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CALIFORNIA
NATIVE PLANT SOCIETY

November 8, 2023

Tiffany Chao
Senior Environmental Planner
Santa Clara Valley Water District
5750 Almaden Expressway
San José, CA 95118

Dear Ms. Chao,

Thank you for the opportunity to review the Anderson Dam Seismic Retrofit Project (ADSRP) Draft Environmental Impact Report (DEIR). The undersigned organizations work to protect plants and wildlife, and natural communities. In that spirit, we offer the comments below.

Environmental Baselines and Piecemealing

Overall the DEIR is confusing because impacts and mitigations for all the Federal Energy Regulatory Commission (FERC) Order Compliance Project (FOCP) projects are included throughout the document. It is difficult to know what information really applies to the ADSRP impact analysis. A table summarizing the treatment of the FOCP projects within the DEIR would be helpful.

The use of three different environmental baselines (Existing Conditions Baseline, Pre-FERC Order Baseline, Future Baseline) further confuses evaluation of impact in the DEIR. We also note that the DEIR mentions a Construction Phase Baseline which is not clearly defined.

Much of this confusion is due to piecemealing. The Anderson Dam Tunnel Project (ADTP) and ADSRP are two phases of the same project to rebuild the dam, as are the two phases of the FOCP project to restore the North Channel of Coyote Creek (immediately downstream of the dam rebuild project). The "Project" must include all four parts and the combined impacts from all four analyzed in order for the public to be able evaluate the environmental impacts. The DEIR is difficult to evaluate due to this piecemealing, which also appears to be the main reason that multiple environmental baseline conditions are used to evaluate impacts.

Piecemealing is not only confusing, it is not permitted by CEQA which disallows dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the whole of the project in one environmental document. A

new EIR should be circulated with one baseline and one project description as benchmark for all analysis and mitigation measures.

Mitigation, Reporting, and Monitoring Program (MMRP)

The following comments address ways to improve mitigation and mitigation monitoring for the ADSRP in conjunction with the ADTP and the North Channel restoration.

It will be difficult to sort out separately documented mitigations for these projects. To facilitate review of mitigation monitoring and reporting, the *FERC Order Compliance Project Habitat Mitigation and Monitoring Plan* content related to the ADTP and the North Channel restoration should be incorporated (either in whole or by reference) in the MMRP for the ADSRP.

The *FERC Order Compliance Project Habitat Mitigation and Monitoring Plan* is referenced in the DEIR but we could not find this document online. We contacted Valley Water staff representatives for the ADSRP and requested access to this document, however we did not receive a reply. Access to this document is needed to fully assess the combined/cumulative impacts of these projects in the vicinity of the dam.

Analysis and Mitigation of Tree Removal Impact on Natural Communities/Oak Woodlands

The DEIR does not include information about tree removals for the ADTP. However, we know that Contract Change Order #24, including removal of 121 *additional* trees, was reviewed by the Board Capital Improvement Committee on October 16, 2023. These additional ADTP tree removals, together with removals of mature, healthy native trees documented in the DEIR add up to 791 *total tree removals*. This does not include the initially planned tree removals for the ADTP. All tree removals for the whole dam project need to be documented in the DEIR to allow for evaluation of cumulative impacts.

According to the California Department of Fish and Wildlife, “Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents.” Many of the trees to be removed for the Anderson Dam project (California sycamore, bigleaf maple, and California bay) are categorized as S3 within the impacted natural communities (mixed riparian woodland and forest and coast live oak forest and woodland). (<https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/List>)

The DEIR says “... the FOCPP includes avoidance and minimization measures, and a Habitat Monitoring and Mitigation Plan (HMMP), designed to minimize impacts on special status species and habitats. The cumulative impacts with the Project and FOCPP are nevertheless significant, and the Project’s contribution is cumulatively considerable.” However, the specific impacts of tree removal on natural communities is not evaluated in the DEIR and no mitigation measures are proposed. More information is needed for the public to assess this impact. A tree and vegetation removal plan with boundaries of natural communities needs to be provided (including

trees not removed). Species and size information and planned replacement ratios should be specified for all trees. Trees should be replaced with the same species if possible.

The DEIR also says “[a]reas in the Project Area mapped as coast live oak forest and woodland, and foothill pine-oak woodland, meet the State-regulatory definition of oak woodland because of their size, tree density, and connection to adjacent oak woodland. Areas mapped as mixed riparian woodland and forest also meet the definition of oak woodland where coast live oak is a dominant species.” Santa Clara County requires mitigation for removal of oak woodland and specifies replacement ratios.

Mitigation measures specified in the DEIR only cover removed trees on County park land. Mitigation measures (tree replacement ratios) should be specified for all mature, healthy native trees. Tree replacement should be used for mitigation where possible before relying on the Valley Habitat Plan. The MMRP should also document monitoring and reporting requirements for replacement trees including requirements to report any unplanned tree removals such as those occurring during the ADTP construction.

San Francisco Bay Special-Status Species

The DEIR identifies impact TERR-1j: San Francisco Bay special-status species (including the California Ridgway’s rail, California black rail, northern harrier, Alameda song sparrow, San Francisco common yellowthroat, Bryant’s savannah sparrow, salt marsh harvest mouse, and salt marsh wandering shrew). Mitigation Measure TERR-1j: Contribution to Baylands Predator Management is proposed to mitigate this impact.

There is insufficient information on this Predator Management Plan or criteria for its development (what predators will be addressed, where in the Baylands, etc). It is also not clear what agency will be responsible for implementing the plan.

Thank you for considering these significant concerns regarding the ADSRP Draft Environmental Impact Report. Ideally, this DEIR will be updated to reduce piecemealing and provide complete information about impacts on natural communities and about predator management, and then be re-circulated so the public can evaluate the combined impacts of the entire Anderson Dam project.

Sincerely,

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