>Neotoma lepida intermedia</i> San Diego desert woodrat	AMAFF08041	None	None	G5T3T4	S3S4	SSC
<i>Nolina cismontana</i> chaparral nolina	PMAGA080E0	None	None	G3	S3	1B.2



**Selected Elements by Scientific Name**  
**California Department of Fish and Wildlife**  
**California Natural Diversity Database**



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<b><i>Nyctinomops femorosaccus</i></b> pocketed free-tailed bat	AMACD04010	None	None	G4	S3	SSC
<b><i>Nyctinomops macrotis</i></b> big free-tailed bat	AMACD04020	None	None	G5	S3	SSC
<b><i>Oncorhynchus mykiss irideus</i></b> steelhead - southern California DPS	AFCHA0209J	Endangered	None	G5T1Q	S1	
<b><i>Pentachaeta aurea ssp. allenii</i></b> Allen's pentachaeta	PDAST6X021	None	None	G4T1	S1	1B.1
<b><i>Perognathus longimembris pacificus</i></b> Pacific pocket mouse	AMAFD01042	Endangered	None	G5T1	S1	SSC
<b><i>Phrynosoma blainvillii</i></b> coast horned lizard	ARACF12100	None	None	G3G4	S3S4	SSC
<b><i>Plestiodon skiltonianus interparietalis</i></b> Coronado skink	ARACH01114	None	None	G5T5	S2S3	WL
<b><i>Poliophtila californica californica</i></b> coastal California gnatcatcher	ABPBJ08081	Threatened	None	G4G5T2Q	S2	SSC
<b><i>Pseudognaphalium leucocephalum</i></b> white rabbit-tobacco	PDAST440C0	None	None	G4	S2	2B.2
<b><i>Quercus dumosa</i></b> Nuttall's scrub oak	PDFAG050D0	None	None	G3	S3	1B.1
<b><i>Senecio aphanactis</i></b> chaparral ragwort	PDAST8H060	None	None	G3	S2	2B.2
<b><i>Setophaga petechia</i></b> yellow warbler	ABPBX03010	None	None	G5	S3S4	SSC
<b><i>Sidalcea neomexicana</i></b> Salt Spring checkerbloom	PDMAL110J0	None	None	G4	S2	2B.2
<b><i>Southern Coast Live Oak Riparian Forest</i></b> Southern Coast Live Oak Riparian Forest	CTT61310CA	None	None	G4	S4	
<b><i>Southern Coastal Salt Marsh</i></b> Southern Coastal Salt Marsh	CTT52120CA	None	None	G2	S2.1	
<b><i>Southern Cottonwood Willow Riparian Forest</i></b> Southern Cottonwood Willow Riparian Forest	CTT61330CA	None	None	G3	S3.2	
<b><i>Southern Dune Scrub</i></b> Southern Dune Scrub	CTT21330CA	None	None	G1	S1.1	
<b><i>Southern Foredunes</i></b> Southern Foredunes	CTT21230CA	None	None	G2	S2.1	
<b><i>Southern Mixed Riparian Forest</i></b> Southern Mixed Riparian Forest	CTT61340CA	None	None	G2	S2.1	
<b><i>Southern Sycamore Alder Riparian Woodland</i></b> Southern Sycamore Alder Riparian Woodland	CTT62400CA	None	None	G4	S4	
<b><i>Spea hammondi</i></b> western spadefoot	AAABF02020	None	None	G3	S3	SSC



**Selected Elements by Scientific Name**  
**California Department of Fish and Wildlife**  
**California Natural Diversity Database**



<b>Species</b>	<b>Element Code</b>	<b>Federal Status</b>	<b>State Status</b>	<b>Global Rank</b>	<b>State Rank</b>	<b>Rare Plant Rank/CDFW SSC or FP</b>
<b><i>Sternula antillarum browni</i></b> California least tern	ABNNM08103	Endangered	Endangered	G4T2T3Q	S2	FP
<b><i>Streptocephalus woottoni</i></b> Riverside fairy shrimp	ICBRA07010	Endangered	None	G1G2	S1S2	
<b><i>Suaeda esteroa</i></b> estuary seablite	PDCHE0P0D0	None	None	G3	S2	1B.2
<b><i>Taricha torosa</i></b> Coast Range newt	AAAAF02032	None	None	G4	S4	SSC
<b><i>Taxidea taxus</i></b> American badger	AMAJF04010	None	None	G5	S3	SSC
<b><i>Thamnophis hammondi</i></b> two-striped gartersnake	ARADB36160	None	None	G4	S3S4	SSC
<b><i>Valley Needlegrass Grassland</i></b> Valley Needlegrass Grassland	CTT42110CA	None	None	G3	S3.1	
<b><i>Verbesina dissita</i></b> big-leaved crownbeard	PDAST9R050	Threatened	Threatened	G1G2	S1	1B.1
<b><i>Vireo bellii pusillus</i></b> least Bell's vireo	ABPBW01114	Endangered	Endangered	G5T2	S2	

**Record Count: 91**

**#4.**

## Plant List

57 matches found. *Click on scientific name for details*

### Search Criteria

Found in 9 Quads around 33117D6

Scientific Name	Common Name	Family	Lifeform	Rare Plant Rank	State Rank	Global Rank	State Listing Status	Federal Listing Status	Lowest Elevation	Highest Elevation	CA Endemic
<a href="#">Aphanisma blitoides</a>	aphanisma	Chenopodiaceae	annual herb	1B.2	S2	G3G4			1 m	305 m	
<a href="#">Artemisia palmeri</a>	San Diego sagewort	Asteraceae	perennial deciduous shrub	4.2	S3?	G3G4			15 m	915 m	
<a href="#">Asplenium vespertinum</a>	western spleenwort	Aspleniaceae	perennial rhizomatous herb	4.2	S4	G4			180 m	1000 m	
<a href="#">Atriplex coulteri</a>	Coulter's saltbush	Chenopodiaceae	perennial herb	1B.2	S1S2	G3			3 m	460 m	
<a href="#">Atriplex pacifica</a>	South Coast saltscale	Chenopodiaceae	annual herb	1B.2	S2	G4			0 m	140 m	
<a href="#">Atriplex parishii</a>	Parish's brittlescale	Chenopodiaceae	annual herb	1B.1	S1	G1G2			25 m	1900 m	
<a href="#">Atriplex serenana var. davidsonii</a>	Davidson's saltscale	Chenopodiaceae	annual herb	1B.2	S1	G5T1			10 m	200 m	
<a href="#">Brodiaea filifolia</a>	thread-leaved brodiaea	Themidaceae	perennial bulbiferous herb	1B.1	S2	G2	CE	FT	25 m	1120 m	yes
<a href="#">Calochortus catalinae</a>	Catalina mariposa lily	Liliaceae	perennial bulbiferous herb	4.2	S4	G4			15 m	700 m	yes
<a href="#">Calochortus weedii var. intermedius</a>	intermediate mariposa lily	Liliaceae	perennial bulbiferous herb	1B.2	S2	G3G4T2			105 m	855 m	yes
<a href="#">Caulanthus simulans</a>	Payson's jewelflower	Brassicaceae	annual herb	4.2	S4	G4			90 m	2200 m	yes
<a href="#">Centromadia parryi ssp. australis</a>	southern tarplant	Asteraceae	annual herb	1B.1	S2	G3T2			0 m	480 m	
<a href="#">Chaenactis glabriuscula var. orcuttiana</a>	Orcutt's pincushion	Asteraceae	annual herb	1B.1	S1	G5T1T2			0 m	100 m	
<a href="#">Chorizanthe leptotheca</a>	Peninsular spineflower	Polygonaceae	annual herb	4.2	S3	G3			300 m	1900 m	
<a href="#">Chorizanthe polygonoides var. longispina</a>	long-spined spineflower	Polygonaceae	annual herb	1B.2	S3	G5T3			30 m	1530 m	
<a href="#">Cistanthe maritima</a>	seaside cistanthe	Montiaceae	annual herb	4.2	S3	G3G4			5 m	300 m	
<a href="#">Clinopodium chandleri</a>	San Miguel savory	Lamiaceae	perennial shrub	1B.2	S2	G2			120 m	1075 m	
	summer holly	Ericaceae		1B.2	S2	G3T2			30 m	790 m	

#4.

<a href="#">Comarostaphylis diversifolia ssp. diversifolia</a>			perennial evergreen shrub									
<a href="#">Convolvulus simulans</a>	small-flowered morning-glory	Convolvulaceae	annual herb	4.2	S4	G4			30 m	740 m		
<a href="#">Deinandra paniculata</a>	paniculate tarplant	Asteraceae	annual herb	4.2	S4	G4			25 m	940 m		
<a href="#">Dichondra occidentalis</a>	western dichondra	Convolvulaceae	perennial rhizomatous herb	4.2	S3S4	G3G4			50 m	500 m		
<a href="#">Dudleya blochmaniae ssp. blochmaniae</a>	Blochman's dudleya	Crassulaceae	perennial herb	1B.1	S2	G3T2			5 m	450 m		
<a href="#">Dudleya multicaulis</a>	many-stemmed dudleya	Crassulaceae	perennial herb	1B.2	S2	G2			15 m	790 m	yes	
<a href="#">Dudleya stolonifera</a>	Laguna Beach dudleya	Crassulaceae	perennial stoloniferous herb	1B.1	S1	G1	CT	FT	10 m	260 m	yes	
<a href="#">Dudleya viscida</a>	sticky dudleya	Crassulaceae	perennial herb	1B.2	S2	G2			10 m	550 m	yes	
<a href="#">Eryngium pendletonense</a>	Pendleton button-celery	Apiaceae	perennial herb	1B.1	S1	G1			15 m	110 m	yes	
<a href="#">Euphorbia misera</a>	cliff spurge	Euphorbiaceae	perennial shrub	2B.2	S2	G5			10 m	500 m		
<a href="#">Harpagonella palmeri</a>	Palmer's grapplinghook	Boraginaceae	annual herb	4.2	S3	G4			20 m	955 m		
<a href="#">Hordeum intercedens</a>	vernal barley	Poaceae	annual herb	3.2	S3S4	G3G4			5 m	1000 m		
<a href="#">Horkelia cuneata var. puberula</a>	mesa horkelia	Rosaceae	perennial herb	1B.1	S1	G4T1			70 m	810 m	yes	
<a href="#">Imperata brevifolia</a>	California satintail	Poaceae	perennial rhizomatous herb	2B.1	S3	G4			0 m	1215 m		
<a href="#">Isocoma menziesii var. decumbens</a>	decumbent goldenbush	Asteraceae	perennial shrub	1B.2	S2	G3G5T2T3			10 m	135 m		
<a href="#">Lasthenia glabrata ssp. coulteri</a>	Coulter's goldfields	Asteraceae	annual herb	1B.1	S2	G4T2			1 m	1220 m		
<a href="#">Lepidium virginicum var. robinsonii</a>	Robinson's pepper-grass	Brassicaceae	annual herb	4.3	S3	G5T3			1 m	885 m		
<a href="#">Lycium brevipes var. hassei</a>	Santa Catalina Island desert-thorn	Solanaceae	perennial deciduous shrub	3.1	S1	G5T1Q			65 m	300 m	yes	
<a href="#">Lycium californicum</a>	California box-thorn	Solanaceae	perennial shrub	4.2	S4	G4			5 m	150 m		
<a href="#">Malacothrix saxatilis var. saxatilis</a>	cliff malacothrix	Asteraceae	perennial rhizomatous herb	4.2	S4	G5T4			3 m	200 m	yes	
<a href="#">Microseris douglasii ssp. platycarpha</a>	small-flowered microseris	Asteraceae	annual herb	4.2	S4	G4T4			15 m	1070 m		
<a href="#">Monardella hypoleuca ssp. intermedia</a>	intermediate monardella	Lamiaceae	perennial rhizomatous herb	1B.3	S2?	G4T2?			400 m	1250 m	yes	
<a href="#">Myosurus minimus ssp. apus</a>	little mousetail	Ranunculaceae	annual herb	3.1	S2	G5T2Q			20 m	640 m		
<a href="#">Nama stenocarpa</a>	mud nama	Namaceae		2B.2	S1S2	G4G5			5 m	500 m		

			annual / perennial herb								
<a href="#">Navarretia prostrata</a>	prostrate vernal pool navarretia	Polemoniaceae	annual herb	1B.1	S2	G2			3 m	1210 m	yes
<a href="#">Nolina cismontana</a>	chaparral nolina	Ruscaceae	perennial evergreen shrub	1B.2	S3	G3			140 m	1275 m	yes
<a href="#">Pentachaeta aurea ssp. allenii</a>	Allen's pentachaeta	Asteraceae	annual herb	1B.1	S1	G4T1			75 m	520 m	yes
<a href="#">Phacelia ramosissima var. australitoralis</a>	south coast branching phacelia	Hydrophyllaceae	perennial herb	3.2	S3	G5?T3			5 m	300 m	
<a href="#">Piperia cooperi</a>	chaparral rein orchid	Orchidaceae	perennial herb	4.2	S3	G3			15 m	1585 m	
<a href="#">Polygala cornuta var. fishiae</a>	Fish's milkwort	Polygalaceae	perennial deciduous shrub	4.3	S4	G5T4			100 m	1000 m	
<a href="#">Pseudognaphalium leucocephalum</a>	white rabbit-tobacco	Asteraceae	perennial herb	2B.2	S2	G4			0 m	2100 m	
<a href="#">Quercus dumosa</a>	Nuttall's scrub oak	Fagaceae	perennial evergreen shrub	1B.1	S3	G3			15 m	400 m	
<a href="#">Romneya coulteri</a>	Coulter's matilija poppy	Papaveraceae	perennial rhizomatous herb	4.2	S4	G4			20 m	1200 m	
<a href="#">Senecio aphanactis</a>	chaparral ragwort	Asteraceae	annual herb	2B.2	S2	G3			15 m	800 m	
<a href="#">Sidalcea neomexicana</a>	salt spring checkerbloom	Malvaceae	perennial herb	2B.2	S2	G4			15 m	1530 m	
<a href="#">Suaeda esteroa</a>	estuary seablite	Chenopodiaceae	perennial herb	1B.2	S2	G3			0 m	5 m	
<a href="#">Suaeda taxifolia</a>	woolly seablite	Chenopodiaceae	perennial evergreen shrub	4.2	S4	G			0 m	50 m	
<a href="#">Tetracoccus dioicus</a>	Parry's tetracoccus	Picrodendraceae	perennial deciduous shrub	1B.2	S2	G3?			165 m	1000 m	
<a href="#">Verbesina dissita</a>	big-leaved crownbeard	Asteraceae	perennial herb	1B.1	S1	G1G2	CT	FT	45 m	205 m	
<a href="#">Viguiera laciniata</a>	San Diego County viguiera	Asteraceae	perennial shrub	4.3	S4	G4			60 m	750 m	

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**#4.**



**IPaC**

U.S. Fish &amp; Wildlife Service

# IPaC resource list

## Location

Orange County, California



## Local office

Carlsbad Fish And Wildlife Office

☎ (760) 431-9440

📠 (760) 431-5901

2177 Salk Avenue - Suite 250  
Carlsbad, CA 92008-7385<http://www.fws.gov/carlsbad/>

## Endangered species

**This resource list is for informational purposes only and should not be used for planning or analyzing project level impacts.**

**#4.**

[Section 7](#) of the Endangered Species Act **requires** Federal agencies to “request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action” for any project that is conducted, permitted, funded, or licensed by any Federal agency.

**A letter from the local office and a species list which fulfills this requirement can only be obtained by requesting an official species list either from the Regulatory Review section in IPaC or from the local field office directly.**

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by creating a project and making a request from the Regulatory Review section.

## Listed species

<sup>1</sup> are managed by the [Endangered Species Program](#) of the U.S. Fish and Wildlife Service.

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information.

The following species are potentially affected by activities in this location:

## Amphibians

NAME	STATUS
Arroyo (=arroyo Southwestern) Toad <i>Anaxyrus californicus</i> There is a <b>final critical habitat</b> designated for this species. Your location is outside the designated critical habitat. <a href="http://ecos.fws.gov/ecp/species/3762">http://ecos.fws.gov/ecp/species/3762</a>	Endangered

## Birds

NAME	STATUS
California Least Tern <i>Sterna antillarum browni</i> <b>No critical habitat</b> has been designated for this species. <a href="http://ecos.fws.gov/ecp/species/8104">http://ecos.fws.gov/ecp/species/8104</a>	Endangered

Coastal California Gnatcatcher *Polioptila californica californica* Threatened

There is a **final critical habitat** designated for this species.  
Your location is outside the designated critical habitat.  
<http://ecos.fws.gov/ecp/species/8178>

Least Bell's Vireo *Vireo bellii pusillus* Endangered

There is a **final critical habitat** designated for this species.  
Your location is outside the designated critical habitat.  
<http://ecos.fws.gov/ecp/species/5945>

## Fishes

NAME	STATUS
Steelhead <i>Oncorhynchus (=Salmo) mykiss</i> There is a <b>final critical habitat</b> designated for this species. Your location overlaps the designated critical habitat. <a href="http://ecos.fws.gov/ecp/species/1007">http://ecos.fws.gov/ecp/species/1007</a>	Threatened
Steelhead <i>Oncorhynchus (=Salmo) mykiss</i> There is a <b>final critical habitat</b> designated for this species. Your location overlaps the designated critical habitat. <a href="http://ecos.fws.gov/ecp/species/1007">http://ecos.fws.gov/ecp/species/1007</a>	Endangered
Tidewater Goby <i>Eucyclogobius newberryi</i> There is a <b>final critical habitat</b> designated for this species. Your location is outside the designated critical habitat. <a href="http://ecos.fws.gov/ecp/species/57">http://ecos.fws.gov/ecp/species/57</a>	Endangered

## Flowering Plants

NAME	STATUS
Big-leaved Crownbeard <i>Verbesina dissita</i> No critical habitat has been designated for this species. <a href="http://ecos.fws.gov/ecp/species/8049">http://ecos.fws.gov/ecp/species/8049</a>	Threatened
Laguna Beach Liveforever <i>Dudleya stolonifera</i> No critical habitat has been designated for this species. <a href="http://ecos.fws.gov/ecp/species/7919">http://ecos.fws.gov/ecp/species/7919</a>	Threatened

## #4.

## Mammals

NAME	STATUS
Pacific Pocket Mouse <i>Perognathus longimembris pacificus</i>	Endangered
<p><b>No critical habitat</b> has been designated for this species.  <a href="http://ecos.fws.gov/ecp/species/8080">http://ecos.fws.gov/ecp/species/8080</a></p>	

## Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

This location overlaps the critical habitat for the following species:

NAME	TYPE
Steelhead <i>Oncorhynchus (=Salmo) mykiss</i> <a href="http://ecos.fws.gov/ecp/species/1007#crithab">http://ecos.fws.gov/ecp/species/1007#crithab</a>	Final designated
Steelhead <i>Oncorhynchus (=Salmo) mykiss</i> <a href="http://ecos.fws.gov/ecp/species/1007#crithab">http://ecos.fws.gov/ecp/species/1007#crithab</a>	Final designated
Steelhead <i>Oncorhynchus (=Salmo) mykiss</i> <a href="http://ecos.fws.gov/ecp/species/1007#crithab">http://ecos.fws.gov/ecp/species/1007#crithab</a>	Final designated
Steelhead <i>Oncorhynchus (=Salmo) mykiss</i> <a href="http://ecos.fws.gov/ecp/species/1007#crithab">http://ecos.fws.gov/ecp/species/1007#crithab</a>	Final designated
Steelhead <i>Oncorhynchus (=Salmo) mykiss</i> <a href="http://ecos.fws.gov/ecp/species/1007#crithab">http://ecos.fws.gov/ecp/species/1007#crithab</a>	Final designated

## Migratory birds

Birds are protected under the Migratory Bird Treaty Act

<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

Any activity that results in the take (to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) of migratory birds or eagles is prohibited unless authorized by the U.S. Fish and Wildlife Service

3. There are no provisions for allowing the take of migratory birds that are unintentionally killed or injured.

Any person or organization who plans or conducts activities that may result in the take of migratory birds is responsible for complying with the appropriate regulations and implementing appropriate conservation measures.

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Conservation measures for birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Year-round bird occurrence data <http://www.birdscanada.org/birdmon/default/datasummaries.jsp>

The migratory birds species listed below are species of particular conservation concern (e.g. [Birds of Conservation Concern](#)) that may be potentially affected by activities in this location, not a list of every bird species you may find in this location. Although it is important to try to avoid and minimize impacts to all birds, special attention should be made to avoid and minimize impacts to birds of priority concern. To view available data on other bird species that may occur in your project area, please visit the [AKN Histogram Tools](#) and [Other Bird Data Resources](#).

NAME	SEASON(S)
Allen's Hummingbird <i>Selasphorus sasin</i> <a href="http://ecos.fws.gov/ecp/species/9637">http://ecos.fws.gov/ecp/species/9637</a>	Breeding
Bald Eagle <i>Haliaeetus leucocephalus</i> <a href="http://ecos.fws.gov/ecp/species/1626">http://ecos.fws.gov/ecp/species/1626</a>	Wintering

**#4.**

Bell's Vireo <i>Vireo bellii</i> <a href="http://ecos.fws.gov/ecp/species/9507">http://ecos.fws.gov/ecp/species/9507</a>	Breeding
Black Oystercatcher <i>Haematopus bachmani</i> <a href="http://ecos.fws.gov/ecp/species/9591">http://ecos.fws.gov/ecp/species/9591</a>	Year-round
Black Skimmer <i>Rynchops niger</i> <a href="http://ecos.fws.gov/ecp/species/5234">http://ecos.fws.gov/ecp/species/5234</a>	Year-round
Brewer's Sparrow <i>Spizella breweri</i> <a href="http://ecos.fws.gov/ecp/species/9291">http://ecos.fws.gov/ecp/species/9291</a>	Year-round
Burrowing Owl <i>Athene cunicularia</i> <a href="http://ecos.fws.gov/ecp/species/9737">http://ecos.fws.gov/ecp/species/9737</a>	Year-round
Cactus Wren <i>Campylorhynchus brunneicapillus</i> <a href="http://ecos.fws.gov/ecp/species/8834">http://ecos.fws.gov/ecp/species/8834</a>	Year-round
Costa's Hummingbird <i>Calypte costae</i> <a href="http://ecos.fws.gov/ecp/species/9470">http://ecos.fws.gov/ecp/species/9470</a>	Breeding
Fox Sparrow <i>Passerella iliaca</i>	Wintering
Lawrence's Goldfinch <i>Carduelis lawrencei</i> <a href="http://ecos.fws.gov/ecp/species/9464">http://ecos.fws.gov/ecp/species/9464</a>	Year-round
Least Bittern <i>Ixobrychus exilis</i> <a href="http://ecos.fws.gov/ecp/species/6175">http://ecos.fws.gov/ecp/species/6175</a>	Year-round
Lesser Yellowlegs <i>Tringa flavipes</i> <a href="http://ecos.fws.gov/ecp/species/9679">http://ecos.fws.gov/ecp/species/9679</a>	Wintering
Lewis's Woodpecker <i>Melanerpes lewis</i> <a href="http://ecos.fws.gov/ecp/species/9408">http://ecos.fws.gov/ecp/species/9408</a>	Wintering

Long-billed Curlew <i>Numenius americanus</i> <a href="http://ecos.fws.gov/ecp/species/5511">http://ecos.fws.gov/ecp/species/5511</a>	Wintering
Marbled Godwit <i>Limosa fedoa</i> <a href="http://ecos.fws.gov/ecp/species/9481">http://ecos.fws.gov/ecp/species/9481</a>	Wintering
Mountain Plover <i>Charadrius montanus</i> <a href="http://ecos.fws.gov/ecp/species/3638">http://ecos.fws.gov/ecp/species/3638</a>	Wintering
Nuttall's Woodpecker <i>Picoides nuttallii</i> <a href="http://ecos.fws.gov/ecp/species/9410">http://ecos.fws.gov/ecp/species/9410</a>	Year-round
Oak Titmouse <i>Baeolophus inornatus</i> <a href="http://ecos.fws.gov/ecp/species/9656">http://ecos.fws.gov/ecp/species/9656</a>	Year-round
Olive-sided Flycatcher <i>Contopus cooperi</i> <a href="http://ecos.fws.gov/ecp/species/3914">http://ecos.fws.gov/ecp/species/3914</a>	Breeding
Peregrine Falcon <i>Falco peregrinus</i> <a href="http://ecos.fws.gov/ecp/species/8831">http://ecos.fws.gov/ecp/species/8831</a>	Wintering
Red Knot <i>Calidris canutus</i> ssp. <i>roselaari</i> <a href="http://ecos.fws.gov/ecp/species/8880">http://ecos.fws.gov/ecp/species/8880</a>	Wintering
Red-crowned Parrot <i>Amazona viridigenalis</i> <a href="http://ecos.fws.gov/ecp/species/9022">http://ecos.fws.gov/ecp/species/9022</a>	Year-round
Rufous-crowned Sparrow <i>Aimophila ruficeps</i> <a href="http://ecos.fws.gov/ecp/species/9718">http://ecos.fws.gov/ecp/species/9718</a>	Year-round
Short-billed Dowitcher <i>Limnodromus griseus</i> <a href="http://ecos.fws.gov/ecp/species/9480">http://ecos.fws.gov/ecp/species/9480</a>	Wintering
Short-eared Owl <i>Asio flammeus</i> <a href="http://ecos.fws.gov/ecp/species/9295">http://ecos.fws.gov/ecp/species/9295</a>	Wintering

**#4.**

Snowy Plover	<i>Charadrius alexandrinus</i>	Breeding
Tricolored Blackbird	<i>Agelaius tricolor</i> <a href="http://ecos.fws.gov/ecp/species/3910">http://ecos.fws.gov/ecp/species/3910</a>	Year-round
Western Grebe	<i>aechmophorus occidentalis</i> <a href="http://ecos.fws.gov/ecp/species/6743">http://ecos.fws.gov/ecp/species/6743</a>	Wintering
Whimbrel	<i>Numenius phaeopus</i> <a href="http://ecos.fws.gov/ecp/species/9483">http://ecos.fws.gov/ecp/species/9483</a>	Wintering
Yellow Warbler	<i>dendroica petechia</i> ssp. <i>brewsteri</i> <a href="http://ecos.fws.gov/ecp/species/3230">http://ecos.fws.gov/ecp/species/3230</a>	Breeding

**What does IPaC use to generate the list of migratory bird species potentially occurring in my specified location?**

**Landbirds:**

Migratory birds that are displayed on the IPaC species list are based on ranges in the latest edition of the National Geographic Guide, Birds of North America (6th Edition, 2011 by Jon L. Dunn, and Jonathan Alderfer). Although these ranges are coarse in nature, a number of U.S. Fish and Wildlife Service migratory bird biologists agree that these maps are some of the best range maps to date. These ranges were clipped to a specific Bird Conservation Region (BCR) or USFWS Region/Regions, if it was indicated in the 2008 list of Birds of Conservation Concern (BCC) that a species was a BCC species only in a particular Region/Regions. Additional modifications have been made to some ranges based on more local or refined range information and/or information provided by U.S. Fish and Wildlife Service biologists with species expertise. All migratory birds that show in areas on land in IPaC are those that appear in the 2008 Birds of Conservation Concern report.

**Atlantic Seabirds:**

Ranges in IPaC for birds off the Atlantic coast are derived from species distribution models developed by the National Oceanic and Atmospheric Association (NOAA) National Centers for Coastal Ocean Science (NCCOS) using the best available seabird survey data for the offshore Atlantic Coastal region to date. NOAA/NCCOS assisted USFWS in developing seasonal species ranges from their models for specific use in IPaC. Some of these birds are not BCC species but were of interest for inclusion because they may occur in high abundance off the coast at different times throughout the year, which potentially makes them more susceptible to certain types of development and activities taking place in that area. For more refined details about the abundance and richness of bird species within your project area off the Atlantic Coast, see the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other types of taxa that may be helpful in your project review.



About the NOAANCCOS models: the models were developed as part of the NOAANCCOS project: [Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#). The models resulting from this project are being used in a number of decision-support/mapping products in order to help guide decision-making on activities off the Atlantic Coast with the goal of reducing impacts to migratory birds. One such product is the [Northeast Ocean Data Portal](#), which can be used to explore details about the relative occurrence and abundance of bird species in a particular area off the Atlantic Coast.

All migratory bird range maps within IPaC are continuously being updated as new and better information becomes available.

### **Can I get additional information about the levels of occurrence in my project area of specific birds or groups of birds listed in IPaC?**

#### **Landbirds:**

The [Avian Knowledge Network \(AKN\)](#) provides a tool currently called the "Histogram Tool", which draws from the data within the AKN (latest, survey, point count, citizen science datasets) to create a view of relative abundance of species within a particular location over the course of the year. The results of the tool depict the frequency of detection of a species in survey events, averaged between multiple datasets within AKN in a particular week of the year. You may access the histogram tools through the [Migratory Bird Programs AKN Histogram Tools](#) webpage.

The tool is currently available for 4 regions (California, Northeast U.S., Southeast U.S. and Midwest), which encompasses the following 32 states: Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

In the near future, there are plans to expand this tool nationwide within the AKN, and allow the graphs produced to appear with the list of trust resources generated by IPaC, providing you with an additional level of detail about the level of occurrence of the species of particular concern potentially occurring in your project area throughout the course of the year.

#### **Atlantic Seabirds:**

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the NOAANCCOS [Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf project](#) webpage.

**#4.**

## Facilities

### Wildlife refuges

Any activity proposed on [National Wildlife Refuge](#) lands must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGES AT THIS LOCATION.

### Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

## Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

This location overlaps the following wetlands:

RIVERINE

[R2UBFx](#)

[R2USCx](#)

[R3UBFx](#)

A full description for each wetland code can be found at the National Wetlands Inventory website: <https://ecos.fws.gov/ipac/wetlands/decoder>

### Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

**#4.**

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

**Data exclusions**

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

**Data precautions**

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

Not for  
consultation

# **APPENDIX B**

## *Native American Contact Letters and Response Log*

**#4.**

May 17, 2017

Mr. David Belardes, Chairperson  
Juaneno Band of Mission Indians  
Acjachemen Nation  
32161 Avenida Los Amigos  
San Juan Capistrano, CA 92675

***Subject: Tribal Information and AB 52 Request for the ETM Pipeline Removal in San Juan Creek Project, San Juan Capistrano, Orange County, California***

Dear Mr. Belardes,

The Moulton Niguel Water District is proposing removal of an approximately 180-linear-foot long segment of an abandoned 30 inch sewer pipeline across San Juan Creek in San Juan Capistrano, Orange County, California (Figure 1). The proposed project is located approximately 1,000 feet south of the confluence of Trabuco Creek and San Juan Creek. The project consists of the pipeline area of disturbance (approximately 1,800 square feet) and construction access route. In total, the area of potential effect (APE) includes approximately 0.6 acres. This project falls in Township 8 South, Range 8 West, Section 12, of the Dana Point, CA 1:24,000 USGS map (Figure 2).

The Native American Heritage Commission conducted a Sacred Lands file search for a related MNWD project in 2013. Native American cultural resources were identified within a one-eighth mile radius of the proposed project area, however no specific details about the location or nature of the resource(s) were provided. In order to assist MNWD with Consultation efforts under Assembly Bill (AB) 52, I am writing to you in order to find out if you, or your tribal community, have any knowledge of cultural resources, tribal cultural resources, or places that may be impacted by the proposed project.

If you have any information or concerns pertaining to such information, please contact me by phone or email.

Respectfully,



Brad Comeau, MSc, RPA  
Archaeologist  
Phone: (760) 479-4211  
Email: bcomeau@dudek.com

# #4.

## **Attachments:**

Figure 1. Regional project map.

Figure 2. Project location map.

CC: David Larsen, Principal Engineer, MNWD



May 17, 2017

Ms. Joyce Perry, Representing Tribal Chairperson  
Juaneno Band of Mission Indians  
Acjachemen Nation  
4955 Paseo Segovia  
Irvine, CA 92612

***Subject: Tribal Information and AB 52 Request for the ETM Pipeline Removal in San Juan Creek Project, San Juan Capistrano, Orange County, California***

Dear Ms. Perry,

The Moulton Niguel Water District is proposing removal of an approximately 180-linear-foot long segment of an abandoned 30 inch sewer pipeline across San Juan Creek in San Juan Capistrano, Orange County, California (Figure 1). The proposed project is located approximately 1,000 feet south of the confluence of Trabuco Creek and San Juan Creek. The project consists of the pipeline area of disturbance (approximately 1,800 square feet) and construction access route. In total, the area of potential effect (APE) includes approximately 0.6 acres. This project falls in Township 8 South, Range 8 West, Section 12, of the Dana Point, CA 1:24,000 USGS map (Figure 2).

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If you have any information or concerns pertaining to such information, please contact me by phone or email.

Respectfully,



Brad Comeau, MSc, RPA  
Archaeologist  
Phone: (760) 479-4211  
Email: bcomeau@dudek.com

**#4.**

**Attachments:**

Figure 1. Regional project map.

Figure 2. Project location map.

CC: David Larsen, Principal Engineer, MNWD

May 17, 2017

Ms. Rebecca Robles  
United Coalition to Protect Panhe (UCPP)  
119 Avenida San Fernando  
San Clemente, CA 92672

***Subject: Tribal Information and AB 52 Request for the ETM Pipeline Removal in San Juan Creek Project, San Juan Capistrano, Orange County, California***

Dear Ms. Robles,

The Moulton Niguel Water District is proposing removal of an approximately 180-linear-foot long segment of an abandoned 30 inch sewer pipeline across San Juan Creek in San Juan Capistrano, Orange County, California (Figure 1). The proposed project is located approximately 1,000 feet south of the confluence of Trabuco Creek and San Juan Creek. The project consists of the pipeline area of disturbance (approximately 1,800 square feet) and construction access route. In total, the area of potential effect (APE) includes approximately 0.6 acres. This project falls in Township 8 South, Range 8 West, Section 12, of the Dana Point, CA 1:24,000 USGS map (Figure 2).

The Native American Heritage Commission conducted a Sacred Lands file search for a related MNWD project in 2013. Native American cultural resources were identified within a one-eighth mile radius of the proposed project area, however no specific details about the location or nature of the resource(s) were provided. In order to assist MNWD with Consultation efforts under Assembly Bill (AB) 52, I am writing to you in order to find out if you, or your tribal community, have any knowledge of cultural resources, tribal cultural resources, or places that may be impacted by the proposed project.

If you have any information or concerns pertaining to such information, please contact me by phone or email.

Respectfully,



Brad Comeau, MSc, RPA  
Archaeologist  
Phone: (760) 479-4211  
Email: bcomeau@dudek.com  
**Attachments:**

Figure 1. Regional project map.

# #4.

Figure 2. Project location map.

CC: David Larsen, Principal Engineer, MNWD

May 17, 2017

Ms. Sonia Johnston, Tribal Chairperson  
Juaneno Band of Mission Indians  
P.O. Box 25628  
Santa Ana, CA 92799

***Subject: Tribal Information and AB 52 Request for the ETM Pipeline Removal in San Juan Creek Project, San Juan Capistrano, Orange County, California***

Dear Ms. Johnston,

The Moulton Niguel Water District is proposing removal of an approximately 180-linear-foot long segment of an abandoned 30 inch sewer pipeline across San Juan Creek in San Juan Capistrano, Orange County, California (Figure 1). The proposed project is located approximately 1,000 feet south of the confluence of Trabuco Creek and San Juan Creek. The project consists of the pipeline area of disturbance (approximately 1,800 square feet) and construction access route. In total, the area of potential effect (APE) includes approximately 0.6 acres. This project falls in Township 8 South, Range 8 West, Section 12, of the Dana Point, CA 1:24,000 USGS map (Figure 2).

The Native American Heritage Commission conducted a Sacred Lands file search for a related MNWD project in 2013. Native American cultural resources were identified within a one-eighth mile radius of the proposed project area, however no specific details about the location or nature of the resource(s) were provided. In order to assist MNWD with Consultation efforts under Assembly Bill (AB) 52, I am writing to you in order to find out if you, or your tribal community, have any knowledge of cultural resources, tribal cultural resources, or places that may be impacted by the proposed project.

If you have any information or concerns pertaining to such information, please contact me by phone or email.

Respectfully,



Brad Comeau, MSc, RPA  
Archaeologist  
Phone: (760) 479-4211  
Email: bcomeau@dudek.com

# #4.

## **Attachments:**

Figure 1. Regional project map.

Figure 2. Project location map.

CC: David Larsen, Principal Engineer, MNWD

May 17, 2017

Ms. Teresa Romero, Chairwoman  
Juaneno Band of Mission Indians  
Acjachemen Nation  
31411-A La Matanza Street  
San Juan Capistrano, CA 92675

***Subject: Tribal Information and AB 52 Request for the ETM Pipeline Removal in San Juan Creek Project, San Juan Capistrano, Orange County, California***

Dear Ms. Romero,

The Moulton Niguel Water District is proposing removal of an approximately 180-linear-foot long segment of an abandoned 30 inch sewer pipeline across San Juan Creek in San Juan Capistrano, Orange County, California (Figure 1). The proposed project is located approximately 1,000 feet south of the confluence of Trabuco Creek and San Juan Creek. The project consists of the pipeline area of disturbance (approximately 1,800 square feet) and construction access route. In total, the area of potential effect (APE) includes approximately 0.6 acres. This project falls in Township 8 South, Range 8 West, Section 12, of the Dana Point, CA 1:24,000 USGS map (Figure 2).

The Native American Heritage Commission conducted a Sacred Lands file search for a related MNWD project in 2013. Native American cultural resources were identified within a one-eighth mile radius of the proposed project area, however no specific details about the location or nature of the resource(s) were provided. In order to assist MNWD with Consultation efforts under Assembly Bill (AB) 52, I am writing to you in order to find out if you, or your tribal community, have any knowledge of cultural resources, tribal cultural resources, or places that may be impacted by the proposed project.

If you have any information or concerns pertaining to such information, please contact me by phone or email.

Respectfully,



Brad Comeau, MSc, RPA  
Archaeologist  
Phone: (760) 479-4211  
Email: bcomeau@dudek.com

# #4.

## **Attachments:**

Figure 1. Regional project map.

Figure 2. Project location map.

CC: David Larsen, Principal Engineer, MNWD



### Tribal Contact Log - ETM Pipeline Removal - San Juan Creek

Contact	Affiliation	Method and Date	Contact info	Comments
Rebecca Robles	United Coalition to Protect Panhe	letter sent via email 5/18/17; phone call 5/19/17; email reply 6/8/17	rebrobles1@gmail.com; 949.573.3138	Stated she needs to review the letter and location of the project before commenting. She will email/call me back with comments. Via email, stated that the project area is culturally sensitive due to the presence of nearby village sites and the creek and that there is a potential for buried archaeological resources to be encountered during ground disturbing activities. Ms. Robles requested to be notified if resources are found.
Joyce Perry	Juaneno Band of Mission Indians Acjachemen Nation	letter sent via email 5/18/17; phone call 5/19/17;	kaamalam@gmail.com; 949.293.8522	Requested information on the depth and length of disturbance. She stated that there are many known villages sites in the area and drainages are all sensitive for resources, and therefore requests that an archaeologist and Native monitor be present for ground disturbance to assess the situation. She also stated we do not need to contact the other people at the Acjachemen Nation (David Belardes and Teresa Romero) on our contact list as she speaks for the Tribe as the Cultural Resource Director.
Sonia Johnston	Juaneño Band of Mission Indians	letter sent via email 5/18/17; phone call 5/19/17;	sonia.johnston@sbcglobal.com; 714.998.0721	No answer; was unable to leave a voicemail. Email address incorrect/message failed to deliver.
David Belardes	Juaneno Band of Mission Indians Acjachemen Nation	letter sent via email 5/18/17	chiefdavidbelardes@yahoo.com	No response to email.





# **moulton niguel** water district

## STAFF REPORT

**TO:** Board of Directors **MEETING DATE:** July 17, 2017

**FROM:** Todd Novacek, Assistant Director of Operations  
Doug Zytkevicz, Superintendent of Customer Service

**SUBJECT:** Fiscal Year 2017-18 Meter Maintenance and Replacement Program  
Meter Purchase

**DIVISION:** District-wide

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### SUMMARY:

Issue: Staff requests authorization to procure meters for Fiscal Year (FY) 2017-18 for the meter maintenance and replacement program.

Recommendation: It is recommended that the Board of Directors authorize meter and meter-related purchases for an amount not-to-exceed \$440,000 for Fiscal Year 2017-18.

Fiscal Impact: Sufficient funds are included in the approved FY 2017-18 Operating budget.

Reviewed by Legal: Not Applicable

### BACKGROUND:

The District has 55,021 meters that provide potable and recycled water service to District's customers. Customer Service staff maintains, repairs, and replaces these meters on an on-going basis as scheduled and necessary. On average, staff replaces approximately 2,500 meters and performs additional maintenance on approximately 1,600 meters each year.

## #5.

Fiscal Year 2017-18 Meter Maintenance and Replacement Program Meter Purchase

July 17, 2017

Page 2 of 4

Based on past replacement rates and experience, staff estimates approximately 600 meters will need to be replaced in FY 2017-18 as a result of maintenance-related activity. In addition to regular maintenance, District staff also performs meter replacements of obsolete and worn-out meters. For FY 2017-18, staff has identified 1,299 meters ( $\frac{3}{4}$ " and 1") from various residential routes that are due for meter replacement. The majority of the meters proposed to be replaced are 18 to 21 years old. Per AWWA standards, meters are at the end of their useful life at 15 to 20 years.

The District also has approximately 2,758 irrigation meters in service, consisting of both  $1\frac{1}{2}$ " and 2" meters. Based on prior year repair and replacement levels, the District expects to replace approximately 250 irrigation meters in FY 2017-18.

Meters are also sold to the public when new developments are constructed or when customers up-size their services. Approximately 100 meters were sold to the public in FY 2016-17. Staff does not anticipate a significant change in public meter sales in the upcoming fiscal year as there are limited numbers of vacant, un-metered parcels within the District's boundary. Staff estimates 100 new meters that range in size  $\frac{3}{4}$ " to 2" will be required for public meter purchases in FY 2017-18.

Table 1 summarizes the estimated number of meters required to be purchased for FY 2017-18.

Meter Replacement Program	
- Residential	1,299
- Irrigation	250
Public Meter Purchases	100
Maintenance Related Meters	600
<b>TOTAL</b>	<b>2,273</b>

### **DISCUSSION:**

Staff compiled a list of meter specifications based on the District's requirements for meter quality, functionality, and compatibility, and issued a Request for Quote (RFQ) to six (6) pre-qualified meter distributor/manufacturers that were capable of meeting the District's specifications: Aqua-Metric (Sensus), iFlow Energy Solutions (Kamstrup), Mueller, Equarius Water Works (Neptune), and Badger Meter. LG Supply has been the District's meter lid supplier due to their ability to comply with District specifications. A quote from LG Supply was provided for meter lids only.

## Fiscal Year 2017-18 Meter Maintenance and Replacement Program Meter Purchase

July 17, 2017

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After receiving the RFQ and assessing all requirements, Badger and Mueller chose not to submit quotes due to lack of product availability and conflicts with functional specification capabilities. The Kamstrup ¾” meter is the lowest set price of the three manufacturers, however, staff opted not to go with a two piece meter configuration. The price quotes from the three qualified meter manufacturers and lid suppliers are listed in Table 2.

<b>Table 2</b>					
<b>Summary of Price Quotes by Type</b>					
<b>Manufacturer &amp; Type</b>	<b>¾-inch Meter</b>	<b>1-inch Meter</b>	<b>1½-inch Meter</b>	<b>2-inch Meter</b>	<b>Meter Lids</b>
iFlowEnergy Solutions (Kamstrup)	\$111.76	\$195.00	<b>\$509.00</b>	<b>\$591.00</b>	
Aqua-Metric (Sensus)	<b>\$129.42</b>	<b>\$166.17</b>	\$1,287.37	\$1045.02	
Ferguson (Neptune)	\$165.00	\$195.00	495.00	\$525.00	
LG Supply					<b>\$25.95</b>
HD Supply					\$33.90
Armorcast					\$27.35

Staff is recommending the purchase of ¾-inch and 1-inch meters and parts from Aqua-Metric and 1½-inch and 2-inch meters and parts from iFlowEnergy Solutions. Each of these manufacturers meet the requirements of the District’s meter replacement program. Additionally, staff recommends the purchase of meter lids from LG Supply. Meter lids were competitively priced by staff in 2017 and it was determined that LG Supply offers a higher quality, more aesthetic lid design, at a competitive price that better satisfies the District’s standards than what was offered by other suppliers.

Staff’s meter purchase recommendation for FY 2017-18 is detailed in Table 3.

<b>Table 3</b>			
<b>Meter Purchase Recommendations</b>			
<b>Description</b>	<b>Supplier</b>	<b>Estimated Quantity</b>	<b>Estimated Cost</b>
Residential Meter Replacement	Aqua-Metric (¾” and 1”)	1299 (1252 ¾” – 47 1”)	\$169,844
Meter System Maintenance	Aqua-Metric	600 (100/1” – 500/ ¾”)	\$81,327

**#5.**

## Fiscal Year 2017-18 Meter Maintenance and Replacement Program Meter Purchase

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Irrigation Meter Replacement	iFlow Energy Solutions (1-½ " and 2")	250 (10/ 1.5" - 240/ 2")	\$146,930
New meter sales	Aqua-Metric	100 (25 ea. Size)	\$34,890
Meter lids	LG supply	270	\$7006
<b>TOTAL</b>			<b>\$439,997</b>



# **moulton niguel** water district

## STAFF REPORT

**TO:** Board of Directors **MEETING DATE:** July 17, 2017

**FROM:** Dan West, Water Distribution Supervisor  
Ronin Goodall, Superintendent of Operations

**SUBJECT:** Request for Approval to Join the Orange County 800MHz Radio System

**DIVISION:** District-wide

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### SUMMARY:

Issue: Moulton Niguel Water District (MNWD) will need to approve several agreement documents to join the Orange County 800MHz Countywide Coordinated Communication System (800MHz CCCS) for emergency response purposes.

Recommendation: It is recommended that the Board of Directors approve and authorize the General Manager or Assistant General Manager to execute the following agreement documents:

- 1) Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800MHz Countywide Coordinated Communications System (November 2004)
- 2) Amendment to the Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800MHz Countywide Coordinated Communications System (June 2015)
- 3) New Participating Agency Rider to Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800MHz Countywide Coordinated Communications System

## #6.

Request for Approval to Join the Orange County 800MHz Radio System

July 17, 2017

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Fiscal Impact: The annual expenses for this service are less than \$500 and are included in the annual Operating budget approved by the Board of Directors.

Reviewed by Legal: Yes

### **Background:**

The Water Emergency Response of Orange County (WEROC), of which the District is a member, operates a low-band radio system to coordinate emergency response and facilitate mutual aid support between WEROC members and local first responders during emergencies. The low-band radio system (WNHB-735) operated currently by the Water Emergency Response of Orange County (WEROC) has had issues with signal quality for many years. These challenges have negatively impacted the WNHB-735 system's ability to support regional agencies' emergency response capabilities. WEROC, under direction of the MWDOC Board of Directors, has explored solutions to improve communications and has decided to join the Orange County 800MHz CCCS. Prior to selecting the Orange County communication system, the radio signal quality was tested using the 800MHz CCCS at various WEROC member agencies, including MNWD.

### **DISCUSSION:**

WEROC will utilize its budgeted funds to provide each member agency, including MNWD, with one radio and programming for that radio. If approved, The District's costs include an annual access rate and a flat annual maintenance fee for a total fiscal impact of \$382.00 per year. WEROC will have a dedicated "water channel" within the 800MHz CCCS to be utilized by WEROC and its member agencies. This will allow WEROC and member agencies to have the ability to be "patched in" with other County Operations such as Fire, Law Enforcement, County Public Works, etc. at the time of a disaster.

To utilize the County's system, the Orange County Sherriff's Division of Communications requires each participating agency to sign the Joint Agreement (2004), the Amendment to the Joint Agreement (2015), and New Participating Agency Rider. These agreements detail Operation, Maintenance, and Financial Management of the 800MHz CCCS. This is a standard agreement from the County that is signed by all 800MHz CCCS participating agencies.



Request for Approval to Join the Orange County 800MHz Radio System

July 17, 2017

Page 2 of 2

Attachments:

- 1) Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800MHz Countywide Coordinated Communications System (November 2004)
- 2) Amendment to the Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800MHz Countywide Coordinated Communications System (June 2015)
- 3) New Participating Agency Rider to Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800MHz Countywide Coordinated Communications System.
- 4) WEROC Radio Replacement Update
- 5) WEROC Staff Report Regarding Joining the 800MHz CCCS



# JOINT AGREEMENT

FOR THE

OPERATION, MAINTENANCE, AND FINANCIAL  
MANAGEMENT

OF THE

ORANGE COUNTY

800 MEGAHERTZ

COUNTYWIDE COORDINATED COMMUNICATIONS

SYSTEM

NOVEMBER 2004

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**JOINT AGREEMENT FOR THE  
OPERATION, MAINTENANCE AND FINANCIAL MANAGEMENT OF THE  
ORANGE COUNTY**

**800 MEGAHERTZ COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM**

This Agreement is entered into on \_\_\_\_\_, 2005 by and between the Parties listed on Exhibit "A" which is attached hereto and incorporated herein. This Agreement replaces the 1996 Agreement as amended, and to the extent there is a conflict, this Agreement controls. Exhibit "A" identifies the Parties to the Agreement. Exhibit "B" identifies the Partner Agencies currently operating on the system. Exhibit "C" identifies the current Mutual Aid operations on the system as approved by the appropriate body (Orange County Chiefs of Police and Sheriff's Association [OCCOPSA], Orange County Fire Chiefs' Association [OCFCA], Orange County Public Works Committee [OCPWC], or Orange County Lifeguard Committee [OCLC]). Exhibit "D" identifies those Participating Agencies that have joined the system as everyday users but were not original Partners on the system. Partners and Participating Agencies on the 800 MHz CCCS are limited to public entities.

**RECITALS:**

Whereas, the initial installation and implementation of the 800 MHz Countywide Coordinated Communications System (800 MHz CCCS) has been completed; and,

Whereas, the Parties to the Agreement want to define operational, technical and financial requirements and guidelines going forward; and,

Now, Therefore, in consideration of the mutual covenants, conditions, agreements and stipulations hereinafter expressed, the Parties hereby agree as follows:

**1. SYSTEM**

The 800 MHz CCCS, hereinafter referred to as System, has been implemented in the County of Orange. Said System is described in Contract No. S0000015.95 for an 800 MHz CCCS, dated September 19, 1995, and related Amendments No. 1, 2, 3, 4, 5 and appropriate change orders.

The Parties hereby designate Orange County Sheriff-Coroner Department (OCSD)/Communications Division as the "Lead Agency" in maintaining and enhancing the System.



# #6.

## 2. DEFINITION OF TERMS

“Contract City” is defined as a city receiving law enforcement, lifeguard, public works or fire services from the County or any Partner Agency under the terms of a contract.

“Fire Agency” is defined as, and shall include, all governmental Fire Agencies operating primarily within the limits of Orange County.

“Governing Authority” is a City Council, County Board of Supervisors or Orange County Fire Authority Board of the Partner Agencies, responsible for approving cost modifications. Exhibit “A” provides a list of City, County, and Orange County Fire Authority administrators representing these bodies.

“Law Enforcement Agency” is defined as all governmental Law Enforcement Agencies operating primarily within the limits of Orange County, as follows: Orange County Sheriff’s Department, Orange County City Police Departments, Orange County District Attorney’s Office, and Orange County Probation Department.

“Lifeguard Agency” is defined as, and shall include, all governmental lifeguard agencies operating primarily within the limits of Orange County.

“Mutual Aid Provider” is defined as any governmental or private organization, not otherwise defined in this Agreement, that has a legitimate Mutual Aid operational requirement with another Partner or Participating Agency. Guidelines for the approval of a mutual aid provider have been developed and are available to OCCOPSA, OCFCA, OCPWC and OCLC as needed.

“Net” is defined as a group of Partner Agencies who operate a joint dispatch center, or a combination of radio dispatch talkgroups used by a fixed group of Partner Agencies.

“New City” is defined as a city incorporated after the effective date of this Agreement.

“Non-City/Non-County User” is defined as a special district, water district, sanitation district, or similar governmental or quasi-governmental agency. These are Participating Agencies.

“Participating Agency” is any agency identified in Exhibit D that would not have a role in defining the operation of the 800 MHz CCCS, but would pay to join the system based on a predefined allocation.

“Partner Agencies” are those agencies identified in Exhibit “B” that have joined the 800 MHz CCCS for everyday use since its original inception and are operating on the 800 MHz System.

“Parties” are those public entities which are listed in Exhibit “A.”

“Public Works Agency” is defined as, and shall include, all County or City departments that perform public works functions, other than those defined as a Law Enforcement, Lifeguard or Fire Agency. Public Works Agencies include, but are not limited to, Public Works Departments, Municipal Utility Departments, and County agencies including Resources and Development Management Department, John Wayne Airport, Health Care Agency, and Integrated Waste Management Department, and public works functions within County operations such as the Transportation and Facilities Operations functions with the Sheriff’s Department and Probation.

“Subsystem” is defined as one of four operational subsystems that use common equipment, each in a similar way, but use different operational procedures. These are referred to as the Law Subsystem, the Fire Subsystem, the Lifeguard Subsystem and the Public Works Subsystem.

“System Backbone” is defined as those portions of the System Backbone that provide the means by which dispatch centers and mobile radios communicate with each other, and is composed of radio infrastructure equipment, microwave equipment, and associated control equipment.

“System Field Equipment” is defined as that portion of the System that uses the System Backbone for communications and consists of dispatch center equipment, mobile radios, and portable radios.

### **3. OPERATIONAL POLICIES – LAW ENFORCEMENT SUBSYSTEM**

The Orange County Chiefs of Police and Sheriff’s Association (OCCOPSA) is an established organization composed of representatives from the Sheriff’s Department, City Police Departments, District Attorney’s Office and Probation Department. The OCCOPSA Communications Committee has been delegated by OCCOPSA the responsibility for operational policy development for the Law Enforcement Subsystem. Partner and Participating agencies agree that operational policy for the Law Enforcement Subsystem shall be developed by the OCCOPSA Communications Committee and ratified where appropriate by the OCCOPSA, in accordance with the terms and conditions of this Agreement.

### **4. OPERATIONAL POLICIES – FIRE SUBSYSTEM**

The Orange County Fire Chiefs’ Association (OCFCA) is an established organization composed of representatives from the Orange County Fire Authority and City Fire Departments. The OCFCA Communications Committee has been delegated by OCFCA the responsibility for operational policy development for the Fire Subsystem. Partner and Participating agencies agree that operational policy for the Fire Subsystem shall be developed by the OCFCA Communications



## #6.

Committee and ratified where appropriate by the OCFCA, in accordance with the terms and conditions of this Agreement.

### 5. **OPERATIONAL POLICIES – LIFEGUARD SUBSYSTEM**

The Orange County Lifeguard Committee (OCLC) is an established organization composed of representatives from the City and County Lifeguard Departments. The OCLC Communications Committee has been delegated by OCLC the responsibility for operational policy development for the Lifeguard System. Partner and Participating agencies agree that operational policy for the Lifeguard System shall be developed by the OCLC Communications Committee and ratified where appropriate by the OCLC, in accordance with the terms and conditions of this Agreement.

### 6. **OPERATIONAL POLICIES – PUBLIC WORKS SUBSYSTEM**

The Orange County Public Works Committee (OCPWC) is an established organization composed of representatives from the City and County Public Works Departments. The OCPWC has been delegated the responsibility for operational policy development for the Public Works Subsystem. Partner and Participating agencies agree that operational policy for the Public Works Subsystem shall be developed by OCPWC and ratified where appropriate, in accordance with the terms and conditions of this Agreement.

### 7.0 **OPERATIONAL POLICY**

#### 7.1 **Law Enforcement Subsystem**

The administration and ongoing development of the Law Enforcement Subsystem operational policy has been delegated to the OCCOPSA Communications Committee. That Committee reports to the OCCOPSA. Policies developed by OCCOPSA for the operations of the Law Enforcement Subsystem shall ensure that each participant is treated equitably and has sufficient communications capability to meet its legitimate needs. Any dispute between Partner and Participating Agencies over operational policies shall be reviewed by the OCCOPSA Communications Committee, and if not resolved, then reviewed by the OCCOPSA. Any unresolved dispute may be appealed to the Governance Committee for final decision.

#### 7.2 **Fire Subsystem**

The administration and ongoing development of the Fire Subsystem operational policy has been delegated to the OCFCA Communications Committee. That Committee reports to the OCFCA. Policies developed by OCFCA for the operations of the Fire Subsystem shall ensure that each participant is treated equitably and has sufficient communications capability to meet its legitimate needs. Any dispute between Partner and Participating Agencies over operational



policies shall be reviewed by the OCFCA Communications Committee, and if not resolved, then reviewed by the OCFCA. Any unresolved dispute may be appealed to the Governance Committee for final decision.

### **7.3 Lifeguard Subsystem**

The administration and ongoing development of the Lifeguard Subsystem operational policy has been delegated to the OCLC Communications Committee. That Committee reports to the OCLC. Policies developed by OCLC for the operations of the Lifeguard Subsystem shall ensure that each participant is treated equitably and has sufficient communications capability to meet its legitimate needs. Any dispute between Partner and Participating Agencies over operational policies shall be reviewed by the OCLC Communications Committee, and if not resolved, then reviewed by the OCLC. Any unresolved dispute may be appealed to the Governance Committee for final decision.

### **7.4 Public Works Subsystem**

The administration and ongoing development of the Public Works Subsystem operational policy has been delegated to the OCPWC. Policies developed by OCPWC for the operations of the Public Works Subsystem shall ensure that each participant is treated equitably and has sufficient communications capability to meet its legitimate needs. Any dispute between Partner and Participating Agencies over operational policies shall be reviewed by the OCPWC. Any unresolved dispute may be appealed to the Governance Committee for final decision.

### **7.5 Standard Operating Procedures**

Except as provided in Section 11.3 (“Security”), individual subsystem operational policy, as well as policy affecting all users, shall be published in the 800 MHz CCCS Standard Operating Procedures (SOP). The SOP will be the source of all radio system operational policies and procedures established by the various subsystems. The SOP is maintained by OCSD/Communications and will be updated any time an approved change is made to this document.

### **7.6 System Priorities**

Public Safety, consisting of City and County Law Enforcement and Fire Agencies dispatch functions and individual radio emergency buttons, shall have System operational priority over all law/fire/public works non-life threatening operations when and if it is necessary to establish System priorities.

**8. OPERATIONAL POLICY REVIEW**

To ensure that operational policy developed by the various individual Subsystems is compatible with all of the other Subsystems, such policy shall be subject to review by all other Subsystems and OCSD/Communications when appropriate. Review would be required when policy is developed that crosses over into another Subsystem. Review is not required when policy is developed that is specific to one Subsystem only. A thirty (30)-day review period prior to policy implementation shall be observed in order to ensure appropriate time for review. Exceptions can be made when the policy is of an emergency nature and immediate implementation is necessary for safety purposes. All emergency exceptions shall be reviewed by the appropriate Subsystems as described above within the thirty (30)-day period.

The intent of this review is to assure that decisions made by any one subsystem do not adversely affect the operation of any other group and to promote and ensure interoperability and compatibility.

**9. MUTUAL AID**

**9.1 Mutual Aid Policies and Procedures**

Mutual Aid communications is an important capability of the System. Utilizing this capability in an efficient manner is essential. Mutual Aid operational policies and procedures must be coordinated between Partner and Participating Agencies within Orange County and Partner and Participating Agencies outside of Orange County. All Partner and Participating Agencies shall comply with the operational policies of the Mutual Aid Plans described in Section 9.2.

**9.2 Mutual Aid Plans**

The following Mutual Aid Plans shall establish Mutual Aid operational procedures for all Participating Agencies.

**Orange County Mutual Aid Implementation Plan for the Use of the 800 MHz National and State Mutual Aid Channels**

This plan is required by the Southern California 800 MHz Regional Communications Plan and, together with any plan modifications, must be approved by the State of California Office of Emergency Services, Telecommunications Advisory Committee. The plan in effect on the date of this Agreement is on file with the OCSD/Communications Division. Any proposed modifications to the plan must be reviewed and approved by the Governance Committee, if needed, prior to submission to the State.

**Orange County Mutual Aid Plan for the Use of the 800 MHz Local Mutual Aid Channels**

The plan was prepared by OCSD/Communications Division and approved by the Partner and Participating Agencies, based upon approval by OCCOPSA, OCFCA, OCPWC and OCLC, as appropriate.

**9.3 Mutual Aid Priorities**

Partner and Participating Agencies who from time to time have need to communicate with Law Enforcement or Fire Agencies during emergencies or in their daily support of Law Enforcement or Fire Agencies will be allowed to access the Law Enforcement or Fire Subsystems as approved by those respective agencies. Such use may include the day-to-day operations of said non-Law Enforcement and non-Fire Partner and Participating Agencies on a non-interfering, prioritized basis. This use shall be subject to approval of OCCOPSA and the OCFCA as it affects their respective communications.

**10.0 RELINQUISHING EXISTING OPERATING CHANNELS**

Existing Partner and Appropriate Participating Agencies operate existing systems on a variety of radio channels licensed by the FCC. Both the FCC and the Southern California Regional Plan, approved by the FCC on November 21, 1989 for the implementation of new systems using the 800 MHz spectrum, require that Partner and Participating Agencies that transfer operation to the new 800 MHz channels must give back licenses on existing system frequencies. These "give-up" channels will then be redistributed to meet the needs of other agencies in Southern California which have not been met with the limited 800 MHz channels available.

Partner and Participating Agencies entering into this Agreement agree to "give up" channels licensed on existing systems that are replaced by the new System. FCC licenses on these "give-up" channels shall be returned to the FCC for cancellation not more than thirty (30) days after transfer and acceptance of law enforcement and/or public works operations to the System.

An exception to the paragraph above is when Partner and Participating Agencies who, as a result of transferring law enforcement operations to the System, subsequently move other public works operations to their current 460 MHz channels. In this case, Partner and Participating Agencies agree to relinquish the previously used 460 MHz channels to public works operations within thirty (30) days of completion of the transfer to the 800 MHz System and such a transfer to public works must occur within one hundred eighty (180) days of transfer of law enforcement operations to the System (FCC requirement), at which time the previously-used public works FCC licenses on these "give-up" channels must be returned to the FCC for cancellation not more than thirty (30) days after transfer of public works operations to the 460 MHz channels.



## **#6.**

Any city that does not have a 460 MHz law enforcement “give-up” GREEN channel to use for public works may be able to use another city’s “give-up” 460 MHz GREEN channel in a cellular re-use pattern.

### **11.0 SYSTEM TECHNICAL MANAGEMENT**

Proper operation of a modern, trunked, multi-channel communications System requires centralized technical coordination. OCSD/Communications Division has established a 24-hour System Watch at Loma Ridge to assure seamless operation of this complex system. The infrastructure for this System is currently housed in 24 separate radio sites, with Loma Ridge serving as the master site.

#### **11.1 Technical Liaison Committee**

The 800 MHz Technical Liaison Committee is utilized to develop the technical operation policies and procedures of the System. This committee is composed of sworn, technical and operational personnel of County and City Law Enforcement, Fire, Lifeguard and Public Works operations involved in the 800 MHz CCCS.

#### **11.2 Technical Standards**

Technical standards are an essential part of the operation of a multi-user system. To ensure the long-range effective operation of System, technical standards shall continue to be reviewed and evaluated. Said standards shall be approved by the Technical Liaison Committee and all Partner and Participating Agencies will be required to adhere to them. Failure to adhere to the technical standards may result in mobile or portable field equipment being restricted from access to the associated Backbone System.

#### **11.3 Security**

Any authorized user of the 800 MHz CCCS shall be required to protect the security of the system and its users by complying with the policies set forth in the “Security Plan for the Orange County 800 MHz Countywide Coordinated Communications System” document. Responsibilities include, but are not limited to, adhering to the Lost/Stolen/Missing Radio Procedure, providing physical security for equipment and documentation, not using Radio Service Software (RSS) to modify the configuration of any radio programming, and not providing technical information or radio equipment to unauthorized persons. As Participating Agencies or Mutual Aid organizations join the system, a copy of the Security Plan will be provided to the director of said organizations and will be advised to share it with appropriate personnel.

#### **11.4 Approved Equipment**

The initial System implementation consisted of equipment supplied by the original system equipment vendor and met the technical requirements of the

System. OCSD/Communications shall compile a list of this approved equipment and make it available to all Partner and Participating Agencies. In the future, as newer equipment from the original vendor or other vendors become available, OCSD/Communications shall evaluate it for compatibility with the System and make recommendations to the Technical Liaison Committee. Any equipment that meets the technical criteria for operation on the System shall be added to the approved list. OCSD/Communications will be responsible for negotiating pricing on new equipment with recommendations forwarded to the Governance Committee for final approval.

## **11.5 Technical Standards and Equipment Evaluation**

The OCSD/Communications Division maintains engineering and technical staff whose task is to maintain, manage and operate the 800 MHz CCCS. Technical management of the System shall continue to be the responsibility of OCSD/Communications Division. County technical staff shall evaluate new radio subscriber equipment for adherence to technical standards prior to the Technical Liaison Committee for approval and to the vendor requesting equipment evaluation. Any disputes regarding the technical evaluation of equipment will be referred to the OCCOPSA Communications Committee, OCFCA Communications Committee, OCLC Communications Committee, and OCPWC, with final approval by the Governance Committee.

## **12.0 SYSTEM MODIFICATION COST APPROVALS**

Any Law Enforcement Subsystem modification or other action proposed by OCCOPSA which requires Partner or Participating Agencies to obligate funds for cost sharing shall require prior approval by the Governing Body of each Partner or Participating Agency, following approval by the Governance Committee.

Any Fire Subsystem modification or other action proposed by the OCFCA which requires Partner or Participating Agencies to obligate funds for cost sharing shall require prior approval by the Governing Body of each Partner or Participating Agency, following approval by the Governance Committee.

Any Lifeguard Subsystem modification or other action proposed by the OCLC which requires Partner or Participating Agencies to obligate funds for cost sharing shall require prior approval by the Governing Body of each Partner or Participating Agency, following approval by the Governance Committee.

Any Public Works Subsystem modification or other action proposed by the PWPC which requires Partner or Participating Agencies to obligate funds for cost sharing shall require prior approval by the Governing Body of each Partner or Participating Agency, following approval by the Governance Committee.



**13.0 CONTRACTS**

The County may from time to time enter into such agreements or contracts with various vendors to purchase or lease equipment, and for installation, service and maintenance of equipment as may be necessary and required in order to effectuate this Agreement. All such agreements or contracts shall comply with applicable State Law for counties. Appropriate shared costs will be included in backbone cost-sharing allocations.

**13.1 County Responsibilities**

OCSD/Communications shall negotiate and enter into agreements or contracts with the various vendors as contemplated in this Agreement.

OCSD/Communications shall make payments due and payable under such agreements on behalf of Partner and Participating Agencies.

OCSD/Communications shall negotiate and enter into agreements with new Participating Agencies which may hereafter receive approval to access the System for day-to-day operations pursuant to this Agreement, provided that:

- The Participating Agency agrees to the terms, conditions and costs for entry as defined by the Governance Committee on behalf of the Partners. Current policy by the Governance Committee directs a system entry fee of \$3,295 per radio for Federal or State agency participation and \$2,480 per radio for agencies operating strictly within the confines of the County. Participating Agencies are required to have their radios templated and programmed by OCSD/Communications Division staff, participate in the flat fee radio equipment maintenance program, and meet their annual backbone cost sharing obligation.
- Requests by Participating Agencies will be evaluated in terms of potential channel loading on the 800 MHz CCCS. This evaluation will include an identification of the number of radios to be added, the type of communication being conducted, and the specific radio cell that will be impacted by the addition of this Participating Agency. If the addition of the Participating Agency may cause an extensive impact on channel loading, an outside channel loading analysis may be pursued at the expense of the requesting Agency.
- Additional terms, conditions, and costs for entry shall be included in a separate agreement as established by the Governance Committee. The Governance Committee is given said authority under this Agreement with the understanding that adequate fees will be charged as appropriate. Said separate agreement shall include any direct or indirect compensation to Partner Agencies for System Backbone usage by new Participating Agency(s).

- OCSD/Communications shall obtain the approval of the Governance Committee to determine the appropriate additional terms, conditions, and costs to be included in said separate agreement.
- Any such new Participating Agency hereafter who shall desire to become a party to this Agreement may do so by executing a copy of this Agreement, as well as the separate agreement if applicable.
- Compensation may take the form of improvement or modification of System or other contribution for the benefit of all Partner or Participating Agencies.

**14. EQUIPMENT FACILITIES AND STRUCTURES**

Additional facilities, structures, and modifications may be needed to implement the System, including System Backbone facilities and System Field Equipment facilities (e.g., dispatch centers).

**14.1 System Backbone Facilities**

In the event of a decision by the Governing Authorities to financially support expanding or modifying existing facilities, or adding new County radio structures or facilities as necessary, to support the implementation of the System Backbone, the County shall be responsible as lead agency to implement these expansions, modifications, or additions.

**14.2 Field Equipment Facilities**

Individual Partner or Participating Agency shall, at its sole Partner or Participating Agency expense, expand or modify its existing structures, facilities, or dispatch centers as required to support the installation or enhancement of Partner or Participating Agency System Field Equipment.

**15. SYSTEM MODIFICATIONS AND COST SHARING**

**15.1 System Modifications**

System modifications may be needed from time to time to meet the changing needs of Partner and Participating Agencies. System modifications, expansions or enhancements will not be allowed without technical review by the County and approval by the Governance Committee. System modifications recommended by County and agreed to by the Governance Committee will then be forwarded to Governing Authorities for approval, as appropriate, and implemented by County.

Cost sharing of future System Backbone modifications shall be determined based on the benefit to be derived by individual Partner or Participating Agencies.



# #6.

The cost for any modification intended for the sole use and support of a single Partner or Participating Agency shall be borne by that Partner or Participating Agency.

The cost for any modification intended to improve service for an identifiable group of Partner or Participating Agencies in a local area or Net shall be shared by those Agencies in a manner agreeable to those Agencies.

## 15.2 Cost Sharing Beginning July 1, 2002

### A. Effective Date/Percentage Share

The Cities and Orange County Fire Authority (OCFA) will commence System Backbone cost sharing payments as of July 1, 2002. The following represents the respective aggregate obligations for the ongoing maintenance costs of the System Backbone expressed as a percentage of the total cost:

1. FY 02-03
  - a. County's share of cost 51%
  - b. Cities'/OCFA's share of cost 49%
  
2. FY 03-04
  - a. County's share of cost 45.6%
  - b. Cities'/OCFA's share of cost 54.4%
  
3. FY 04-05 and thereafter
  - a. County's share of cost 40.18%
  - b. Cities'/OCFA's share of cost 59.82%

The individual obligations for the ongoing maintenance cost of the System Backbone, as approved by the Governance Committee, for each of the Cities and OCFA shall be determined by dividing the number of radios that each of the Cities and the OCFA, respectively, are operating on the System by the total number of radios that the Cities and OCFA are collectively operating on the System. The resulting ratios shall each be multiplied by the aggregate percentage obligations of the Cities and the OCFA for each fiscal year as set forth above. The resulting products shall be the Cities' and OCFA's individual percentage obligations for the ongoing maintenance cost of the System Backbone in each applicable fiscal year.



The contribution made by Participating Agencies will be calculated based on a per radio cost, which will be calculated on an annual basis by dividing the total operating and infrastructure backbone cost, by the total number of radios. The calculated contributions for the Participating Agencies will then be deducted from the total backbone cost-sharing expense. The remaining amount will be used to calculate the City, OCFA and County obligations consistent with 15.2.A.3. above.

Emergency radios held in a separate pool will not be included in the radio counts for backbone cost-sharing purposes. Radios, as identified by the Partner or Participating Agencies, that are set aside strictly for the purpose of an emergency activation or some other emergency situation, and are not used for any other purpose, will be excluded from backbone cost-sharing counts. Serial numbers for these radios are to be provided by the Partner or Participating Agency. The OCSD/Communications Division will run random radio traffic checks on those radios identified as emergency radios and will advise department heads if any ongoing traffic is occurring.

### **15.3 Cities/OCFA Payment of FY 02-03 Backbone Costs**

- A. County is authorized to transfer from the County's Site Development and Infrastructure Fund to the County General Fund, an amount equal to the Cities' and OCFA's FY 02-03 share of cost for System Backbone operations. The purpose of this transfer is to finance Cities' and OCFA's FY 02-03 share of the System Backbone costs and to allow cities and OCFA to pay said costs over a period of time. Furthermore, it allows the County to receive said amount in its General Fund as was budgeted for FY 02-03.
- B. Each city and OCFA will amortize its share of the FY 02-03 System Backbone costs, interest free, over a period of 5 years, commencing July 1, 2003, by paying back to County 20% of its share of the FY 02-03 System Backbone cost each year thereafter for five years. Each city and OCFA shall make this payment to County along with its regular System Backbone cost-sharing expense payment for that particular fiscal year.

### **15.4 Annual Payment**

Commencing July 1, 2003, and continuing each year thereafter, each city and OCFA will contribute 100% of its allocated share of the System Backbone costs based on the formula set forth in 15.2.A above. Said payments shall be made on a quarterly basis in advance within thirty days of billing.

**15.5 New Site Development and Infrastructure Fund**

The County will place the approximately \$4.1 million currently in the County's Site Development and Infrastructure Fund, less the amount County is allowed to deduct from that fund pursuant to 15.3.A above, into a separate Site Development and Infrastructure Fund. This fund will be controlled by the 800 MHz Governance Committee. Each project financed from this fund will require prior Governance Committee approval. Each expenditure from the Site Development and Infrastructure Fund must be utilized for County's share of site development and/or infrastructure costs. On June 30, 2008, any remaining balance in the Site Development and Infrastructure Fund shall be administratively transferred to the County General Fund without further approval by the 800 MHz Governance Committee, cities or the OCFA.

The Partner and Participating Agencies will share in the cost of 800 MHz CCCS system and infrastructure upgrades. The funding sequence for payment of these costs will be as follows:

- Use of grant funds if available.
- Use of system entry fees contributed to the system from new Participating Agencies as they join the system.
- Use of combined City/County contract reserve fund consistent with percentage contributions made by cities versus County.
- Use of infrastructure contributions collected annually as part of the backbone cost-sharing allocations. Contributions to infrastructure payments will be made on a 70% Cities/OCFA and 30% County of Orange basis, consistent with the Motorola contract allocation split during 800 MHz CCCS implementation. OCSD/Communications will prepare a document and timeline that identifies the remaining infrastructure requirements and estimated costs by fiscal year, thereby bringing closure on the balance of the infrastructure necessary to complete the original 800 MHz CCCS. Infrastructure payments beginning in FY 2005/2006 will reflect contributions needed to meet these outstanding obligations.
- County will pay for design and construction costs for radio sites required to address outstanding coverage issues that remain from initial 800 MHz CCCS implementation, which are Newport Beach, Dana Point and Brea/Carbon Canyon sites.
- County will evaluate the inclusion of radio site construction and infrastructure for new housing developments as part of Mello-Roos costs.

**15.6 Exclusive Backbone System Costs**

Unless otherwise authorized by separate agreement or an amendment to the 800 MHz CCCS Joint Agreement, none of the cost elements covered under the 800 MHz Communications System Agreement for Cost Sharing shall be included in other service agreements between the County of Orange and the Cities or OCFA.

**15.7 New Participating Agencies**

New users of the System shall be charged pursuant to the policy established by the Governance Committee under Sections 13.1 and 16 of the 800 MHz CCCS Joint Agreement.

**15.8 Budget/Year-End Settlement**

- A. The 800 MHz budget and allocation of expenses will be submitted for approval to the Governance Committee ninety (90) to one hundred and twenty (120) days in advance of each fiscal year and communicated to the Partner and Participating Agencies for purposes of including same in their budgets for the next fiscal year.
- B. As soon as practicable following the end of each fiscal year, a final independent audit or a financial review as stipulated by the Governance Committee, shall be performed to determine the actual cost of backbone system operations, infrastructure and maintenance costs for that fiscal year. The findings of this audit or financial review shall be made known to the Partners and Participating Agencies on the 800 MHz CCCS. Thereafter, to the extent there have been contributions made by the Partners and Participating Agencies which exceed the actual cost of operations and maintenance, the amount of said excess contributions shall be credited to each party in the same proportion as was used to create the excess. Any excess for operational expenses shall be deducted from each entity's fiscal year obligation for the following fiscal year. In the event of a shortfall, each party shall be billed its pro-rata share of the shortfall, which shall be paid in the first quarter payment for the next fiscal year following the fiscal year of the shortfall.
- C. Contributions made to infrastructure by each Partner Agency and Participating Agency will be held in either the specific County Account (15L) designated for 800 MHz CCCS infrastructure or system upgrades or in the third-party escrow account as determined by the Governance Committee. In either case, interest earnings will be allocated to these specific funds. Whether the Governance Committee determines that these funds will be held in a third-party escrow account or a County fund, the fees for this account will be included as a backbone cost-sharing expense. As designated under the 800 MHz Escrow Agreement, unless otherwise modified, escrow account funds can only be spent for Motorola expenditures in support of system enhancements or infrastructure costs.
- D. Should any Partner Agency or Participating Agency fail to make its appropriate payments when due, the County shall take action as is appropriate to obtain such payment. Nothing in this Agreement shall be construed as the County's exclusive remedy for the remediation of



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defaults by Governing Authorities, and the County reserves the right to pursue any and all available rights and remedies at law or in equity.

### 15.9 **800 MHz Site Revenues**

In the event County decides to generate revenues from the commercial, non-governmental sector by leasing space at the County's radio sites, the following shall apply:

- A. The use of said radio sites shall not interfere with or degrade the efficiency of the System.
- B. The net revenues generated from such use shall be shared among the Parties to this 800 MHz CCCS Joint Agreement in the same proportion as each party contributed to the maintenance and repair of the radio site(s) for the fiscal year the revenue is generated, up to the amount of each party's contribution for maintenance and repair of the base radio site(s) from which the revenue is generated. All additional net revenues shall go to the County.

### 15.10 **Future System Enhancements/Upgrades/Replacements**

It is anticipated that a significant upgrade of the 800 MHz CCCS will be required as early as 2010. The Governance Committee, with staffing provided by the County, will be responsible for defining the required upgrades and anticipated funding requirements. The Governance Committee will develop a long-range plan and establish a multi-year Equipment Replacement Fund for the purpose of accumulating funds from the Partner and Participating Agencies. The Equipment Replacement Fund will be designed to allow for the tracking of interest by individual contributor.

### 16. **ADDITIONAL PARTICIPATING AGENCIES OR CONSOLIDATION OF PARTICIPATING AGENCIES**

Law Enforcement/Public Works/Fire/Lifeguard Agencies may be added to the system with approval by that Agency's Governing Authority, support by appropriate operational committees, and approval of Governance Committee.

The System is designed to support multiple Participating Agencies. New Participating Agencies may only be added to the System within channel loading limits without degrading the level of service. (Refer to Section 13.1.)

The System must adhere to FCC minimum loading standards. In order to meet the minimum loading standards established by the FCC and to ensure efficient utilization of the System spectrum resource, County will continually monitor the level of use of the System.

The County shall be responsible for coordinating access to the System, training new users in operational and security procedures, and assuring compliance with technical standards. The new Agency may be responsible for the cost of these services.

**16.1 Adding Participating Agencies: Newly Incorporated or Contract Cities**

Cities presently contracting for law enforcement, fire or public works services from the County or other Participating Agencies may in the future desire to form their own departments. In such cases, the County shall work with these agencies to develop an appropriate system design and implementation plan to transition to an independent city system similar to other cities.

Any System Field Equipment or other costs associated with the transition of a New City or Contract City to the System shall be the responsibility of the city unless addressed in a separate agreement with County.

**16.2 Consolidation of Law Enforcement Agencies, Public Works Agencies or Fire Agencies**

Cities presently contracting for law enforcement, fire or public works services from the County or other Partner or Participating Agencies may in the future desire to consolidate with other departments to form regionalized systems. In such cases, the County shall work with these agencies to develop an appropriate system design and implementation plan to transition to a consolidated system.

Any System Field Equipment or other costs associated with the transition of a Contract City or Independent City to form with others in a consolidated unit shall be the responsibility of the consolidated entity, unless addressed in a separate agreement with the County.

**16.3 Adding Non-City/Non-County Participating Agencies**

Newly formed Non-City/Non-County Participating Agencies that do not participate in the System in its initial implementation may desire to use the System. County shall work with any such Participating Agency to develop an appropriate system design and implementation plan to transition to the System after approval is recommended by OCCOPSA, OCFCA, OCLC, and OCPWC, as appropriate, and approved by the Governance Committee.

An agency that does not participate in the original purchase and cost sharing of the System Backbone shall contribute a share of the System cost consistent with Section 13.1. Funds from this account may be used for Backbone System enhancements for the benefit of all Partners and Participating Agencies. Enhancements shall be recommended by the Technical Liaison Committee and OCCOPSA, OCFCA, OCLC, and OCPWC as appropriate, with final approval by



## #6.

the Governance Committee. Approved enhancements involving cost sharing shall be submitted to the Governing Authorities for approval as appropriate.

Any Backbone System modification costs required to transition a New Non-City/Non-County Participating Agency to System shall be the responsibility of the new Non-City/Non-County Participating Agency.

Any System Field Equipment costs associated with the transition of a New Non-City/Non-County Participating Agency to System shall be the responsibility of the new Non-City/Non-County Participating Agency.

### **16.4 Adding Mutual Aid Providers**

Certain governmental and non-governmental Mutual Aid Providers may be granted access to the subsystems, for the expressed purpose of providing Mutual Aid to a Participating Agency. Access may only be granted by the bodies described in Sections 3, 4, 5, 6 of this Agreement.

Any Backbone System modification costs associated with adding a Mutual Aid Provider to the System shall be the responsibility of the Mutual Aid Providers and/or the sponsoring Partner or Participating Agency(s).

Any System Field Equipment costs associated with adding a Mutual Aid Provider to the System shall be the responsibility of the Mutual Aid Provider and/or the sponsoring Partner or Participating Agency(s).

### **17. LIABILITY**

Each Party listed in Exhibit "A" (the "Indemnitor") shall indemnify, defend, and hold all other parties, and their agents and employees (the "Indemnitees") harmless from all claims, liabilities, damages, and losses to the Indemnitees arising out of any acts or omissions of itself and its agents and employees in connection with the performance of this Agreement which acts or omissions constitute gross negligence.

### **18. GOVERNANCE COMMITTEE**

The 800 MHz Governance Committee will oversee implementation and operations of the 800 MHz System including Partner and Participating Agency compliance with payment schedules, addressing operational issues affecting System operation and backbone site development, reviewing and approving conversion, modification and enhancement plans, approving contract pricing changes, resolving disputes between Partners or Participating Agencies, approving the policy recommendations of the Committees, approving policy, operational and fiscal matters necessary for the operation and maintenance of the System, and performing any other responsibilities required to implement this Agreement.

The Governance Committee shall be responsible for recommending 800 MHz Project operating and capital improvement budgets that are jointly funded by the Parties to the Agreement. The appropriate Governing Authorities will be responsible for approving these budgets through the backbone cost-sharing approval process.

Committee members, as identified below, will also be responsible for coordinating with their appropriate associations/agencies on issues involving Governing Body approvals:

- Four City Managers appointed by the Orange County City Managers' Association
- County Executive Officer, County of Orange, or Designee
- Sheriff-Coroner, or Designee
- Resources and Development Management Department Director, or Designee

Each must designate and name an alternate as a voting member if member cannot attend.

**19. AGREEMENT AMENDMENT PROCESS**

This Agreement may be amended or modified by consent of all of the Governing Authorities representing the Parties.

**20. WITHDRAWAL FROM SYSTEM**

This Agreement shall take effect as above dated. This Agreement may be terminated by any Parties or Participating Agencies to the Agreement as listed on Exhibit "A" or Exhibit "C" as to that Party or Participating Agency by serving written notice of termination on the County and after meeting its financial obligations under this Agreement. After the expiration of sixty (60) days from the giving of such notice, the Party or Participating Agency so electing to withdraw shall cease to be a Party or Participating Agency to this Agreement. Such termination shall not relieve said Party or Participating Agency or other Party of any financial obligation assumed as part of this Agreement. (Said Party and Participating Agency shall still be obligated to pay its backbone cost-sharing expense for that fiscal year and its annual flat fee expense for that fiscal year if the Party or Participating Agency is participating in the flat fee program.) The Party or Participating Agency terminating shall not be responsible for any financial obligations assumed by the other Parties or Participating Agencies hereto subsequent to said termination. Similarly, it is understood that County has ownership of the System Backbone and certain backbone sites, as well as FCC licenses presently owned by the County, and upon any termination by any Parties

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to the Agreement, any and all right, title and interest in the System Backbone, those backbone sites and FCC licenses shall remain with the County. Should the County wish to withdraw, an orderly transition to remaining Parties and Participating Agencies must be affected.



IN WITNESS WHEREOF, the Parties and Participating Agencies hereto have set their hands and seals on the date set forth opposite their respective signatures on identical counterparts of this instrument, each which shall for all purposes be deemed an original thereof.

COUNTY OF ORANGE

ORANGE COUNTY FIRE AUTHORITY

By: [Signature]  
Board of Supervisors

By: \_\_\_\_\_  
Chairman

Dated: 11.23.04

Dated: \_\_\_\_\_

Approved As to Form:  
County Counsel

ATTEST:

[Signature]  
11-10-04

\_\_\_\_\_  
Clerk of the Authority

CITY OF: \_\_\_\_\_

APPROVED AS TO FORM:

ATTEST:

By: \_\_\_\_\_  
Authority Counsel

By: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_



SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED TO  
THE CHAIRMAN OF THE BOARD

ATTEST: [Signature]  
DARLENE J. BLOOM  
CLERK OF THE BOARD OF SUPERVISORS  
ORANGE COUNTY, CALIFORNIA

\_\_\_\_\_  
City Clerk

Dated: \_\_\_\_\_

Approved As to Form:  
City Attorney

\_\_\_\_\_

**EXHIBIT A**  
**800 MHz COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM**  
**PARTIES TO AGREEMENT**

<b>CITY</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
Aliso Viejo	City Manager	12 Journey, Suite 100 Aliso Viejo, CA 92656-5335	949/425-2512
Anaheim	City Manager	200 S. Anaheim Blvd. Anaheim, CA 92805	714/765-5162
Brea	City Manager	1 Civic Center Circle Brea, CA 92821-5732	714/990-7770
Buena Park	City Manager	6650 Beach Blvd. Buena Park, CA 90620	714/562-3550
Costa Mesa	City Manager	77 Fair Drive Costa Mesa, CA 92626	714/754-5328
Cypress	City Manager	5275 Orange Avenue Cypress, CA 90630	714/229-6688
Dana Point	City Manager	33282 Golden Lantern, Suite 203 Dana Point, CA 92629	949/248-3513
Fountain Valley	City Manager	10200 Slater Avenue Fountain Valley, CA 92708	714/593-4410
Fullerton	City Manager	303 W. Commonwealth Ave Fullerton, CA 92832	714/738-6310
Garden Grove	City Manager	11222 Acacia Parkway Garden Grove, CA 92840	714/741-5100
Huntington Beach	City Administrator	2000 Main Street Huntington Beach, CA 92648	714/536-5575
Irvine	City Manager	1 Civic Center Plaza P.O. Box 19575 Irvine, CA 92623-9575	949/724-6246
La Habra	City Manager	201 E. La Habra Blvd. La Habra, CA 90633	562/905-9701
La Palma	City Manager	7822 Walker Street La Palma, CA 90623	714/690-3333
Laguna Beach	City Manager	505 Forest Avenue Laguna Beach, CA 92651	949/497-0704
Laguna Hills	City Manager	24035 El Toro Road Laguna Hills, CA 92653	949/707-2610
Laguna Niguel	City Manager	27801 La Paz Road Laguna Niguel, CA 92677	949/362-4300
Laguna Woods	City Manager	24264 El Toro Road Laguna Woods, CA 92653	949/639-0525
Lake Forest	City Manager	25550 Commercentre Drive Lake Forest, CA 92630	949/461-3410
Los Alamitos	City Manager	3191 Katella Avenue Los Alamitos, CA 90720	562/431-3538 ext. 201
Mission Viejo	City Manager	200 Civic Center Mission Viejo, CA 92691	949/470-3051

**EXHIBIT A**  
**800 MHz COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM**  
**PARTIES TO AGREEMENT**

<b>CITY</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
Newport Beach	City Manager	3300 Newport Blvd. Newport Beach, CA 92663-3884	949/644-3000
Orange	City Manager	300 East Chapman Ave. Orange, CA 92866	714/744-2222
Placentia	City Administrator	401 East Chapman Ave Placentia, CA 92870	714/993-8117
Rancho Santa Margarita	City Manager	22112 El Paseo Rancho Santa Margarita, CA 92688	949/635-1800 ext. 210
San Clemente	City Manager	100 Avenida Presidio San Clemente, CA 92672	949/361-8322
San Juan Capistrano	City Administrator	32400 Paseo Adelanto San Juan Capistrano, CA 92675	949/443-6317
Santa Ana	City Manager	20 Civic Center Plaza Santa Ana, CA 92701	714/647-5200
Seal Beach	City Manager	211 8th Street Seal Beach, CA 90740	562/431-2527 ext. 300
Stanton	City Manager	7800 Katella Avenue Stanton, CA 90680-3162	714/379-9222 ext. 240
Tustin	City Manager	300 Centennial Way Tustin, CA 92780	714/573-3010
Villa Park	City Manager	17855 Santiago Blvd. Villa Park, CA 92861	714/998-1500
Westminster	City Manager	8200 Westminster Blvd. Westminster, CA 92683	714/898-3311 ext. 402
Yorba Linda	City Manager	4845 Casa Loma Avenue P. O. Box 87014 Yorba Linda, CA 92886	714/961-7110
West Cities Communications Center (West-Comm)	West-Comm Administrator	911 Seal Beach Blvd. Seal Beach, CA 90740	562/594-7243



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**EXHIBIT A**  
**800 MHz COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM**  
**PARTIES TO AGREEMENT**

<b>COUNTY AGENCY/ DEPARTMENT</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
District Attorney	District Attorney	401 Civic Center Drive West P. O. Box 808 Santa Ana, CA 92702	714/834-3636
Health Care Agency	Director	405 W. 5 <sup>th</sup> Street Santa Ana, CA 92701	714/834-6254
Integrated Waste Management Department	Director	320 N. Flower St., Suite 400 Santa Ana, CA 92703	714/834-4122
John Wayne Airport	Airport Director	3160 Airway Avenue Costa Mesa, CA 92626-4608	949/252-5183
Probation Department	Chief Probation Officer	1535 E. Orangewood Avenue Anaheim, CA 92705	714/937-4701
Resources & Development Management Department	Director	300 N. Flower Street Santa Ana, CA 92703-5000	714/834-4643
Sheriff-Coroner Department	Sheriff-Coroner	550 N. Flower St. P. O. Box 449 Santa Ana, CA 92703	714/647-1800

<b>FIRE SERVICES</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
Orange County Fire Authority	Fire Chief	1 Fire Authority Road Irvine, CA 92602	714/573-6010
Metro Net Fire Dispatch Center	Communications Manager	201 So. Anaheim Blvd., Suite 302 Anaheim, CA 92805	714/765-4077

## EXHIBIT B

CITY USERS	LAW	PUBLIC WORKS	LIFEGUARD	FIRE
ALISO VIEJO	SHERIFF			OCFA
ANAHEIM	X	X		X
BREA	X	X		X
BUENA PARK	X	X		OCFA
COSTA MESA	X	X		X
CYPRESS	X	X		OCFA
DANA POINT	SHERIFF	X		OCFA
FOUNTAIN VALLEY	X	X		X
FULLERTON	X	X		X
GARDEN GROVE	X	X		X
HUNTINGTON BEACH	X	X	X	X
IRVINE	X	X		OCFA
LA HABRA	X	X		X
LA PALMA	X	X		OCFA
LAGUNA BEACH	X	X	X	X
LAGUNA HILLS	SHERIFF	X		OCFA
LAGUNA NIGUEL	SHERIFF	X		OCFA
LAGUNA WOODS	SHERIFF			OCFA
LAKE FOREST	SHERIFF			OCFA
LOS ALAMITOS	X	X		OCFA
MISSION VIEJO	SHERIFF	X		OCFA
NEWPORT BEACH	X	X	X	X
ORANGE	X	X		X
PLACENTIA	X	X		OCFA
RANCHO SANTA MARGARITA	SHERIFF			OCFA
SAN CLEMENTE	SHERIFF	X	X	OCFA
SAN JUAN CAPISTRANO	SHERIFF	X		OCFA
SANTA ANA	X	X		X
SEAL BEACH	X	X	X	OCFA
STANTON	SHERIFF	X		OCFA
TUSTIN	X	X		OCFA
VILLA PARK	SHERIFF	X		OCFA
WESTMINSTER	X	X		OCFA
YORBA LINDA	BREA	X		OCFA
WEST-COMM	X			
METRONET				X
COUNTY USERS	LAW	PUBLIC WORKS	LIFEGUARD	FIRE
DISTRICT ATTORNEY	X			
HCA		X		
IWMD		X		
JOHN WAYNE AIRPORT	X	X		
PROBATION	X			
RDMD		X	X	
SHERIFF-CORONER	X			
OCFA				X

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## EXHIBIT B

MUTUAL AID USERS	LAW	PUBLIC WORKS	LIFEGUARD	FIRE
AFRC FIRE DEPARTMENT				X
AMR AMBULANCE				X
BOEING FIRE DEPARTMENT				X
CALIFORNIA HIGHWAY PATROL	X			
CALIFORNIA STATE PARKS	X			
CALIFORNIA STATE UNIVERSITY FULLERTON POLICE	X			
CAMP PENDLETON FIRE DEPARTMENT				X
CARE AMBULANCE				X
CDF RIVERSIDE FIRE DEPARTMENT				X
CORONA FIRE DEPARTMENT				X
DISNEYLAND FIRE DEPARTMENT				X
DOCTOR'S AMBULANCE				X
EMERGENCY AMBULANCE				X
FBI	X			
HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT PD	X			
LA HABRA HEIGHTS FIRE DEPARTMENT				X
LAGUNA BEACH COUNTY WATER DISTRICT		X		
LOS ANGELES COUNTY SHERIFF AERO BUREAU	X			
MEDIX AMBULANCE				X
MERCY AIR				X
NAVAL WEAPONS STATION FIRE DEPARTMENT				X
NORTHROP GRUMMAN FIRE DEPARTMENT				X
SADDLEBACK COLLEGE POLICE DEPARTMENT	X			
SANITATION DISTRICT OF ORANGE COUNTY		X		
SCHAEFER AMBULANCE				X
UNITED STATES FOREST SERVICE				X
UNIVERSITY OF CALIFORNIA IRVINE POLICE	X			



**EXHIBIT C**  
**800 MHz COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM**  
**MUTUAL AID USERS**

<b>MUTUAL AID USERS</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
AFRC Fire Department	Tom McKinnon	4250 Constitution Los Alamitos, CA 90720	562/795-2144
AMR Ambulance	Ernie Chavez	10662 Stanford Ave. Garden Grove, CA 92840	714/638-6200
Boeing Fire Department	Scott Bolton	2600 Westminster Blvd. Seal Beach, CA 90740	562/797-3188
California Highway Patrol Helicopters	Bob Fablee	3865-A W. Commonwealth Ave. Fullerton, CA 92833	714/449-7091
California State Parks	Ken Kramer	8471 North Coast Highway Laguna Beach, CA 92651	949/497-1582
California State University Fullerton Police and Fire Departments	Sgt. Bob Baker	P.O. Box 6806 Fullerton, CA 92834-6806	714/278-2904
Camp Pendleton Fire Department	Chief Timothy Hoover	PO Box 555211 Camp Pendleton, CA 92055	760/725-4321
Care Ambulance	Rick Richardson	8932 Katella Ave., Suite 201 Anaheim, CA 92804	714/828-7750
CDF Riverside Fire Department	Chief Mike Burton	210 W. San Jacinto Ave Perris, CA 92570	951/940-6900
Corona Fire Department	Deputy Chief Marcus Billington	815 W. 6 <sup>th</sup> Street Corona, CA 92882	909/736-2220
Disneyland Fire Department	Lon Cahill	1313 S. Harbor Blvd. Anaheim, CA 92803-3232	714/781-4666
Doctor's Ambulance	Jim Ignacio	23091 Terra Drive Laguna Hills, CA 92653	949/951-8535 ext. 206
Emergency Ambulance	Jim Karras	3200 East Birch #A Brea, CA 92821	714/990-1742
FBI	Dan Koch	11000 Wilshire Blvd., Ste. 1700 Los Angeles, CA 90024	310/996-3720
Huntington Beach Union High School District Police	Scott Atkinson	10251 Yorktown Ave. Huntington Beach, CA 92646-2999	714/536-7521
La Habra Heights Fire Department	John Nielsen	1245 N. Hacienda Road La Habra Heights, CA 90631	562/694-8283
Laguna Beach County Water District	Dennis Hoffer	306 Third Street Laguna Beach, CA 92651	949/497-2585
Los Angeles County Sheriff Aero Bureau Areo Bureau	Capt. James DiGiovanna	3235 Lakewood Blvd. Long Beach, CA 90808	562/421-2701

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**EXHIBIT C**  
**800 MHz COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM**  
**MUTUAL AID USERS**

<b>MUTUAL AID USERS</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
Medix Ambulance	Michael Dimas	26021 Pala Drive Mission Viejo, CA 92691	949/470-8921
Mercy Air	Aaron Oshima	P.O. Box 2532 Fontana, CA 92334	909/841-2882
Naval Weapons Station Fire Department	Larry Bach	Fire Division Code N23 800 Seal Beach Blvd. Seal Beach, CA 90740-5000	562/626-7005
Northrop Grumman Fire Department	Sam Luque	33000 Avenida Pico San Clemente, CA 92673	949/361-7011
Saddleback College Police Department	Chief Harry Parmer	28000 Marguerite Parkway Mission Viejo, CA 92692	949/582-4585
Sanitation District of Orange County	Howard Lembke	10844 Ellis Ave. Fountain Valley, CA 92728	714/593-7270
Schaefer Ambulance	Jimmy McNeal	2215 South Bristol Ave. Santa Ana, CA 92704	714/545-8486
United States Forest Service	James Nordenger	P. O. Box 897 Poway, CA 92074	858/695-0258
University of California, Irvine Police Department	Lt. Jeff Hutchinson	150 Public Services Building Irvine, CA 92697-4900	949/824-1140



**EXHIBIT D**  
**800 MHz COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM**  
**PARTICIPATING AGENCIES**

AGENCY	RESPONSIBLE ADMINISTRATOR	ADDRESS	PHONE #

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IN WITNESS WHEREOF, the Parties have executed this Joint Agreement on the day and year set forth below their respective signatures.

**GOVERNANCE COMMITTEE**

**NEW PARTICIPATING AGENCY**

Print Name: John Pietig  
800 MHz CCCS Governance Committee Chair

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**AMENDMENT TO JOINT AGREEMENT  
FOR THE OPERATION, MAINTENANCE AND FINANCIAL MANAGEMENT  
OF THE ORANGE COUNTY 800 MEGAHERTZ  
COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM**

THIS AMENDMENT (“**Amendment**”) is entered into on JUNE 2, 2015 by and between the Parties listed on Exhibit A, attached hereto, which are sometimes individually referred to as “**Party**” or collectively referred to as the “**Parties**.”

**RECITALS**

A. On November 23, 2004, the Parties executed that certain document entitled *Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 Megahertz Countywide Coordinated Communications System* (“**Agreement**”), which provides for the management and governance of the 800 MHz Countywide Coordinated Communications System (“800 MHz CCCS”).

B. The 800 MHz CCCS requires significant enhancement in order to extend the life of the system.

C. Pursuant to Section 15.10 of the Agreement, the Governance Committee and the County have developed a long-range implementation plan to extend the CCCS, and have developed a scope of work, which includes all the activities, infrastructure and project schedule information for fiscal years 2014-19 described on Exhibit B, attached hereto (“**System Extension**”).

D. The Governance Committee and County have also developed the overall estimated cost of the System Extension, including each Party’s estimated funding share by fiscal year described on Exhibit C, attached hereto.

E. A Party’s funding plan for the System Extension may consist of one or more of the following: 1) a Party’s cash contribution, 2) a Party or a group of Parties financing all or a portion of the System Extension through the issuance of tax exempt bonds or other public financing mechanisms, and/or 3) a Party or group of Parties financing all or a portion of the System Extension through the County approved System Extension vendor.

F. The Parties desire to amend the Agreement to provide their commitment to the System Extension and describe their implementation and funding obligations.

G. This Amendment has been approved by the Governance Committee.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## #6.

1. Implementation Obligations. The Parties hereby commit to fund and implement the System Extension as described on Exhibit B and Exhibit C.

a. California Environmental Quality Act (“CEQA”). The County shall be the lead agency for purposes of CEQA and shall obtain all necessary approvals for the System Extension.

b. Party Cost Share. The Parties intend to implement and fund the System Extension over several years beginning in fiscal year 2014-15 through fiscal year 2018-19. Each Party is responsible for its fair share contribution to the System Extension. The total estimated budget for the System Extension and each Party’s fair share contribution is depicted on Exhibit C (“Cost Share”). A Party’s Cost Share is determined by the number of subscriber radios used by the Party on the CCCS, as well as the Party’s proportionate share of the System Extension dedicated to System Backbone. Each Party shall pay its total Cost Share in five fiscal year payments beginning in fiscal year 2014-15 through fiscal year 2018-19 in accordance with the procedures in Subsection (c) below. Each Party acknowledges that its Cost Share for the System Extension is an estimate and is expressed as a not to exceed amount. Each Party’s Cost Share will be based on an actual quote by a third party vendor who will perform the System Extension under a contract or series of contracts approved and managed by the County (“**Contractor**”). A Party’s actual Cost Share amount will be determined prior to the beginning of each fiscal year in which it is due and will be based on the Contractor’s scope of work for the respective fiscal year. Therefore, the Cost Share depicted on Exhibit C may change, and may be periodically updated by the Parties to reflect any changed equipment or authorized System Extension modification expenses.

c. Invoicing & Payment. The County will calculate the actual Cost Share amount due the following fiscal year, and will invoice each Party by July 1. Each Party shall pay its respective Cost Share to the County within thirty (30) days of the start of the fiscal year. A Party is exempt from the payment procedures of this Subsection 1.c for the relevant fiscal year if it has:

- i. Executed a binding agreement with the County approved Contractor, agreeing to pay or finance its Cost Share through the Contractor directly, or
- ii. Executed a binding agreement with the County agreeing to jointly finance its Cost Share.

d. Cost Share Responsibility. Upon execution of this Amendment, each Party is responsible for its actual Cost Share regardless of the form and manner of payment described herein, such that the Party cannot terminate its Cost Share obligation for any reason. In the event of a withdrawal from the system in accordance with Section 20 of the Agreement or in the case of a default for failure to pay its Cost Share in accordance with this Amendment, each Party remains obligated to pay to County the Party’s outstanding Cost Share as that obligation becomes due. Should any Party fail to pay its respective Cost Share when due, the County shall take action as is appropriate to obtain such payment. Nothing herein shall be construed as the County’s exclusive remedy for the remediation of defaults by a Party or Parties,

and the County reserves the right to pursue any and all available rights and remedies at law or in equity.

e. County Trust Account. The County shall deposit all Cost Share contributions into a trust account that is managed solely for the purpose of the System Extension.

2. System Extension Administration. The Orange County Sheriff-Coroner Department/Communications & Technology Division shall administer all agreements for the System Extension, and regularly report such progress to the Governance Committee.

3. Participating Agencies. The Parties hereby update the list of Participating Agencies described on Exhibit D, attached hereto, which shall replace in its entirety Exhibit C of the Agreement. Participating Agencies will continue to contribute to overall backbone costs through the payment of a separate and established entry fee for every radio added to the system.

4. Capitalized Terms. Any capitalized terms not defined herein shall have the meanings set forth in the Agreement.

5. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

6. Full Force. Except as expressly set forth herein, the Agreement shall remain unmodified and in full force and effect.

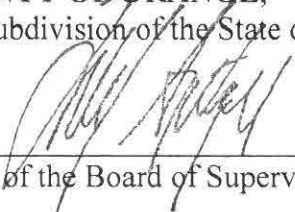


**#6.**

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

**THE COUNTY OF ORANGE,**


a political subdivision of the State of California

By:   
Chairman of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD

By:   
Clerk of the Board of Supervisors  
County of Orange, California

APPROVED AS TO FORM:  
COUNTY COUNSEL

By:   
\_\_\_\_\_

[CITY SIGNATURE BLOCKS TO BE INSERTED]

**EXHIBIT A****PARTIES TO THE AMENDMENT**

<b>ENTITY</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
Aliso Viejo	City Manager	12 Journey, Suite 100 Aliso Viejo, CA 92656-5335	949/425-2512
Anaheim	City Manager	200 S. Anaheim Blvd. Anaheim, CA 92805	714/765-5162
Brea	City Manager	1 Civic Center Circle Brea, CA 92821-5732	714/990-7770
Buena Park	City Manager	6650 Beach Blvd. Buena Park, CA 90620	714/562-3550
Costa Mesa	City Manager	77 Fair Drive Costa Mesa, CA 92626	714/754-5328
Cypress	City Manager	5275 Orange Avenue Cypress, CA 90630	714/229-6688
Dana Point	City Manager	33282 Golden Lantern, Suite 203 Dana Point, CA 92629	949/248-3513
Fountain Valley	City Manager	10200 Slater Avenue Fountain Valley, CA 92708	714/593-4410
Fullerton	City Manager	303 W. Commonwealth Ave Fullerton, CA 92832	714/738-6310
Garden Grove	City Manager	11222 Acacia Parkway Garden Grove, CA 92840	714/741-5100
Huntington Beach	City Administrator	2000 Main Street Huntington Beach, CA 92648	714/536-5575
Irvine	City Manager	1 Civic Center Plaza Irvine, CA 92623-9575	949/724-6246
La Habra	City Manager	201 E. La Habra Blvd. La Habra, CA 90633	562/905-9701

**#6.**

<b>ENTITY</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
La Palma	City Manager	7822 Walker Street La Palma, CA 90623	714/690-3333
Laguna Beach	City Manager	505 Forest Avenue Laguna Beach, CA 92651	949/497-0704
Laguna Hills	City Manager	24035 El Toro Road Laguna Hills, CA 92653	949/707-2610
Laguna Niguel	City Manager	27801 La Paz Road Laguna Niguel, CA 92677	949/362-4300
Laguna Woods	City Manager	24264 El Toro Road Laguna Woods, CA 92653	949/639-0525
Lake Forest	City Manager	25550 Commercentre Drive Lake Forest, CA 92630	949/461-3410
Los Alamitos	City Manager	3191 Katella Avenue Los Alamitos, CA 90720	562/431-3538 ext. 201
Metro Cities Fire Authority	Manager	201 S. Anaheim Blvd., Suite 302 Anaheim, CA 92805	714/765-4077
Mission Viejo	City Manager	200 Civic Center Mission Viejo, CA 92691	949/470-3051
Newport Beach	City Manager	100 Civic Center Drive Newport Beach, CA 92660	949/644-3000
Orange	City Manager	300 East Chapman Ave. Orange, CA 92866	714/744-2222
Orange County Fire Authority	Fire Chief	1 Fire Authority Road Irvine, CA 92602	714/573-6010
Orange, County of	CEO	333 W. Santa Ana Blvd. Santa Ana, CA 92701	714/834-6200

<b>ENTITY</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
Placentia	City Administrator	401 East Chapman Ave Placentia, CA 92870	714/993-8117
Rancho Santa Margarita	City Manager	22112 El Paseo Rancho Santa Margarita, CA 92688	949/635-1800 ext. 210
San Clemente	City Manager	100 Avenida Presidio San Clemente, CA 92672	949/361-8322
San Juan Capistrano	City Administrator	32400 Paseo Adelanto San Juan Capistrano, CA 92675	949/443-6317
Santa Ana	City Manager	20 Civic Center Plaza Santa Ana, CA 92701	714/647-5200
Seal Beach	City Manager	211 8th Street Seal Beach, CA 90740	562/431-2527 ext. 300
Stanton	City Manager	7800 Katella Avenue Stanton, CA 90680-3162	714/379-9222 ext. 240
Tustin	City Manager	300 Centennial Way Tustin, CA 92780	714/573-3010
Villa Park	City Manager	17855 Santiago Blvd. Villa Park, CA 92861	714/998-1500
West Cities Police Communications	West-Comm Administrator	911 Seal Beach Blvd. Seal Beach, CA 90740	562/594-7243
Westminster	City Manager	8200 Westminster Blvd. Westminster, CA 92683	714/898-3311 ext. 402
Yorba Linda	City Manager	4845 Casa Loma Avenue Yorba Linda, CA 92886	714/961-7110

EXHIBIT B

**GENERAL DESCRIPTION OF SYSTEM EXTENSION AND PROJECT SCHEDULE**

1.0 Overview

The System Extension plan will focus on extending the life of the existing CCCS radio system by systematically replacing end-of-life equipment in strategic phases culminating in an upgrade to P25 compliance with the goal of continuing to provide quality radio communications to the law, fire, lifeguard and public works agencies in Orange County.

2.0 Description of System Extension

- 2.1 *System Backbone* – Radio infrastructure equipment that is at or near the end of its expected life will be directly replaced with the current version of the same equipment that will maintain all existing features and functionalities and is able to work with the existing backhaul network. Specifically, this will involve the replacement of 565+ existing Quantar radio base stations and ancillary equipment at 25 radio sites with 800 MHz 3600 baud GTR8000 base stations and ancillary equipment. This will be accomplished in accordance with the following schedule:

System Backbone schedule:

- Northwest Cell = 24 Quantars replaced in 2015
- Southwest Cell = 40 Quantars replaced in 2015
- Laguna Cell = 33 Quantars replaced in 2016
- Moorhead IR Site = 8 Quantars replaced in 2016
- North Cell = 105 Quantars replaced in 2016
- South Cell = 135 Quantars replaced in 2017
- Crystal Cove IR Site = 4 Quantars replaced in 2017
- Countywide Cell = 210 Quantars replaced in 2017
- Carbon Canyon IR Site = 3 Quantars replaced in 2017
- Silverado IR Site = 3 Quantars replaced in 2017

- 2.2 *Law Enforcement Dispatch Consoles* – Police Dispatch Gold Elite consoles will be out-of-service by the vendor in 2018 and will need to be replaced prior to 2018 to maintain the existing console priority feature once the system is upgraded to P25. Console priority is a feature unique to law enforcement dispatch and allows dispatch to have the ability to transmit and receive audio simultaneously and is an officer safety necessity. Existing Gold Elite Console equipment will be replaced with its successor console, the MCC7500. Due to the complexity of the replacement at each law dispatch center, only 6 dispatch centers can be upgraded each year. A schedule has been developed to address the 20 law dispatch centers on the system, as shown below.

Console schedule:

FY14/15 - Loma Ridge, Irvine, Laguna Beach, Huntington Beach

FY15/16 - Anaheim, Brea, West Comm, Santa Ana, Tustin

FY16/17 - Orange, Fullerton, Costa Mesa, Garden Grove, Westminster

FY17/18 - Placentia, La Palma, Newport Beach, Fountain Valley,  
Buena Park, La Habra

- 2.3 *System Field Equipment* – When the System Backbone is upgraded to the P25 standard in FY 2018/2019, all subscriber radio equipment will also need to be P25 capable. Subscriber radios that are capable of being upgraded will need to receive the software/firmware upgrade prior to the backbone upgrade. Older subscriber radio equipment that is not capable of being upgraded to the P25 standard will need to be replaced prior to the P25 upgrade. Each agency will be responsible for the purchase of either replacement radios, or the necessary subscriber upgrade package for upgradable radios.
- 2.4 *P25 Upgrade* – When all backbone sites and law dispatch consoles have completed their equipment replacement, the vendor will initiate the necessary equipment and software update to bring the system up to the 7.18 software platform for P25 compliance. This final phase of the System Extension plan is scheduled for FY 2018/2019.



**EXHIBIT C**

**TOTAL ESTIMATED SYSTEM EXTENSION COST & ESTIMATED PARTY COST SHARE BY FISCAL YEAR**

		ESTIMATED COST								
		FY 15-16 Radio Counts			City/Agency Cost		Partnership Cost			
CITY/AGENCY		Upgrade	Replace	Total	Console Equipment	Radio Equipment*	FY 15-16 North & Laguna Cells	FY 16-17 South & Countywide Cells	FY 17-18 Remaining Backbone	TOTAL
		(P25 Capable With Software Upgrade)	(Upgrade To P25 Not Possible)							
1.	ALISO VIEJO	11	21	32	\$ -	\$ 138,650	\$ 7,028	\$ 18,930	\$ 43,599	\$ 208,206
2.	ANAHEIM	432	1,351	1,783	1,928,869	8,602,600	391,545	1,054,758	2,429,268	14,407,241
3.	BREA	62	302	364	648,137	1,883,300	79,891	215,329	495,936	3,322,593
4.	BUENA PARK	76	258	334	569,804	1,635,400	73,276	197,582	455,062	2,931,124
5.	COSTA MESA	105	523	628	680,354	3,258,750	137,966	371,502	855,626	5,304,197
6.	CYPRESS	24	170	194	0	1,047,600	42,604	114,763	264,317	1,469,285
7.	DANA POINT	15	49	64	0	311,250	14,054	37,860	87,198	450,362
8.	FOUNTAIN VALLEY	45	204	249	443,290	1,275,750	54,702	147,299	339,253	2,260,294
9.	FULLERTON	125	513	638	501,417	3,221,750	140,141	377,418	869,250	5,109,976
10.	GARDEN GROVE	115	475	590	369,240	2,982,250	129,608	349,023	803,852	4,633,972
11.	HUNTINGTON BEACH	452	820	1,272	1,097,718	5,439,800	279,398	752,469	1,733,051	9,302,436
12.	IRVINE	111	503	614	432,209	3,145,650	134,878	363,220	836,551	4,912,509
13.	LA HABRA	73	190	263	573,584	1,223,950	57,809	155,581	358,327	2,369,252
14.	LA PALMA	31	51	82	166,901	341,650	15,008	48,506	111,722	686,789
15.	LAGUNA BEACH	85	247	332	526,652	1,579,750	72,883	196,399	452,337	2,828,021
16.	LAGUNA HILLS	4	41	45	0	250,600	9,875	26,620	61,311	348,407
17.	LAGUNA NIGUEL	9	55	64	0	340,350	14,081	37,860	87,198	479,489
18.	LAGUNA WOODS	2	4	6	0	26,300	1,330	3,549	8,175	39,354
19.	LAKE FOREST	21	67	88	0	426,150	19,325	52,058	119,897	617,429
20.	LOS ALAMITOS	15	45	60	0	287,250	13,176	35,494	81,748	417,668
21.	METRONET	37	10	47	1,966,250	102,550	10,321	27,803	64,036	2,170,960
22.	MISSION VIEJO	30	90	120	0	574,500	26,366	70,968	163,495	835,349
23.	NEWPORT BEACH	438	401	839	532,934	2,909,700	184,290	496,322	1,143,105	5,266,351
24.	ORANGE	115	514	629	598,012	3,216,250	137,889	372,094	856,988	5,181,233
25.	PLACENTIA	30	107	137	413,090	676,500	30,119	81,044	166,657	1,387,410
26.	RANCHO SANTA MARG.	7	29	36	0	182,050	7,906	21,296	49,409	260,301
27.	SAN CLEMENTE	12	97	109	0	595,800	23,931	64,460	148,508	832,719
28.	SAN JUAN CAPISTRANO	6	33	39	0	204,900	8,525	23,071	53,136	289,632
29.	SANTA ANA	219	818	1,037	591,620	5,159,850	227,713	613,451	1,412,872	8,005,506
30.	SEAL BEACH	25	97	122	0	610,750	26,844	72,171	166,220	875,985
31.	STANTON	10	63	73	0	389,500	16,051	43,184	99,460	546,195
32.	TUSTIN	81	243	324	483,266	1,551,150	71,126	191,667	441,437	2,738,646
33.	VILLA PARK	0	6	6	0	36,000	1,318	3,549	8,175	49,042
34.	WEST-COMM	4	13	17	631,052	82,600	3,733	10,057	23,162	750,604
35.	WESTMINSTER	73	274	347	549,621	1,727,950	76,137	205,273	472,774	3,031,755
36.	YORBA LINDA	35	62	97	0	412,250	21,302	57,382	132,159	623,092
37.	OCFA	950	863	1,813	3,217,500	6,270,500	397,622	1,072,505	2,470,142	13,428,269
38.	OCTA	70	43	113	0	338,500	24,875	66,647	153,958	584,179
39.	OC LIFE GUARD	7	47	54	438,900	290,050	11,865	31,944	73,573	846,333
40.	IRVINE VLLY. CLLG. PD	16	0	16	0	18,400	3,527	9,465	21,799	53,192
41.	SANTA ANA UNIF. SD. PD	51	2	53	0	70,650	11,639	31,353	72,210	185,852
42.	SADDLEBACK CLLG. PD	16	0	16	0	20,700	3,953	10,648	24,524	59,825
43.	CEO	1	1	2	0	7,150	439	1,183	2,725	11,497
44.	DA	0	225	225	0	1,350,000	49,411	133,102	306,554	1,839,067
45.	HCA	184	98	282	0	799,600	61,804	166,821	384,214	1,412,439
46.	JWA	39	184	233	536,250	1,208,850	51,175	137,834	317,453	2,251,563
47.	OC ANIMAL CONTROL	10	110	120	350,000	671,500	26,386	70,968	163,495	1,282,369
48.	OC DANA POINT HARBOR	0	13	13	0	78,000	2,822	7,690	17,712	106,225
49.	OC PARKS	131	248	379	0	1,638,650	83,218	224,203	516,373	2,462,443
50.	OC PW	10	489	479	0	2,825,500	105,270	283,359	652,619	3,866,748
51.	OCWR	59	3	62	0	85,850	13,602	36,677	84,473	220,602
52.	PROBATION	177	435	612	0	2,813,550	134,695	362,037	833,826	4,144,108
53.	SHERIFF	857	1,922	2,779	4,428,829	12,517,550	610,825	1,643,955	3,786,280	22,987,439
54.	SSA	19	0	19	0	21,850	4,173	11,240	25,887	63,149
<b>TOTAL</b>							<b>\$ 4,162,452</b>	<b>\$ 11,211,905</b>	<b>\$ 25,822,727</b>	
								<b>\$41,197,084</b>		
								<b>PARTNERSHIP TOTAL</b>		

The costs stated herein are estimated costs expressed as not to exceed amounts subject to the final system design.

\* It is recommended that the Partnership co-ordinate a bulk equipment purchase in FY 16-17.

January 2015



**EXHIBIT D****PARTICIPATING AGENCIES**

<b>AGENCY</b>	<b>RESPONSIBLE ADMINISTRATOR</b>	<b>ADDRESS</b>	<b>PHONE #</b>
Irvine Valley College Police Department	Police Chief	5500 Irvine Center Drive, Irvine CA 92618	949/451-5201
Orange County Transportation Authority	Administrator	600 S. Main Street, Orange CA 92868	714/560-6282
Saddleback College Police Department	Police Chief	28000 Marguerite Parkway, Mission Viejo CA 92692	949/582-4390
Santa Ana Unified School District Police Department	Police Chief	1601 E. Chestnut Avenue, Santa Ana CA 92701	714/558-5536
US Ocean Safety (OC Lifeguards)	President	34127 Pacific Coast Highway, Dana Point CA 92629	949/276-5050

**#6.**

IN WITNESS WHEREOF, the Parties have executed this Amendment on the day and year set forth below their respective signatures.

**GOVERNANCE COMMITTEE**

**NEW PARTICIPATING AGENCY**

Print Name: John Pietig  
800 MHz CCCS Governance Committee Chair

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



Project No:  
Project Name:  
Project Location:

## NEW PARTICIPATING AGENCY RIDER TO JOINT AGREEMENT FOR THE OPERATION, MAINTENANCE AND FINANCIAL MANAGEMENT OF THE ORANGE COUNTY 800 MEGAHERTZ COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM

This New Participating Agency Rider (“NPA Rider”) is entered into on [Enter Date] (“Effective Date”), by and between [Name of Your Agency] (hereinafter referred to as “NEW PARTICIPATING AGENCY”) and the “Partner Agencies” and “Parties” (hereinafter referred to as “PARTNER AGENCIES AND PARTIES”) as defined in the Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 Megahertz Countywide Coordination Communications System (hereinafter referred to as “JA”) and represented by the Countywide Coordinated Communications System Governance Committee (hereinafter referred to as the “GOVERNANCE COMMITTEE”). GOVERNANCE COMMITTEE and NEW PARTICIPATING AGENCY may be referred to individually herein as a “Party” or collectively as the “Parties.”

### RECITALS

- I. WHEREAS, NEW PARTICIPATING AGENCIES AND PARTIES entered into the JA in 2004; and,
- II. WHEREAS, NEW PARTICIPATING AGENCY, executed a copy of the JA in accordance with Section 13.1 of the JA on [Enter Date]; and,
- III. WHEREAS, PARTICIPATING AGENCIES AND PARTIES entered into an Amendment to the JA (“Amendment”) on [Enter Date]; and,
- IV. WHEREAS, NEW PARTICIPATING AGENCY executed a copy of the Amendment per Section 13.1 of the JA on [Enter Date]; and,
- V. WHEREAS, the JA in Section 13.1 “County Responsibilities” grants the GOVERNANCE COMMITTEE the authority to enter into a separate agreement with NEW PARTICIPATING AGENCY to establish additional terms, conditions, and costs (per Attachment A) for entry into the Countywide Coordinated Communications System (the “CCCS”); and,
- VI. WHEREAS, the JA in Section 17 “Liability” provides for indemnification only between those parties listed in Exhibit A of the JA (and would not include NEW PARTICIPATING AGENCY); and,
- VII. WHEREAS, the GOVERNANCE COMMITTEE and NEW PARTICIPATING AGENCY now desire to enter into a separate agreement (this NPA Rider) to establish additional terms and conditions by including NEW PARTICIPATING AGENCY in the indemnity provision of the JA;

## **#6.**

NOW THEREFORE, in consideration of the Recitals above, the receipt of which the Parties acknowledge herein and which are incorporated herein by this reference, and the mutual covenants and agreements hereinafter contained, the GOVERNANCE COMMITTEE and NEW PARTICIPATING AGENCY do hereby agree as follows:

### **A. NEW PARTICIPATING AGENCY LIABILITY.**

NEW PARTICIPATING AGENCY and PARTNER AGENCIES AND PARTIES (the "Indemnitor") shall indemnify and hold all other Parties, and their agents and employees (the "Indemnitees") harmless from all claims, liabilities, damages, and losses to the Indemnitees arising out of any acts or omissions of itself and its agents and employees in connection with the performance of the JA which acts or omissions constitute gross negligence.

Except as otherwise expressly set forth herein, all terms and conditions contained in the JA, including any amendments/modifications, are hereby incorporated herein by this reference as if fully set forth herein and shall remain in full force and effect.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties have executed this New Participating Agency Rider on the day and year first written above.

**GOVERNANCE COMMITTEE**

**NEW PARTICIPATING AGENCY**

Print Name: John Pietig  
800 MHz CCCS Governance Committee Chair

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment A:  
Water Emergency Response Orange County (WEROC) Communications System White Paper**

**Overview:**

WEROC is interested in joining the 800 MHz CCCS as a "Participating Agency." The Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 MHz Countywide Coordinated Communications System, revised November

2004, provides the guidance on adding non-City/non-County Participating Agencies. Section 16.3 of the agreement states that:

- Newly formed Non-City/Non-County Participating Agencies that do not participate in the System in its initial implementation may desire to use the System. County shall work with any such Participating Agency to develop an appropriate system design and implementation plan to transition to the System after approval is recommended by Orange County Chiefs of Police & Sheriffs Association (OCCOPSA), Orange County Fire Chiefs Association (OCFCA), and approved by the Governance Committee.
- An agency that does not participate in the original purchase and cost sharing of the System Backbone shall contribute a share of the System cost consistent with Section 13.1:
  - System Entry Fee: \$2,480 per radio (for the life of the agreement)
  - Radio Template Development Fee: \$2,840 (one time cost, per template)
  - Radio Programming Fee: \$50 per radio (for the life of the agreement)
  - Flat Rate Fee: \$96 for mobile/portables; \$132 for control stations (per radio for the life of the agreement)
  - Equipment is purchased by agency directly with Motorola using approved equipment as provided in the Orange County Equipment Price Book (-\$3500 per radio+ installation)
  - Operational, Backbone Upgrade and Sustainability Fund costs are estimated at- \$250 per radio annually paid to 800 MHz Partnership (15L)

**Talkgroup and Channel****Access:**

All radios will have the basic level of interoperability (Tan, SILVER, BROWN). Additional interoperability will be approved on a case-by-case basis. WEROC would have a dedicated SILVER talkgroup for their use. Flat Rate Repair consists of the following:

- Perform a full FCC specifications check and alignment on new equipment, program new equipment and activate it on the system.
- Provide materials and labor for field repairs, with field service performed at a location specified by the user. Perform functional test and reprogram the radio if needed. Hot swap spare radios are available for vehicles and motorcycles.
- Provide materials and labor for shop repairs, with functional testing and standard reprogramming provided if needed after repair.
- Track repairs for each radio so that a cost analysis of repair versus replacement is tracked on an ongoing basis.
- Maintain a periodic maintenance schedule for each agency that includes FCC checks, alignment and repair of equipment as necessary.

Exclusions under the flat rate program include the following and will be billed on a time and material basis:

- Intentional misuse, vandalism or unauthorized modifications (physical or programming) by users or contracted service providers, causing damage to radio equipment on the 800 MHz CCCS. Agencies will be charged the total cost of repairs to the equipment and system.

- Template modifications that require agency-wide reprogramming such as the addition of talkgroups or modifications to the agency specific zone.
- Physical damage such as dropped radios or water damage.
- Replacement of batteries, knobs, antennas, and accessories such as speaker microphones.
- Engraving on a large-scale basis.

Current Public Works Users operating on the 800 MHz CCCS only require programming. The independent water districts will purchase new radios to operate on the system.

WEROC Agencies are as follows:

<b>Current 800 Participants Requiring Programming</b>	<b>Agencies Requiring New Radios:</b>
Anaheim	Costa Mesa Sanitary District
Brea	East Orange County WD
Buena Park	El Toro Water District
Fountain Valley	Golden State Water Company
Fullerton	Irvine Ranch WD
Garden Grove	Laguna Beach CWO
Huntington Beach	Mesa WD
La Habra	Midway City Sanitary District
La Palma	Moulton Niguel WD
Newport Beach	MWDOC (2 sites)
Orange	Orange County Sanitation District
San Clemente	Orange County WD
San Juan Capistrano	Santa Margarita WD
Santa Ana	Serrano WD
Seal Beach	SOCWA
Tustin	South Coast WD
Westminster	Trabuco Canyon WD
	Yorba Linda WD

- WD= Water District

In addition to the above listed Public Works agencies all law enforcement, fire protection, marine safety and hospitals operate on the 800 MHz CCCS as well as OCTA and several colleges and schools.

The system provides countywide portable in-building, highly-reliable radio communications with multiple levels of redundancy in case of major catastrophic events.







Francisco Soto  
Emergency Coordinator

**Municipal Water District  
of Orange County**

Street Address:  
18700 Ward Street  
Fountain Valley, California 92708

Mailing Address:  
P.O. Box 20895  
Fountain Valley, CA 92728-0895

Office: (714) 593-5032  
Cell: (323) 868-5970  
Fax: (714) 964-9389

Email: [fsoto@mwdoc.com](mailto:fsoto@mwdoc.com)

**MEMBER AGENCIES**

- City of Anaheim
- City of Brea
- City of Buena Park
- Costa Mesa Sanitary District
- East Orange County Water District
- El Toro Water District
- City of Fountain Valley
- City of Fullerton
- City of Garden Grove
- Golden State Water Company
- City of Huntington Beach
- Irvine Ranch Water District
- City of La Habra
- City of La Palma
- Laguna Beach County Water District
- Mesa Water District
- Midway City Sanitary District
- Moulton Niguel Water District
- Municipal Water District of Orange County
- City of Newport Beach
- City of Orange
- Orange County Sanitation District
- Orange County Water District
- City of San Clemente
- City of San Juan Capistrano
- City of Santa Ana
- Santa Margarita Water District
- City of Seal Beach
- Serrano Water District
- South Coast Water District
- South Orange County Wastewater Authority
- Trabuco Canyon Water District
- City of Westminster
- Yorba Linda Water District

**TO: Non-City Radio Replacement Participants**  
**FROM: Francisco Soto, WEROC Emergency Coordinator**  
**DATE: June 5, 2017**  
**SUBJECT: WEROC Radio Replacement (Update)**

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WEROC will be going to the MWDOC Board on June 21, 2017 to request approval to join the Orange County Sheriff’s Department 800 MHz Radio Program. If approved, WEROC will be purchasing one (1) new 800 MHz radio on behalf of its member agencies who do not currently subscribe to the 800 MHz program. WEROC’s purchase, programming, and installation cost of the new system will be approximately \$250,000.

**Annual Fees**

Initially WEROC proposed that it would be responsible for all annual fees associated with each member agency’s radio. Upon further discussion with the County, it has been decided that each radio purchased would belong to each member agency, therefore each agency would be responsible for maintaining their own system and associated annual fees that are charged by the County. The change will streamline the process and allow the Sheriff’s Department and member agencies to work directly on future maintenance and billing cycles. In order to accomplish this, each agency would need to sign a Participating Agency Joint Agreement with the Sheriff’s Division of Communications. Cities who currently use an 800 MHz radio have already signed this agreement and would not need to sign again.

**800 MHz Member Agencies Annual Cost (Per Radio)**

- Annual Access Rate – \$250 (estimate)
- Flat Annual Maintenance Fee – \$96 (Handheld) or \$132 (Control or Mobile)

**Orange County Sheriff’s Participating Agency Joint Agreement**

To utilize the County’s system, the Orange County Sheriff’s Division of Communications requires each member agency utilizing the new WEROC radio system who are not already users, to sign the agreement with the Department. This is a standard agreement from the County that is signed by all 800 MHz participating agencies. The agreement cannot be modified individually and must be signed as presented. The agreement requires each agency to pay an Annual Access Rate Fee and a Flat Annual Maintenance Fee. Additionally, each agency will be responsible for future cost of parts and/or repairs may not be included in annual maintenance. WEROC is requesting member agencies to sign this agreement by July 1, 2017. If you are unable to return the signed agreement by the set time, please contact me as soon as possible. This will allow WEROC to move forward with the project on time with a July 1, 2017 project start date. Below are instructions on signing and returning the three (3) documents.

## #6.

The Participating Agency Joint Agreement consist of three (3) separate documents:

- **2004 Joint Agreement** – Details the operation, maintenance, and financial responsibilities of the County and the Participating Agency.
  - Signing Instructions: Print name, sign name, and insert date on the last page.
- **2015 Amendment to the Joint Agreement** – Details the changes made to the 2004 Joint Agreement.
  - Signing Instructions: Print name, sign name, and insert date on the last page.
- **Participating Agency Rider** – Details the new Participating Agency’s liability.
  - Signing Instructions: Complete highlighted sections on the first page (name of your organization and (3) date). Print name, sign name, and insert date on the last page.

Please print two copies of each document and have the appropriate representative sign (wet signature) both copies of the three documents and return all six (6) original documents to:

Municipal Water District of Orange County  
Water Emergency Response Organization of Orange County  
Attention: Francisco Soto  
18700 Ward Street  
Fountain Valley, CA 92728

Once received, the Governance Committee Chair will sign and return one of the original signed sets to the Participating Agency.

Please sign and return the agreements to me by July 1, 2017. If you have any questions, feel free to contact me.

Francisco Soto  
WEROC Emergency Coordinator  
(714) 593-5032  
[fsoto@mwdoc.com](mailto:fsoto@mwdoc.com)

### Attachments:

- **2004 Joint Agreement**
- **2015 Amendment to the Joint Agreement**
- **Participating Agency Rider**



Item No.

**ACTION ITEM**

June 21, 2017

**TO:** Board of Directors

**FROM:** **Planning & Operations Committee**  
(Directors Dick, Tamaribuchi, Yoo Schneider)

Robert Hunter  
General Manager

Staff Contact: Kelly Hubbard

**SUBJECT: Request for Approval to join the Orange County 800 MHz Radio System**

**STAFF RECOMMENDATION**

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Staff recommends the Board of Directors approve MWDOC staff to transition the current WEROC low-band radio system over to the Orange County 800 MHz Countywide Coordinated Communications System (800 MHz CCCS), including approving staff to take the following actions:

- 1) Sign the Joint Agreement for the Operation, Maintenance, and Financial Management of the Orange County 800 Megahertz Countywide Coordinated Communications System and associated agreements.
- 2) Enter into a purchase agreement for the costs associated with initial set-up of the WEROC channel, purchase and/or programming, and installation of radios for Member Agencies and the WEROC facilities with the OC Sheriff's Communications Division and Motorola Solutions (sole source, based on County's approved price book.)
- 3) Take appropriate steps to decommission the current WEROC low-band radio system.

**COMMITTEE RECOMMENDATION**

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Committee recommends (To be determined at Committee Meeting)

<b>Budgeted (Y/N): Y</b>	Budgeted amount: \$230,000 (FY 2017-2018)
<b>Action item amount: \$230,000</b>	Line item: 8810
<b>Fiscal Impact (explain if unbudgeted):</b>	

**SUMMARY**

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At the March Board meeting, staff identified several potential options as solutions to ongoing issues with WEROC's current low-band radio system and recommended that the County's 800 MHz program as the probable best option for WEROC. After receiving approval from the Board to investigate the cost and reliability of this system, WEROC met with member agencies and the Sheriff's Division of Communications and has determined that joining the 800 MHz CCCS program will be the most reliable and cost effective option for MWDOC and its member agencies. In order to bring each agency onto the new system, WEROC is proposing to purchase and install, or program, one radio for each member agency. When approval to proceed is given by the Board, WEROC will begin the process of distributing the Joint Agreements to each new participating agency who will be joining the program, and begin the process of purchasing and installing up the radios.

**DETAILED REPORT**

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As discussed in the March Board meeting, the current WEROC Radio System has struggled with clarity of communications for many years. WEROC staff has spent significant time and money in researching, troubleshooting and replacing individual aspects of the system over the last ten plus years. WEROC presented the Board with five possible solutions to solve the radio issues. The Board of Directors directed staff to explore each of the solutions and propose the best radio replacement solution for WEROC, including, holding discussions with WEROC funding agencies and the MWDOC member agencies.

After much discussion with the County and MWDOC member agencies, staff recommends that WEROC join the Orange County 800 MHz Countywide Coordinated Communications System (800 MHz CCCS) as a participating agency. In order to do so, WEROC submitted a formal request for permission from the OC 800Mhz CCCS Governance Committee to join and was approved on April 13, 2017. Concurrently, WEROC has been working with the Orange County Sheriff's Department and member agencies to test the 800 MHz system to guarantee its effectiveness prior to any decision. WEROC has tested radio reliability at various agencies who historically have had poor radio quality, and confirmed that the new system would meet the needs for all member agencies. After various site visits, WEROC has determined that joining the Sheriff's 800 MHz system will be the most effective solution.

Below you will find detailed descriptions of the proposed system, WEROC's initial and annual cost, member agencies annual maintenance fees, the Sheriff's Joint Agreement, sole source justification, and next steps.

**800 MHz CCCS WEROC Channel**

This option will create a "WEROC Channel" within the current 800 MHz system to be utilized by WEROC and its Member Agencies. There are many benefits to this system:

1. It provides a WEROC specific channel, with the ability to be "patched in" with other operations, such as fire, law, public works, etc. at the time of a disaster.

## Action Item

2. Clear communications are expected throughout the County for WEROC Member Agencies and when issues arise, the County Communications Staff facilitate solutions.
3. There are annual operational cost savings in switching to this system. Annual maintenance is provided through the County Communications staff, saving WEROC and its agencies money and time for repairs. Additionally, WEROC will no longer need to maintain its repeater on Catalina Island and so can cancel its \$20,000+ annual lease for Catalina.
4. Annual maintenance of the system and individual agency radios would be provided through the OC Sheriff's Communications and Technology Division ensuring a consistent and reliable system.

### **Orange County Sheriff's Participating Agency Joint Agreement**

To utilize the County's system, the Orange County Sheriff's Division of Communications requires each agency utilizing the radio system to sign the Joint Agreement for the Operation, Maintenance, and Financial Management of the Orange County 800 Megahertz Countywide Coordinated Communications System with the Sheriff's Department. This is a standard agreement from the County that is signed by all 800 MHz CCCS participating agencies. The agreement cannot be modified individually and must be signed as presented. The agreement outlines appropriate use of the system and requires each agency to maintain their own radio system to include, an Annual Access Rate Fee, and Flat Annual Maintenance Fee. Additionally, each agency acquiring a new radio will be responsible for future cost of parts and/or repairs not included in annual maintenance. The Agreement consist of the following three (3) documents:

- **Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 MHz Countywide Coordinated Communications System November 2004** – Details the operation, maintenance, and financial responsibilities of the County and Participating Agencies.
- **Amendment to the Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 MHz Countywide Coordinated Communications System (June 2015)** – Details the changes made to the 2004 Joint Agreement to incorporate the 2014-2019 system infrastructure update and cost sharing concepts.
- **New Participating Agency Rider to Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 MHz Countywide Coordinated Communications System** – Details each New Participating Agency's (defined as any agency who joined after the systems initial creation in 2004) responsibilities to the previous two aforementioned documents and current cost principals.
  - Please note staff is awaiting final approval from the 800 MHz CCCS Governance Board Legal Counsel on the placement of the reference to "Attachment A: Water Emergency Response Orange County (WEROC) Communications System White Paper within this document." No significant change is expected.

**WEROC Costs**Start Up Cost

WEROC proposes that we provide each Member Agency who does not currently subscribe to the 800 MHz system or does not have a radio where the water division can have access, with one radio, as well as provide programming to all agencies who are already in the 800 MHz system. Additionally, WEROC would purchase one control station and one handheld for at the South EOC and at the Fountain Valley EOC, one control station for the Diemer Filtration Plant and one control station for the Division of Drinking Water offices in Santa Ana. Any new radios purchased would become the member agency's property and each agency would be responsible for all associated costs of maintaining and subscribing to the program. After working with Motorola and the Sheriff's Communications staff the initial cost proposal is as follows:

<b>Contractor</b>	<b>Service</b>	<b>Cost</b>
Sheriff's Communications	Initial Template Fee	\$ 2,840.00
Sheriff's Communications	Programming (20 radios)	\$ 1,200.00
Sheriff's Communications	System Entry Fee & Programming New Radios (28)	\$ 60,720.00
Motorola Solutions	New Radios and Installation (28)	\$157,751.48
<b>TOTAL INITIAL COSTS</b>		<b>\$222,511.48</b>

Annual Cost

It is estimated that WEROC would pay \$956 a year to maintain and subscribe to the 800 MHz program. This is a fee that is adjusted annually based on the number of radios operating within the entire 800 MHz CCCS. Currently, WEROC is paying an estimated \$20,000 a year to lease space for the Catalina repeater with additional annual costs for maintaining their current radio system.

**Member Agencies Annual Fees**

Initially, WEROC proposed that it would be responsible for all annual fees associated with each member agency's radio. Upon further discussion with the County, it has been decided that each radio purchased would belong to each member agency, therefore each agency would be responsible for maintaining their own system and associated annual fees. This change will streamline long-term management of the system and allow the Sheriff's Department and member agencies to work directly on future maintenance and annual billing cycles. In order to accomplish this, each agency will need to sign a Joint Agreement for the Operation, Maintenance, and Financial Management of the Orange County 800 Megahertz Countywide Coordinated Communications System. Cities who currently use an 800 MHz radio have already signed this agreement, pay these fees, and maintain their own radios.



**Action Item**

The annual cost to member agencies is estimated at \$400 per year per radio for the annual maintenance and subscription fee. Below is a breakdown of the estimated annual cost:

**800 MHz Member Agencies Annual Cost (Per Radio)**

- Annual Access Rate – \$250 (estimate)
- Flat Annual Maintenance Fee – \$96 (Handheld) or \$132 (Control or Mobile)

**Sole Source Justification**

In addition to requesting approval for the identified costs, staff is requesting the Board's approval to Sole Source with Motorola. The current system was built and tailored for Orange County. Therefore no comparable quotes are available as this system was designed and built by Motorola and operates on proprietary software and equipment. Contracting a new vendor will require additional research and cost, and compatibility issues may arise when we communicate with OA departments who subscribe to the current Motorola system. Rather than incur the cost and risk of contracting a new vendor, WEROC is proposing to sole source the project to Motorola.

Although the current radio system is a proprietary system and Motorola is the only vendor that can provide the exact system equipment, software and technical expertise needed to replace the end-of-life proprietary equipment, OCSD/Communications has worked diligently with the vendor to obtain special Orange County pricing that is 19% below retail on a regular basis and is 40% below retail for this current calendar year.

**Decommissioning the WEROC Low Band System**

Once the new 800 MHz CCCS is in place for WEROC and its member agencies, staff will start to work on decommissioning the current low-band system. This includes selling, recycling or disposing of current equipment at the WEROC North and South EOC, the Fountain Valley office, and two repeater sites. Staff believes that WEROC is responsible to remove equipment from both repeater sites and will have costs associated with this activity. Staff have already notified the Catalina Conservancy that we will be cancelling our lease once the new system is implemented. Additionally, staff will be reviewing our options to sell our current low-band FCC licensing. Approximately, \$7,500 have been budgeted for these actions.

**Next Steps**

Upon approval, WEROC will begin the process of having member agencies sign the Orange County Joint Agreement for the Operation, Maintenance, and Financial Management of the Orange County 800 Megahertz Countywide Coordinated Communications System, and begin working with Motorola and the Sheriff's Department to start the purchase and installation process.

**Attachments to the Report**

Attached as part of the Board submittal are the following:

1. Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 MHz Countywide Coordinated Communications System  
November 2004

2. Amendment to the Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 MHz Countywide Coordinated Communications System (June 2015)
3. New Participating Agency Rider to Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 MHz Countywide Coordinated Communications System