

# DEL PUERTO CANYON **RESERVOIR**

FINAL

## **Environmental Impact Report Volume III-Response to Comments**



SCH# 2019060254

October 2020

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# **Del Puerto Canyon Reservoir**

## **Final Environmental Impact Report Volume III-Responses to Comments SCH# 2019060254**

Prepared for:  
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## Table of Contents

<b>Chapter 8</b>	<b>Introduction to Final EIR .....</b>	<b>8-1</b>
8.1	Project Background .....	8-1
8.2	Draft EIR Public Review Process.....	8-1
8.3	Purpose of the Final EIR.....	8-1
8.4	CEQA Requirements .....	8-1
8.5	Consideration of Recirculation .....	8-2
8.6	Requirements for Certification and Future Steps in Project Approval.....	8-2
8.7	Organization of this Document.....	8-2
8.8	Use of Comment Summaries.....	8-3
8.9	Comments Received on the Draft EIR .....	8-3
<b>Chapter 9</b>	<b>Response to Comments.....</b>	<b>9-1</b>
9.0	Master Responses.....	9-1
9.0.1	Master Response 1 – Project Partners are Public Agencies .....	9-1
9.0.2	Master Response 2 – Project Opposition.....	9-1
9.0.3	Master Response 3 – Petitions .....	9-2
9.0.4	Master Response 4 – Alternatives including Alternative Location .....	9-2
9.0.5	Master Response 5 – Groundwater Storage Alternative .....	9-11
9.0.6	Master Response 6 – Seismic Risk and Dam Safety .....	9-13
9.0.7	Master Response 7 – Risk of Landslides.....	9-15
9.0.8	Master Response 8 – Potential Inundation in the Event of Dam Failure .....	9-18
9.0.9	Master Response 9 – Emergency Action Plan .....	9-21
9.0.10	Master Response 10 – Need for Flood Insurance and Hazard Disclosure.....	9-25
9.0.11	Master Response 11 – Risk of Reservoir Triggered Seismicity.....	9-28
9.0.12	Master Response 12 – City of Patterson is Not a Responsible or Trustee Agency .....	9-29
9.0.13	Master Response 13 – Consistency with City of Patterson General Plan .....	9-30
9.0.14	Master Response 14 – Air Quality and Greenhouse Gases and their Health Effects .....	9-30
9.0.15	Master Response 15 – Impacts on Recreation in Del Puerto Canyon .....	9-33
9.0.16	Master Response 16 – Geology of Del Puerto Canyon .....	9-34
9.0.17	Master Response 17 – Paleontology .....	9-34
9.0.18	Master Response 18 – Native American Coordination Regarding Sites in Del Puerto Canyon .....	9-35
9.0.19	Master Response 19 – Mitigation for Biological Resources.....	9-36
9.0.20	Master Response 20 – Notification and Public Information .....	9-37
9.0.21	Master Response 21 – Project Funding.....	9-39
9.1	Comment Letter 1 - United States Department of the Interior, U.S. Geological Survey, J. David Wiens, Ph.D., Supervisory Research Wildlife Biologist .....	9-41
9.2	Comment Letter 2 - State of California Department of Toxic Substances Control, Gavin McCreary, Project Manager, Site Evaluation and Remediation Unit.....	9-42
9.3	Comment Letter 3 - State of California Department of Water Resources, Anna Fock, Supervising Engineer.....	9-43
9.4	Comment Letter 4 - State Water Resources Control Board, Division of Water Rights, Diane Riddle, Assistant Deputy Director.....	9-44
9.5	Comment Letter 5 - State of California, Department of Fish and Wildlife, Julie A. Vance, Regional Manager, Central Region .....	9-49
9.6	Comment Letter 6 - State of California, Governor’s Office of Planning and Research, State Clearinghouse, Scott Morgan, Director .....	9-58
9.7	Comment Letter 7 - City of Patterson, submitted through Churchwell White LLP, Douglas White .....	9-59

9.8	Comment Letter 8 - Stanislaus County Environmental Review Committee, Patrick Cavanah .....	9-61
9.9	Comment Letter 9 - Mount Diablo Audubon Society, Nancy H. Wenninger, Chair .....	9-62
9.10	Comment Letter 10 - Comment Letter 4 - Stanislaus Audubon Society, David Froba, Treasurer.....	9-63
9.11	Comment Letter 11 - California Native Plant Society, Nick Jensen, Conservation Scientist.....	9-63
9.12	Comment Letter 12 - Friends of the River, Sierra Club Motherlode Chapter, Save Del Puerto Canyon, Environmental Water Caucus Southern California Watershed Alliance, California Sportfishing Protection Alliance, California Water Impact Network, The Fly Fishers of Davis, Save California Salmon, California Water Research.....	9-75
9.13	Comment Letter 13 - East Bay Regional Park District, Douglas A. Bell, Wildlife Program Manager .....	9-90
9.14	Comment Letter 14 - Valley Land Alliance, submitted through Marsha A. Burch, Attorney at Law .....	9-92
9.15	Comment Letter 15 - Save Mount Diablo, Juan Pablo Galván, Senior Land Use Manager.....	9-96
9.16	Comment Letter 16 - Isabel Garcia .....	9-101
9.17	Comment Letter 17 - Adriane Sabori-Lopez.....	9-101
9.18	Comment Letter 18 - Adriane Sabori-Lopez (second comment submittal) .....	9-101
9.19	Comment Letter 19 - Erlinda Torres (Perez) .....	9-102
9.20	Comment Letter 20 - Jane Fawke.....	9-102
9.21	Comment Letter 21 - Jacinto Cantu .....	9-102
9.22	Comment Letter 22 - Donald Hess .....	9-103
9.23	Comment Letter 23 - M. Cross.....	9-103
9.24	Comment Letter 24 - Nicole Angeles .....	9-104
9.25	Comment Letter 25 - Jeremy and Nicole Angeles.....	9-105
9.26	Comment Letter 26 - Susan Clark .....	9-105
9.27	Comment Letter 27 - Eric Mello .....	9-106
9.28	Comment Letter 28 - Genevieve .....	9-107
9.29	Comment Letter 29 - Bernardino and Rita Gill .....	9-107
9.30	Comment Letter 30 - Kandace Kiser.....	9-107
9.31	Comment Letter 31 - John Chamorro .....	9-108
9.32	Comment Letter 32 - Jazmin Ortega.....	9-108
9.33	Comment Letter 33 - Benjamin Sierra.....	9-108
9.34	Comment Letter 34 - Nikki Barstow .....	9-110
9.35	Comment Letter 35 - Samuel Lewis.....	9-110
9.36	Comment Letter 36 - Sharon Miceli .....	9-111
9.37	Comment Letter 37 - Mary Brummel.....	9-111
9.38	Comment Letter 38 - Emma Keller .....	9-112
9.39	Comment Letter 39 - David Keller.....	9-112
9.40	Comment Letter 40 - Patterson Resident.....	9-117
9.41	Comment Letter 41 - Julie Angeles.....	9-118
9.42	Comment Letter 42 - Tyler Claxton .....	9-118
9.43	Comment Letter 43 - Doug Murdock.....	9-119
9.44	Comment Letter 44 - Cheryl Santos.....	9-120
9.45	Comment Letter 45 - Thomas E. Gill.....	9-120
9.46	Comment Letter 46 - David Piecyk .....	9-121
9.47	Comment Letter 47 - Stuart Presley.....	9-122

9.48	Comment Letter 48 - Wayne Armbrust .....	9-125
9.49	Comment Letter 49 - Heather Vasquez .....	9-150
9.50	Comment Letter 50 - Chuck Marble .....	9-151
9.51	Comment Letter 51 - Mike Smith .....	9-153
9.52	Comment Letter 52 - Naomi Jacobson .....	9-153
9.53	Comment Letter 53 - Shawn Froats .....	9-154
9.54	Comment Letter 54 - Denise Gonzales .....	9-157
9.55	Comment Letter 55 - Laura Presley .....	9-157
9.56	Comment Letter 56 - Rhonda Chamorro .....	9-160
9.57	Comment Letter 57 - Thomasina Cordero .....	9-160
9.58	Comment Letter 58 - Deniz Yarim .....	9-160
9.59	Comment Letter 59 - Carol Schlunz .....	9-161
9.60	Comment Letter 60 - Patricia Villacana .....	9-162
9.61	Comment Letter 61 - Garry Hayes .....	9-162
9.62	Comment Letter 62 - Mark A. Seedall .....	9-163
9.63	Comment Letter 63 - Nancy Jewett .....	9-165
9.64	Comment Letter 64 - Erlinda E. Perez .....	9-165
9.65	Comment Letter 65 - Erica Torres .....	9-166
9.66	Comment Letter 66 - Lauren Torres .....	9-166
9.67	Comment Letter 67 - Alfonso Lucero .....	9-166
9.68	Comment Letter 68 - Connie Ramirez .....	9-166
9.69	Comment Letter 69 - Colleen M. Ceciliani-Alves .....	9-167
9.70	Comment Letter 70 - Roger Eric Lohmann .....	9-167
9.71	Comment Letter 71 - Lucie Field .....	9-167
9.72	Comment Letter 72 - Katherine Amaral .....	9-168
9.73	Comment Letter 73 - Joshua Mendoza .....	9-169
9.74	Comment Letter 74 - Rosa Jefferson .....	9-169
9.75	Comment Letter 75 - Hope Presley .....	9-169
9.76	Comment Letter 76 - Marilyn Miner .....	9-170
9.77	Comment Letter 77 - Khyla Smith .....	9-170
9.78	Comment Letter 78 - Sean and Lacy Timmins .....	9-171
9.79	Comment Letter 79 - Beth Young .....	9-171
9.80	Comment Letter 80 - Paolo D'Odorico .....	9-171
9.81	Comment Letter 81 - Isabel Garcia .....	9-171
9.82	Comment Letter 82 - Nancy Maravilla .....	9-172
9.83	Comment Letter 83 - Kristin Olsen .....	9-172
9.84	Comment Letter 84 - San Joaquin Valley Air Pollution Control District, Robert Gilles, Program Manager .....	9-172
9.85	Comments Submitted at Public Hearing on January 15, 2020 .....	9-179
9.85.1	Response to Kent Mitchell, Sierra Club, Comment 85-1 .....	9-179
9.85.2	Response to Keith Ensminger, Comment 85-2 .....	9-180
9.85.3	Response to Garry Hayes, Comment 85-3 .....	9-180
9.85.4	Response to Milt Triewerler, Comment 85-4 .....	9-180
9.85.5	Response to Wayne Armbrust, Comment 85-5 .....	9-180
9.85.6	Response to David Piecyk, Comment 85-6 .....	9-181
9.85.7	Response to Elias Funez, Comment 85-7 .....	9-181
9.85.8	Response to Sharon Reeves, Comment 85-8 .....	9-181
9.85.9	Response to Marissa Chavez-Yang, Comment 85-9 .....	9-181
9.85.10	Response to Shivaugn Alves, Comment 85-10 .....	9-181
9.85.11	Response to Andrea Stang, Comment 85-11 .....	9-182
9.85.12	Response to Chuck Marble, Comment 85-12 .....	9-182
9.85.13	Response to Sean Hansen, Comment 85-13 .....	9-182

9.85.14	Response to Nancy Jewett, Comment 85-14 .....	9-182
9.85.15	Response to Ronald Stork, Comment 85-15 .....	9-182
9.85.16	Response to Frank Molina, Comment 85-16 .....	9-183
9.85.17	Response to Laura Presley, Comment 85-17 .....	9-183
9.85.18	Response to David Froba, Comment 85-18 .....	9-183
9.85.19	Response to Justice Taylor, Comment 85-19 .....	9-183
9.85.20	Response to John Mataka, Comment 85-20 .....	9-183
9.85.21	Response to Amanda Isham, Comment 85-21 .....	9-184
9.85.22	Response to Patrick Kolar, United States Geological Survey, Comment 85-22 .....	9-184
9.85.23	Response to Troy McCormick, Comment 85-23 .....	9-184
9.85.24	Response to Cassandra Torres, Comment 85-24 .....	9-184
9.85.25	Response to Alysonn Cassidy, Comment 85-25 .....	9-185
9.85.26	Response to Aileen Marble, Comment 85-26 .....	9-185
9.85.27	Response to Daniel Estrada, Comment 85-27 .....	9-185
9.85.28	Response to Tom Biglione, Comment 85-28 .....	9-185

## **Chapter 10 Comment Submittals.....10-1**

### **List of Figures**

Figure 9 1:	Preliminary Inundation Extent from Hypothetical Failure of Del Puerto Main Dam.....	9-19
Figure 9 2:	Preliminary Inundation Extent from Hypothetical Failure of Del Puerto Saddle Dam .....	9-20
Figure 9 3:	Reservoir Inundation Zones in the San Joaquin Valley .....	9-21
Figure 9 4:	Elements of a Dam Emergency Action Plan.....	9-23
Figure 9 5:	Emergency Action Plan Approval Process .....	9-24
Figure 9 6:	Del Puerto Creek Estimated Existing 100-Year Flood Zone .....	9-27
Figure 9 7:	Del Puerto Creek Estimated 100-Year Flood Zone with Project .....	9-27
Figure 9 8:	Overview of Temporary and Permanent Impact Areas .....	9-65
Figure 9 9:	Project Location within Stanislaus County.....	9-67
Figure 9 10:	Historical CVP Allocations Delivered to DPWD .....	9-78
Figure 9 11:	Road Profile .....	9-164

### **List of Tables**

Table 8 1:	List of Commenters.....	8-3
Table 9 1:	Excerpt of Fossil Records in Northwest Stanislaus County .....	9-35
Table 3.11-7:	Del Puerto Creek Monthly Average Flows without and with Project (AF).....	9-46

## Chapter 8 Introduction to Final EIR

### 8.1 Project Background

Del Puerto Water District (DPWD), as California Environmental Quality Act (CEQA) lead agency representing the Project Partners for the Del Puerto Canyon Reservoir Project (DPCR or proposed project) has prepared this Final Environmental Impact Report (Final EIR). The Project Partners for the DPCR include DPWD and the San Joaquin River Exchange Contractors Water Authority (Exchange Contractors). The Exchange Contractors is a California Joint Powers Authority, consisting of four entities responsible for water delivery and conveyance: Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District, and the Columbia Canal Company.

This EIR has been developed to provide the public and responsible and trustee agencies reviewing the DPCR an analysis of potential effects on the local and regional environment associated with construction and operation of the DPCR. The primary purpose of the DPCR is to develop additional, locally controlled south of Delta water storage for the Project Partners, who largely depend on the U.S. Bureau of Reclamation's federal Central Valley Project (CVP) for delivery of a major portion of their water supplies. The proposed reservoir would provide 82,000 acre-feet (AF) of new off-stream storage.

### 8.2 Draft EIR Public Review Process

DPWD, as the CEQA Lead Agency, released the Draft EIR for the DPCR for public review On December 12, 2019. A Notice of Availability was published in the Patterson Irrigator and was sent to local agencies and to interested parties who had asked to be put on the Project mailing list. A 45-day public review period ended on January 27, 2020. A public hearing on the Draft EIR was held from 4:00 p.m. to 6:00 p.m. on January 15, 2020 at the following location:

Hammon Senior Center  
1033 West Las Palmas Avenue  
Patterson, CA 95363

### 8.3 Purpose of the Final EIR

This document is being issued by DPWD as the Final EIR for the DPCR. CEQA requires lead agencies that have completed a Draft EIR to consult with and request comments on the environmental document from responsible, trustee and other agencies with jurisdiction over resources that could be affected by the project. This Final EIR has been prepared to respond to comments on the Draft EIR made by agencies and members of the public.

The Final EIR for the DPCR consists of the Draft EIR and appendices (Volumes I and II) and this document containing Comment Letters and Responses to Comments (Volume III). The DPCR Partner Agencies will review and consider the Final EIR before approving or denying the proposed action.

### 8.4 CEQA Requirements

DPWD has prepared this document pursuant to Section 15132 of the CEQA Guidelines, which specify that *"The Final EIR shall consist of:*

- a) *The draft EIR or a revision of the draft.*
- b) *Comments and recommendations received on the Draft EIR either verbatim or in summary.*
- c) *A list of persons, organizations, and public agencies commenting on the draft EIR.*

- d) *The responses of the Lead Agency to significant environmental points raised in the review and consultation process.*
- e) *Any other information added by the Lead Agency.”*

## 8.5 Consideration of Recirculation

If significant new information is added to an EIR after public review, the lead agency is required to recirculate the revised document (CEQA Guidelines Section 15088.5). Significant new information includes, for example, a new significant environmental impact or a substantial increase in the severity of an impact. New information is not considered significant unless the document is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or comment on a feasible mitigation measure that the proponent has declined to implement. No new impacts or substantial increase in the severity of impacts has been identified as a result of information brought forward in the comments. Recirculation of the Draft EIR was thus not deemed to be necessary.

## 8.6 Requirements for Certification and Future Steps in Project Approval

The Draft EIR was circulated for review, and opportunities for public and agency review and comments were made available in accordance with CEQA. Pursuant to Section 15088 of the CEQA Guidelines, the Final EIR is being made available to commenters for a minimum 10-day period before its consideration for certification.

DPWD will consider certification of the Final EIR at the regularly scheduled Board Meeting on October 21, 2020 8:30 a.m. at the Del Puerto Water District office at 17840 Ward Avenue, Patterson, CA. In order to certify the Final EIR, DPWD must find that:

- the Final EIR has been completed in compliance with CEQA;
- the Final EIR was presented to the decision-making body of the lead agency and that the decision-making body reviewed and considered the information contained in the Final EIR prior to selection of a Project; and
- The final EIR reflects the lead agency’s independent judgment and analysis (CEQA Guidelines 15090).

DPWD will consider the Final EIR for certification as complete under Section 15090 of the CEQA Guidelines, and the Exchange Contractors will consider approval of the DPCR as Responsible Agency. The Project Partners will consider the information presented in the Final EIR when contemplating approval of the DPCR and will prepare and adopt written findings of fact for each significant environmental impact identified in the EIR. Because the project has significant, unavoidable environmental impacts, the Project Partners will need to prepare a Statement of Overriding Considerations to be included in the record of project approval (CEQA Guidelines 15093). A Mitigation Monitoring and Reporting Program will be adopted and a Notice of Determination (NOD) can then be filed.

## 8.7 Organization of this Document

The Final EIR consists of the Draft EIR and appendices (Volumes I and II) and Comment Letters and Responses to Comments (Volume III). Some minor text changes have been made in the text of the Draft EIR and those changes are shown in Volume I, with new text underlined and deleted text shown by ~~striketrough~~. Volume II includes some minor change to the previously published appendices, plus three new appendices: Appendix B6 is a Photo Log documenting habitat conditions in the project area,



Appendix H contains the Preliminary Inundation Analysis that was prepared after publication of the Draft EIR, and Appendix I includes the Mitigation Monitoring and Reporting Program for the project.

This document is Volume III of the EIR for the DPCR. This volume contains three chapters: Chapter 8 is the introduction to the Final EIR, Chapter 9 presents the responses to comments on the Draft EIR, and Chapter 10 contains the complete comments.

Chapter 9 includes responses to each comment. Because there were quite a few topics that generated a large number of similar comments, and raised some issues that were clearly important to many commenters, Chapter 9 begins with 21 Master Responses that provide information to address comments that were expressed in multiple comments. Revisions to text of the Draft EIR based on comments are included in these responses. Text revisions in the responses in Chapter 9 are formatted in revision mode for ease of reference: ~~strikeouts~~ indicate removed text and underlines indicate new text.

## 8.8 Use of Comment Summaries

The full text of all written comments is included in Chapter 10. Each letter is identified by a number and each comment is identified by a comment number in the margin; responses use the same number system. For example, Comment 1 in Letter 1 is designated Comment 1-1. In addition, to facilitate reading the Response to Comments, a summary of each comment is inserted in *italics* just prior to each response. This summary does not substitute for the actual comment; the reader is urged to read the full original text of all comments. The responses are prepared in answer to the full text of the original comment, and not to the abbreviated summary.

## 8.9 Comments Received on the Draft EIR

DPWD received 78 comment submittals (letters and emails) on the Draft EIR during the 45-day public review period; 6 submittals were received after the end of the review period. DPWD also received correspondence from the State Clearinghouse documenting the completion of the public review period for the Draft EIR. Written comments include those submitted by email, regular mail, or delivered directly to the DPWD office. Oral comments made at the public meeting that was held on January 15, 2020 are included, verbatim, in a transcript prepared by a court reporter. In addition to the comments, two petitions were submitted. Each comment letter received is listed in **Table 8-1** and identified by number, comment author, and date.

**Table 8-1: List of Commenters**

Letter #	Comment Author	Comment Date
<b>Federal Agencies</b>		
1	United States Department of the Interior, U.S. Geological Survey, J. David Wiens, Ph.D., Supervisory Research Wildlife Biologist	1/27/20
<b>State Agencies</b>		
2	State of California, Department of Toxic Substances Control, Gavin McCreary, Project Manager, Site Evaluation and Remediation Unit	12/24/19
3	State of California Department of Water Resources, Nancy Finch, Senior Attorney	1/24/20
4	State Water Resources Control Board, Division of Water Rights, Diane Riddle, Assistant Deputy Director	1/27/20
5	State of California, Department of Fish and Wildlife, Julie A. Vance, Regional Manager, Central Region	1/27/20

6	State of California, Governor's Office of Planning and Research, State Clearinghouse, Scott Morgan, Director	1/28/20
<b>Regional and Local Agencies</b>		
7	City of Patterson, submitted through Churchwell White LLP, Douglas L. White	1/27/20
8	Stanislaus County Environmental Review Committee, Patrick Cavanah	1/27/20
84	San Joaquin Valley Air Pollution Control District, Robert Gilles, Program Manager (letter received after end of comment period)	2/11/20
<b>Organizations</b>		
9	Mount Diablo Audubon Society, Nancy H. Wenninger, Chair	1/16/20
10	Stanislaus Audubon Society, David Froba, Treasurer	1/24/20
11	California Native Plant Society, Nick Jensen, Conservation Scientist	1/27/20
12	Friends of the River, Sierra Club Motherlode Chapter, Save Del Puerto Canyon, Environmental Water Caucus Southern California Watershed Alliance, California Sportfishing Protection Alliance, California Water Impact Network, The Fly Fishers of Davis, Save California Salmon, California Water Research	1/27/20
13	East Bay Regional Park District, Douglas A. Bell, Wildlife Program Manager	1/27/20
14	Valley Land Alliance, submitted through Marsha A. Burch, Attorney At Law	1/27/20
15	Save Mount Diablo, Juan Pablo Galván, Senior Land Use Manager	1/27/20
<b>Individuals</b>		
16	Isabel Garcia	12/12/19
17	Adriane Sabori-Lopez	12/15/19
18	Adriane Sabori-Lopez (second comment submittal)	1/27/20
19	Erlinda Torres (Perez)	1/12/20
20	Jane Fawke	1/14/20
21	Jacinto Cantu	1/16/20
22	Donald Hess	1/16/20
23	M. Cross	1/17/20
24	Nicole Angeles	1/18/20
25	Jeremy and Nicole Angeles	1/22/20
26	Susan Clark	1/19/20
27	Eric Mello	1/19/20
28	Genevieve	1/20/20
29	Bernardino and Rita Gill	1/20/20
30	Kandace Kiser	1/22/20
31	John Chamorro	1/22/20
32	Jazmin Ortega	1/22/20
33	Benjamin Sierra	1/22/20
34	Nikki Barstow	1/22/20
35	Samuel Lewis	1/22/20
36	Sharon Miceli	1/22/20
37	Mary Brummel	1/22/20
38	Emma Keller	1/23/20
39	David Keller	1/23/20

40	Patterson Resident	1/23/20
41	Julie Angeles	1/23/20
42	Tyler Claxton	1/23/20
43	Doug Murdock	1/24/20
44	Cheryl Santos	1/24/20
45	Thomas E. Gill	1/25/20
46	David Piecyk	1/25/20
47	Stuart Presley	1/26/20
48	Wayne Armbrust	1/27/20
49	Heather Vasquez	1/27/20
50	Chuck Marble	1/27/20
51	Mike Smith	1/27/20
52	Naomi Jacobson	1/27/20
53	Shawn Froats	1/27/20
54	Denise Gonzales	1/27/20
55	Laura Presley	1/27/20
56	Rhonda Chamorro	1/27/20
57	Thomasina Cordero	1/27/20
58	Deniz Yarim	1/27/20
59	Carol Schlunz	1/27/20
60	Patricia Villacana	1/27/20
61	Garry Hayes	1/27/20
62	Mark A. Seedall	1/27/20
63	Nancy Jewett	1/27/20
64	Erlinda E. Perez	1/27/20
65	Erica Torres	1/27/20
66	Lauren Torres	1/27/20
67	Alfonso Lucero	1/27/20
68	Connie Ramirez	1/27/20
69	Colleen M. Ceciliani-Alves	1/27/20
70	Roger Eric Lohmann	1/27/20
71	Lucie Field	1/27/20
72	Katherine Amaral	1/27/20
73	Joshua Mendoza	1/27/20
74	Rosa Jefferson	1/27/20
75	Hope Presley	1/27/20
76	Marilyn Miner	1/27/20
77	Khyla Smith	1/27/20
78	Sean and Lacy Timmins	1/27/20
<b>Comments Received after the End of the Comment Period</b>		
79	Beth Young	1/27/20
80	Paolo D'Odorico	1/27/20

81	Isabel Garcia	1/27/20
82	Nancy Maravilla	1/27/20
83	Kristin Olsen	1/27/20
84	San Joaquin Valley Air Pollution Control District, Robert Gilles, Program Manager	2/11/20
85	Comments were presented at public meeting by the following commenters: <ol style="list-style-type: none"> <li>1. Kent Mitchell, Sierra Club</li> <li>2. Keith Ensminger</li> <li>3. Garry Hayes</li> <li>4. Milt Triewweiler</li> <li>5. Wayne Armbrust</li> <li>6. David Piecyk</li> <li>7. Elias Funez</li> <li>8. Sharon Reeves</li> <li>9. Marissa Chavez-Yang</li> <li>10. Shivaugn Alves</li> <li>11. Andrea Stang</li> <li>12. Chuck Marble</li> <li>13. Sean Hansen</li> <li>14. Nancy Jewett</li> <li>15. Ronald Stork</li> <li>16. Frank Molina</li> <li>17. Laura Presley</li> <li>18. David Froba, Stanislaus Audubon Society</li> <li>19. Justice Taylor</li> <li>20. John Mataka</li> <li>21. Amanda Isham</li> <li>22. Patrick Kolar, U.S. Geological Survey</li> <li>23. Troy McCormick</li> <li>24. Cassandra Torres</li> <li>25. Alysonn Cassidy</li> <li>26. Aileen Marble</li> <li>27. Daniel Estrada</li> <li>28. Tom Biglione</li> </ol>	1/15/20
<b>Petitions</b>		
	NO Del Puerto Canyon Reservoir, online petition submitted by Shivaugn Alves 1,037 signatures Petition Against Del Puerto Canyon Reservoir, submitted by Elias Funez, 554 signatures	

## Chapter 9 Response to Comments

### 9.0 Master Responses

#### 9.0.1 Master Response 1 – Project Partners are Public Agencies

*Comment Summary: A number of comments expressed concern that the dam and reservoir would be privately owned.*

The project is being jointly proposed by the Del Puerto Water District (DPWD) and San Joaquin River Exchange Contractors Water Authority (Exchange Contractors) (collectively “Project Partners”). DPWD is a California Water District, formed and existing under Division 13 of the California Water Code. The Exchange Contractors is a California Joint Powers Authority, composed of four member entities: (1) Central California Irrigation District, (2) Firebaugh Canal Water District, (3) Columbia Canal Company, and (4) San Luis Canal Company. Both DPWD and the Exchange Contractors are California public agencies subject to applicable provisions of the California Government Code, Water Code, and other applicable laws, rules, and regulations governing public agencies. DPWD is based in Patterson and spans San Joaquin, Stanislaus and Merced counties, providing water to 45,000 acres of farmland adjacent to the Delta-Mendota Canal. The Exchange Contractors members service approximately 240,000 acres of agricultural land east of I-5 and primarily west of the San Joaquin River. These lands span the counties of Fresno, Madera, Merced, and Stanislaus, from the town of Patterson in the north to Mendota in the south. DPWD is the lead agency for the preparation of the EIR for the Del Puerto Canyon Reservoir Project, and the Exchange Contractors are a responsible agency. Construction of the project would primarily be funded by the two partner agencies, though grant funding is being sought. Both agencies would dedicate annual operating budget to ongoing operation, maintenance and replacement of all project facilities.

#### 9.0.2 Master Response 2 – Project Opposition

*Comment Summary: Many comments expressed opposition to the proposed project.*

Comments regarding opposition to the overall project or recommendations to select alternate project locations are not comments on the Draft EIR. Those comments pertain to the project approval process, which would only occur if this EIR is certified. The Project Partners recognize that there are strong opinions about the project and are committed to maintaining a dialog with both project opponents and project supporters.

Many project opponents cited the significant unavoidable impacts of the project as reasons that the project should not be approved. The Draft EIR recognizes that the project would have significant unavoidable impacts associated with aesthetics, cultural resources, greenhouse gas emissions, construction traffic and utility relocation. Those impacts are described on page 5-1 of the Draft EIR. As explained on page 5-1 of the Draft EIR, because the project has significant impacts, the Project Partners “would be required to adopt Findings and prepare a Statement of Overriding Considerations for the project’s unavoidable adverse impacts as part of the approval of the project.” Projects that have significant impacts on the environment can be approved, if there are project benefits that outweigh those impacts. One of the purposes of the EIR is to disclose those impacts to the public and to decisionmakers so that the environmental effects of the project are considered when making decisions about whether to proceed with the project.

Project opponents also cite opposition based on concerns about impacts associated with air quality, geology and biological resources. Air quality impacts, including odors, are addressed in Section 3.3 of the Draft EIR. Impacts on biological resources, including sensitive species are addressed in Section 3.4, Biological Resources-Terrestrial, and Section 3.5-Biological Resources-Fish. Impacts associated with geology and seismicity are addressed in Section 3.8 of the Draft EIR. Detailed responses to specific comments about these impacts are also included in this response to comments document.

Although some opponents expressed doubts about the financial feasibility of the project, financial considerations are outside the scope of environmental review and are not addressed in the Draft or Final EIR.

A Final EIR need only respond to comments on the Draft EIR (CEQA Guidelines 15132). However, these recommendations for or against the project or a particular project alternative are valuable input to the decision process. These comments will be reviewed by the Board Members of the Del Puerto Water District and Exchange Contractors and will be considered by them in making decisions about whether to move forward with the project. If this Final EIR is certified, the Project Partners' Boards will consider the recommendations in these comment letters as well as the information presented in the EIR and make their decision regarding moving forward with the project.

### **9.0.3 Master Response 3 – Petitions**

*Comment Summary: Two petitions were submitted by project opponents, one of which requested that each signature be considered separately as a public comment.*

Please refer to Master Response 2 regarding project opposition. The two petitions that were submitted are included in the Final EIR as part of the project record. While both petitions cite the reasons for opposing the project, neither contains substantive comments about the evaluation of impacts presented in the Draft EIR, or specific comments pertaining to the contents or adequacy of the Draft EIR, and thus no individual response to those signatures “as a public comment” is possible. As noted above, if this Final EIR is certified, the Project Partners' Boards will consider all public input in making their decision about whether to move forward with the project.

### **9.0.4 Master Response 4 – Alternatives including Alternative Location**

*Comment Summary: Comments opposed the location of the project in Del Puerto Canyon and suggested that another site for the reservoir, such as Ingram Canyon, should be pursued. Some comments also suggested that the level of detail in the analysis of alternatives presented in the Draft EIR is insufficient.*

Chapter 4 of the Draft EIR provides an evaluation of alternatives and includes a description of the alternative development process, including an explanation of the evaluation of site alternatives that resulted in the Del Puerto Canyon site being ranked as the best site to meet project objectives. Figure 4-1 shows locations of the potential sites that were considered. One of the primary reasons that the Del Puerto Canyon site was ranked highly is its proximity to the Delta-Mendota Canal (DMC), which would be less than a mile from the DMC, whereas all the other sites are over two miles from the DMC, with three sites over six miles from the DMC. Conveyance of water is energy intensive and in California the water sector accounts for 20 percent of California's energy.

Section 15126.6(a) of the CEQA Guidelines specifies that “An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives”. One of the significant unavoidable impacts of the project is its operational GHG emissions, which are a result of the energy demand for pumping water. Alternative locations that are substantially further from the DMC would have substantially greater GHG emissions associated with the energy required for conveyance. The Draft EIR specifically compares energy demand for the proposed project and the Ingram Canyon Alternative, which indicates that the Ingram Canyon site would require more than twice as much energy for pumping, which is roughly proportional to the length of the conveyance facility.

It is important to note that under CEQA, alternatives do not need to be described or analyzed at the same level of detail as the proposed project. As stated in CEQA Guidelines Section 15126.6(d) “the significant effect of the alternative shall be discussed but in less detail than the significant effects of the project as proposed.”



### ***Alternatives Screening***

The process for screening alternatives that resulted in the selection of the Del Puerto Canyon Reservoir site is summarized in the Draft EIR starting on page 4-4. As noted, a number of alternative sites were considered. The criteria for evaluation included:

- Capacity to surface area ratio: reservoirs with a relatively smaller surface area would affect less natural habitat and are thus rated better.
- Capacity to embankment volume ratio: reservoirs with a smaller volume embankment require less earth moving, which reduces construction impacts including emissions of criteria air pollutants and greenhouse gases.
- Capacity to dam height ratio: reservoirs with taller dams have engineering challenges and greater visual impacts, and thus shorter dams are rated better.
- Distance to DMC: shorter distances translate to less energy and fewer operational greenhouse gas emissions so sites closest to the DMC were considered better. While pumping energy was not calculated for every alternative reservoir site, longer conveyance facilities can be assumed to require greater energy for pumping and would thus result in greater GHG emissions.

Rankings for these parameters for each of 11 potential reservoir sites are provided in the Draft EIR in Tables 4-2 through 4-5, with cumulative rankings presented in Table 4-6. The Del Puerto Canyon site was ranked the highest of the 11 sites.

The second and third ranked reservoir sites in the cumulative rankings were the Lone Tree Creek and Little Salado Creek/Crow Creek sites, with the Ingram Canyon site being ranked fourth. The Little Salado Creek/Crow Creek has a surface area of over 2,900 acres, which is more than 3 times larger than the Del Puerto Canyon reservoir footprint and over 4.5 times larger than the Lone Tree Creek and Ingram Canyon sites. The Little Salado Creek/Crow Creek site was thus rejected from further consideration due to the potential for substantially more extensive habitat impacts. The Lone Tree Creek site was rejected because the dam would be about 4.5 miles from the DMC, which is about 5 times farther from the DMC than the Del Puerto Canyon site. This would substantially increase the length of the conveyance facility, with commensurate increases in energy requirements and associated greenhouse gas emissions. The Lone Tree Creek was thus rejected from further consideration.

During the scoping period for the Draft EIR several commenters suggested that the Project Partners should consider constructing a reservoir at the Ingram Canyon site. Although this site was rated fourth in the cumulative rankings in Table 4-6 in the Draft EIR, it was carried forward for more detailed evaluation in the Draft EIR based on the suggestions that were received during scoping.

### ***Ingram Canyon Site***

The Ingram Canyon Alternative is evaluated in Section 4.9 of the Draft EIR, starting on page 4-13. Environmental impacts are discussed by topic. The Project Partners understand that commenters would like to have a better understanding of why the Ingram Canyon site is considered to be a less favorable location than the proposed Del Puerto Canyon site. Additional information about resources in Ingram Canyon as compared to the Del Puerto Canyon site is thus presented below, by topic area.

#### ***Aesthetics***

As noted on page 4-13 of the Draft EIR: “The Ingram Canyon Alternative would not completely avoid visual impacts associated with construction of a dam, but the site is farther from I-5 and would be expected to be less visible from the scenic highway.” The significant unavoidable visual impacts associated with the proposed project are primarily associated with the visibility of the dam from Interstate 5, which is considered a scenic highway. Thus, a site farther from Interstate 5 would have reduced visual impacts. Unlike the Del Puerto Canyon site, the Ingram Canyon site is not accessible via a public road, so

there may be scenic resources in Ingram Canyon, but they are not visible from a public viewpoint. Loss or degradation of scenic qualities in Ingram Canyon would thus not be considered a significant impact.

### **Agriculture and Forestry Resources**

Page 4-13 of the Draft EIR describes the location of the Ingram Canyon alternative as “located entirely on grazing land, but the conveyance facilities leading from the DMC to the reservoir would cross prime farmland.” As noted in the Draft EIR, impacts on agricultural land would be similar to the impacts associated with the Del Puerto Canyon site, and possibly slightly greater. However, the loss of agricultural land is not considered a significant impact of either the Del Puerto Canyon site or the Ingram Canyon site.

### **Air Quality**

A dam at Ingram Canyon would entail construction of a slightly larger embankment. Information from preliminary screening reports estimated that the Ingram Canyon dam would have a volume of 7.2 million cubic yards (CY) as compared to an initial estimate of 6.2 million CY for the proposed Del Puerto Canyon dam (note that this number will be refined as design progresses). The Ingram Canyon conveyance facility would also be substantially longer than the conveyance facility for the Del Puerto Canyon site (2.2 miles as compared to 0.9 miles). Because of the extent of construction required, the Ingram Canyon site would not reduce emissions of criteria pollutants during construction. As noted on page 4-13 of the Draft EIR, “This alternative would generate significant NO<sub>x</sub> emissions, and it is uncertain whether emissions would be fully mitigable.”

### **Biological Resources-Terrestrial**

As noted in the Draft EIR, at 633 acres the inundation area at the Ingram Canyon site would be smaller than the Del Puerto Canyon site, where initial estimates projected that a dam and reservoir at the Del Puerto Canyon site would have a footprint of 897 acres. The footprint of the dam and reservoir is currently estimated to be slightly smaller, at 825 acres, but still larger than that of the Ingram Canyon site. Page 4-14 of the Draft EIR concludes that “there would be less potential for habitat loss including reduced impacts on oak woodlands, and habitat for sensitive amphibians, birds, and mammals” associated with the Ingram Canyon site, as compared to the proposed project. In response to comments about sensitive biological resources, additional information about biological resources in Ingram Canyon is provided, based on a preliminary assessment of biological resources in Ingram Canyon (ICF 2020).

#### *Wildlife*

Ingram Canyon generally has similar special-status wildlife species habitats as those identified in Del Puerto Canyon. Based on review of aerial photos Ingram Creek appears to be smaller than Del Puerto Creek and does not support any riparian vegetation except for a few individual trees. Ingram Canyon does not appear to contain extensive riparian wetlands as seen in Del Puerto Canyon, which provide habitat for several species. Ingram Canyon has a much narrower valley with very little level terrain (i.e., areas with <15 percent slopes) and is even less likely to provide habitat for San Joaquin kit fox, including dispersal habitat. Review of aerial photos shows two ponds within the watershed and a third pond within 1.25 miles, which means that the canyon may also support California red-legged frog, California tiger salamander, and western spadefoot toad. Ingram Canyon has essentially the same wildlife corridor potential as identified for Del Puerto Canyon except that the lack of level terrain may preclude some species such as San Joaquin kit fox from using habitat in the canyon. There are no CNDDB records within Ingram Canyon, though there are some records of special-status wildlife within 5 miles of the canyon (CDFW, CNDDB 2020).

#### *Botanical Resources and Wetlands*

Ingram Creek appears to be an intermittent stream with small areas of wetlands and riparian habitat. Unlike Del Puerto Canyon, there are no seep wetlands evident in aerial photographs outside of the

channel of Ingram Creek (Google 2019). There are no oak woodlands in lower Ingram Canyon, and impacts on that habitat, if any, would likely be less than for Del Puerto Canyon, which is acknowledged in the Draft EIR. Although the extent of inundation from a dam on Ingram Creek has not been determined, it appears likely that impacts on wetlands and riparian habitat would be lower for an Ingram Canyon alternative (ICF 2020). A CNDDDB search was conducted for Ingram Canyon (CDFW 2020). No occurrences of special-status plants have been recorded from Ingram Canyon, most likely because the area lacks public access and has not been surveyed. No conclusions can be drawn for special-status plants because there are no data for comparison.

### **Biological Resources-Fish**

The Draft EIR concludes, on page 4-14, that impacts of the Ingram Canyon Alternative on fisheries resources would be similar to the impacts of the Del Puerto Canyon site. Although smaller in watershed area, Ingram Canyon appears to be similar to Del Puerto Canyon in many respects, including elevational range, flow patterns, channel types, soil types, and other climatological, hydrological, and geological attributes. Because it also has been subject to similar human alterations, including intensive agricultural activities in its lower reaches, Ingram Canyon would be expected to have similar habitat conditions and fish species assemblages. The similarities in their fish communities are reflected by the inclusion of these two watersheds and other westside tributaries within the probable historic and current ranges of many of the same species (UC Davis Pisces database). Native species potentially occurring in both watersheds include Sacramento pikeminnow, Sacramento sucker, central California roach, and hardhead. Del Puerto Canyon and Ingram Canyon do not likely support rainbow trout (including steelhead) because of their requirement for permanent, cool streams and the presence of migration barriers (culverts and channel modifications) in the lower reaches of these streams. Other migratory species identified in the UC Davis Pisces database as potentially occurring in Del Puerto Canyon and Ingram Canyon (e.g., green and white sturgeon) are also unlikely to use these streams because of these barriers and the absence of suitable spawning and rearing habitat. Non-native fish species potentially occurring in both watersheds include black bullhead, brown bullhead, common carp, red shiner, green sunfish, bluegill, and largemouth bass.

### **Cultural Resources**

Page 4-14 of the Draft EIR states that “Cultural resource sensitivity of Ingram Canyon is unknown, but it is assumed that there would be similar potential to encounter prehistoric sites that could be adversely affected by construction of a dam and reservoir.” Because the landscape is similar to Del Puerto Canyon (a canyon with a creek) and both sites are in proximity to the Central Valley, Ingram Canyon generally has similar sensitivity for prehistoric and historic cultural resources as compared to Del Puerto Canyon. Both sites are located in the ethnographic territory of the Northern Valley Yokuts. Since completion of the Draft EIR a records search was conducted by staff at the Central California Information Center for the Ingram Canyon reservoir site, and additional information about known resources in the canyon has been obtained.

The records search determined that two cultural resources have been previously recorded within Ingram Canyon. These resources indicate the presence of Native American habitation and historical power distribution (the latter is the same power line that crosses Del Puerto Canyon). Ingram Canyon, primarily along Ingram Creek, was inhabited by settlers as early as the 1920s. Remains of historical structures and operations may still exist and could contain intact built environment resources and/or archaeological components.

The location and geology/geography of the study area (flat areas in close proximity to the creek) suggest some areas that could support prehistoric habitation. In addition, similar to Del Puerto Canyon, aeriels of the study area indicated there are possible bedrock outcrops along the creek where bedrock mortar features could be found. There is the possibility that there could be additional Native American cultural resources in the study area, with a greater potential near waterways such as Ingram Creek and Cedar Spring Gulch.

At least seven structures from the early 1900s were identified using maps and indicated in the literature search, indicating historic habitation. This is generally more than identified in Del Puerto Canyon. It appears there are several large-scale active farms in the canyon that may have historical structures associated with them.

As compared to Del Puerto Canyon, Ingram Canyon thus is considered to have a similar sensitivity for Native American Resources because both sites have Native American habitation sites. Ingram Canyon may have a slightly higher sensitivity for historical resources, based on the evidence of historic structures within the reservoir area.

### **Energy Resources**

Operational energy use is one of the major distinguishing factors between the two sites, with the Del Puerto Canyon site requiring far less energy than the Ingram Canyon site. As stated on page 4-14 of the Draft EIR, “The Ingram Canyon Alternative is expected to require similar or greater amounts of energy for construction and more energy for operation. The Ingram Canyon alternative would require a longer conveyance structure and pumping to a greater elevation than with the proposed project, which is estimated to double the energy requirements for operation.” Energy requirements for the proposed project are substantial, estimated at 40,447,020 kWh (over 40 Gigawatt hours) annually. Because the Ingram Canyon site would require almost 95 Gigawatt hours per year (Woodard & Curran 2019), which is more than twice the energy required for operation at the Del Puerto Canyon site, selection of this alternative would be inconsistent with the California Energy Plan, which, as noted on page 3.7-4 of the Draft EIR, “identifies energy efficiency and demand response as the primary ways to meet the energy needs of California’s growing population”. Constructing a project at a site with double the annual energy demand would be inconsistent with the mandates of the Energy Plan for energy efficiency.

### **Geology and Soils**

Several comments stressed the unique geology of Del Puerto Canyon, but the geology of Ingram Canyon is in fact fairly similar to the geology of Del Puerto Canyon. The primary difference between the two canyons is the presence of a public road through Del Puerto Canyon allowing public access from the San Joaquin Valley through the Coast Range, whereas Ingram Canyon is not currently accessible to the public. Please refer to Master Response 16 for additional information comparing the geology of Del Puerto Canyon to other local canyons.

#### *Landslides*

Comments have suggested that there are greater concerns regarding landslides within Del Puerto Canyon, as compared to Ingram Canyon. While it is generally correct that there are more known “mapped” landslides within Del Puerto Canyon, this may be because Ingram Canyon has not been studied as recently as has Del Puerto Canyon. The relative potential for triggering new landslides is unknown for either location. However, the presence of mapped landslides within Del Puerto Canyon has been evaluated in the EIR and the mitigation to address the presence of landslides would be included in project design. Impacts associated with landslide potential are considered to be less than significant with mitigation and thus not a major distinguishing feature between the two locations. Please refer to Master Response 7 for additional information on landslides within Del Puerto Canyon.

#### *Paleontology*

Comments pointed out that Del Puerto Canyon has been the site of several interesting fossil finds. The Draft EIR acknowledges that Del Puerto Canyon has many geologic units that are “highly sensitive for paleontological resources”. Ingram Canyon is considered equally sensitive for paleontological resources and the University of California Museum of Paleontology (UCMP) database lists 461 finds of vertebrate fossils along Ingram Creek, as compared to 4 identified finds in Del Puerto Canyon. Ingram Canyon is

thus considered to be at least equally sensitive to Del Puerto Canyon in terms of the potential presence of fossils. Please refer to Master Response 17 for additional information about paleontological resources.

### **Greenhouse Gas Emissions**

Greenhouse gas (GHG) emissions were a significant factor in selecting the Del Puerto Canyon Reservoir site as the proposed project location. As noted on page 4-14 of the Draft EIR “Operational GHG impacts would be significant and are expected to be double that of the proposed project because of the energy required to pump water through a longer pipeline to a dam located at a higher elevation.” The Ingram Canyon site thus does not eliminate or reduce this significant unavoidable impact of the proposed project, and in fact makes the impact substantially greater.

### **Hazards and Hazardous Materials**

Neither the Del Puerto Canyon site nor the Ingram Canyon site would have significant impacts associated with hazards and hazardous materials. Conveyance facilities for both sites would cross a Shell oil pipeline that parallels Interstate 5. There are no sites included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 at either reservoir location. Neither the State Water Resources Control Board Geotracker website (SWRCB 2020) nor the Department of Toxic Substances Control Envirostor website (DTSC 2020) identify any hazardous waste clean-up sites or underground storage tanks at the Ingram Canyon reservoir location, though there are sites associated with gas stations at the Interstate 5 freeway interchange that leads to Ingram Creek Road. This area would be crossed by the conveyance pipeline from the DMC to the Ingram Canyon Reservoir, so mitigation for contaminated soil or groundwater may be needed during construction.

### **Hydrology and Water Quality**

Based on the results of the Initial Study, the Draft EIR concluded that the proposed project would not have significant impacts on the following criteria and because erosion, runoff and water quality impacts of constructing a reservoir at the Ingram Canyon site would be similar the same conclusions apply:

- Neither site would result in substantial erosion or siltation on- or off-site.
- Neither site would substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.
- Neither site would 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.
- Neither site would impede or redirect flood flows.
- Neither site would conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

#### *Water Quality*

The Draft EIR addresses 4 significance thresholds in greater detail, and each of those is discussed below. As discussed under Impact HYD-1, starting on page 3.11-19 of the Draft EIR, construction period water quality impacts would be addressed by implementing a Storm Water Pollution Prevention Plan, which would be applicable to both sites and impacts and mitigation to address water quality impacts for dewatering during construction would be the same for both sites, and would ensure that water quality impacts during construction are less than significant. Reservoirs at both the Del Puerto Canyon and Ingram Canyon sites would be equally susceptible to algal blooms and Mitigation Measures HYD-1b: Comply with Reclamation Monitoring Plan for Non-Project Water would be implemented at both sites to address potential water quality impacts for downstream users of the CVP.

*Groundwater*

Impact HYD-2, (page 3.11-21 of the Draft EIR) addresses impacts on groundwater supplies and ground water recharge. Because the proposed project would capture flows from Del Puerto Creek, the Project Partners would apply to the State Water Resources Control Board to divert Del Puerto Creek flows to storage; a similar application would be required for diversion of Ingram Creek flows. Although the project would include environmental flow releases to Del Puerto Creek, the Draft EIR determined that reductions in creek flows could impact flows available for the City of Patterson's future storm water capture and recharge project. Mitigation Measure HYD-2 requires releases to ensure that the project would not result in diminution of any water supply available for the City; releases would be managed in such a way as to provide benefits to the City. This mitigation would not be necessary for a reservoir sited in Ingram Canyon.

*CVP Operations*

Impact HYD-4 discusses potential conflicts with CVP operations, beginning on page 3.11-23 of the Draft EIR. The Draft EIR concludes that "the operations of the DMC (and the SWP) would not be affected by the proposed project." A reservoir at Ingram Canyon would be operated in the same fashion as the proposed project, storing water from the DMC that has been previously stored and released from storage. The water stored at either site would be water which the Project Partners have existing entitlements to receive from the Bureau of Reclamation.

*Flood Hazard*

As noted in the Draft EIR on page 3.11-22, the proposed project would remove portions of the City of Patterson from FEMA flood zone designations because it would capture and manage flows from Del Puerto Creek. A reservoir at the Ingram Canyon site would not eliminate the existing Del Puerto Creek flood hazard and because there is no mapped flood zone around Ingram Creek downstream of the reservoir, the Ingram Canyon Reservoir site would not provide flood control benefits to downstream areas.

Several comments have suggested that a site at Ingram Canyon is preferable to constructing a reservoir in Del Puerto Canyon because the consequences of inundation from a dam breach would be less at Ingram Canyon. Because mapping of inundation associated with a dam breach is fairly technical and requires development of failure scenarios specific to each structure, it is not feasible to precisely compare the theoretical extent of inundation for the Del Puerto and Ingram Canyon sites. While it is true that the hypothetical breach of a dam at the Ingram Canyon site would not affect residents of the City of Patterson, the Ingram Canyon site is upstream of Westley and Grayson and would impact residents of those communities. It is important to note that while development of the theoretical extent of inundation is a tool used for emergency planning purposes, the dam at either location would be designed, operated and maintained in such a way to eliminate, to the greatest extent possible, the potential for failure. Thus, for both the Del Puerto Canyon site and the Ingram Canyon site, the threat of inundation is considered a less than significant impact. Please refer to Master Response 8 for additional information regarding the potential for inundation from dam failure.

**Land Use and Recreation**

Neither the Del Puerto Canyon site nor the Ingram Canyon site would divide an established community, increase use of existing parks, or require the construction of new recreational facilities. Impacts to land use and recreation associated with both sites are compared below.

*Land Use*

Like the proposed project, a reservoir at the Ingram Canyon Site would not conflict with Stanislaus County land use plans, policies or regulations. The Draft EIR evaluates consistency of the proposed project with City of Patterson policies. The evaluation of impacts under Impact LU-1 (Conflict with Any



Applicable Land Use Plan, Policy or Regulation), starting on page 3.12-7 of the Draft EIR, determines that the only potential conflict is the relocation of transmission structures in an area that the city has designated for future highway service commercial areas. Mitigation Measure LU-1 would ensure siting of transmission towers outside of the areas zoned for highway commercial use and would ensure that land use impacts are less than significant. The Ingram Canyon site would not affect any areas within the City of Patterson or its sphere of influence, so there would be no conflicts with any City policies.

### *Recreation*

The Ingram Canyon site is not traversed by a public road, so presumably construction of a reservoir at that site would not affect existing recreation or wildlife viewing opportunities. While cycling and birdwatching opportunities currently exist along Del Puerto Canyon Road, as noted in the Draft EIR on page 3.12-11, relocation of Del Puerto Canyon Road will ensure that “recreational uses, such as bicycling and motorcycling, would be preserved. The new roadway would be completed prior to closure of the existing road, therefore there would be no impacts on the general public’s ability to enjoy these activities on the road and the rural character of the road would not change. Access to the existing Frank Raines Regional Park would be maintained and would not be adversely affected by the project.” Please refer to Master Response 15 for a more detailed discussion of how recreational opportunities in Del Puerto Canyon would be maintained.

### **Traffic and Transportation**

As noted on page 4-15 of the Draft EIR, the Ingram Canyon site would have reduced impacts on traffic and transportation as compared to the proposed project. The Draft EIR notes that “Because relocation of a public road is not needed, increases in VMT associated with relocating Del Puerto Canyon Road would be avoided.” Although the increase in VMT is not considered a significant impact of the proposed project, the Ingram Canyon site would avoid this impact altogether.

The Draft EIR similarly concludes that the Ingram Canyon alternative would avoid significant construction impacts at the Sperry Avenue/Diablo Grande Parkway interchange at I-5, which currently experiences heavy congestion during the afternoon commute peak hour (Level of Service E). Stanislaus County is working with Caltrans to implement improvement at the interchange, which would alleviate existing congestion and reduce the construction traffic impacts associated with the proposed project. However, because timing of these improvements is uncertain and outside the control of the Project Partners, the construction traffic impacts of the proposed project are considered significant and unavoidable.

Construction at the Ingram Canyon site would also generate substantial amounts of haul truck and worker traffic, and page 4-15 of the Draft EIR notes that “there would be a potential for significant construction traffic impacts at the Howard Road/I-5 interchange.” Although this interchange is not expected to experience the same level of evening peak commute traffic as the Sperry Avenue/Diablo Grande Parkway /I-5 interchange, it does accommodate existing high volumes of traffic from trucks using truck stop facilities at Joe’s Travel Plaza and the Triangle Truck Stop and also serves as a commute hour alternative to the Patterson exit for large volumes of traffic heading toward Ceres and Turlock or seeking to avoid congestion at the Sperry Avenue/Diablo Grande Parkway /I-5 interchange. As noted in the Draft EIR, “A construction traffic management plan would still be implemented to address potential conflicts with users of the roadway network in the project area, but it is uncertain whether impacts of construction traffic would be mitigable or significant and unavoidable.”

### **Tribal Cultural Resources**

Neither the proposed project nor the Ingram Canyon Alternative would affect tribal cultural resources. As noted on page 3.14-3 of the Draft EIR “To date, the Del Puerto Water District (DPWD) has not received requests any from tribes to be notified of projects under AB 52. Accordingly, no correspondence specified under the AB 52 regulations took place.” Although cultural resources are present at the Del Puerto

Canyon site and are likely present at the Ingram Canyon site, “because no consultation has been requested under AB 52, no tribal cultural resources have been identified. Accordingly, there would be no impact.” (Draft EIR, page 3.14-4). This conclusion would apply to both the Del Puerto Canyon and Ingram Canyon sites.

### **Utilities and Service Systems**

The Draft EIR identifies the fact that “The Ingram Canyon alternative site is located west of the existing high voltage transmission lines and petroleum pipeline that cross the site of the proposed reservoir. This alternative would thus avoid the utility relocation impacts that would be associated with the proposed project.” (Draft EIR page 4-15). While minor utility relocation would likely be required for construction of conveyance facilities leading from the DMC to the Ingram Canyon site, those impacts are expected to be less than significant.

### **Environmental Justice**

Neither the proposed project nor the Ingram Canyon Alternative would have disproportionately high adverse impacts on minority or low-income communities. Construction at both sites would result in short-term dust, noise and traffic, but the project includes mitigation for construction impacts and sensitive receptors are located a long distance from the dam construction area, where most impacts would occur. The proposed project pump station at the DMC is over 2 miles from the closest residential receptors in Patterson and the DMC near Ingram Canyon is a similar distance from Westley, a disadvantaged community. Neither alternative would thus be considered to have adverse environmental justice impacts.

### **Summary Comparison of Del Puerto Canyon and Ingram Canyon Sites**

Additional information provided in this response does not change the conclusion of the Draft EIR that the Ingram Canyon Alternative is not environmentally superior to the proposed project. Focusing on the significant impacts of the proposed project, the two sites are considered to have similar impacts on cultural resources. The Ingram Canyon Alternative would reduce impacts associated with aesthetics, traffic and utility relocation, but would have greater impacts on air quality, GHG emissions, and conflicts with GHG reduction plans. The Project Partners have concluded that the substantially greater GHG emissions associated with operation of a reservoir at the Ingram Canyon site outweigh the reduction in visual effects and reduction in short-term construction traffic impacts.

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### 9.0.5 Master Response 5 – Groundwater Storage Alternative

*Comment Summary: Several comments expressed opposition to surface storage and stated that groundwater storage should be implemented instead of the proposed project.*

#### Groundwater Storage Basics

The storage of groundwater in aquifers does not allow for complete (i.e. 100 percent) recovery of all banked waters. Groundwater movement (both natural and induced by local groundwater pumping), capillary pressures and other similar factors limit the ability to fully recover banked waters. The general rule of thumb is to assume that up to 90 percent of all banked waters are recoverable, and 10 percent of the total banked volume will remain permanently in the aquifer (the 10 percent that remains in the aquifer is known as a “leave behind”). The assumption of 90% recovery may be further reduced the longer water remains in the aquifer. Similarly, aquifer parameters can limit the volume of water that can be recharged over any given year. These parameters include:

- soil properties - such as vertical hydraulic conductivity, which limits the degree to which percolation can occur, and horizontal hydraulic conductivity, which controls the degree to which percolated water mounds under the recharge pond and affects recharge rates through loss of ‘open space’ for percolation;
- the degree of clogging from accumulated solids (sediments, algae and sludge), precipitation of calcium carbonate or other salts and/or by the formation of gases that stay entrapped in the soil and block pores in the bottom of percolation ponds; and
- depth to groundwater (or the ‘size’ of the storage space available), which limits the volume of water that can be replaced in the Upper Aquifer of the Delta-Mendota Subbasin in any given year. (Bouwer 2004)

Timing is another factor that influences the ability to bank in an aquifer. Groundwater projects that bank stormwater runoff and/or flood flows are limited by the rate at which percolation can occur; these projects are either naturally limited or require temporary surface storage to hold excess flows until percolation can occur. Storing these additional precipitation-related waters in the percolation basins themselves can further limit percolation rates by increasing the hydraulic head of near-surface soils resulting in the compression of soils and a loss of permeability. Typical percolation pond depths of approximately two feet promote optimal percolation rates with a maximum ponding time of no greater than 72 hours (Barr Engineering 2001).

Consideration of soil properties and the timing of available waters for banking means that percolation facilities have complex siting requirements, which are available in limited locations. Finding suitable locations with the correct soil properties and sufficient area for percolation facilities is challenging because percolation facilities take agricultural land out of production.

#### Need for Storage

As noted on page 1-3 of the Draft EIR, “In addition to the up to 50,000 AF storage need identified by the Exchange Contractors and the 20,000 AF demand for storage identified by DPWD, ... Reclamation would have an opportunity to participate in the project for South of Delta benefits of up to 20,000 AF of storage, which could be used to store water for wildlife refuges.” Total identified demand for storage is thus over 80,000 AF and could be met by a combination of surface water and groundwater storage.

#### Groundwater Storage Projects

As noted on page 4.3 of the Draft EIR “Both Project Partners are pursuing projects for groundwater recharge and storage, but these projects would not replace the need for surface water storage. The Project Partners are jointly developing a project for recharge and recovery on Orestimba Creek, and the Exchange Contractors are developing a similar project on Los Banos Creek.” However, these groundwater projects will not provide the volume of “dispatchable” water (water available immediately upon demand) that is needed on an annual basis and must be combined with surface storage or other projects to meet project objectives for increasing water storage so as to effectively manage existing supplies. The Project Partners will continue to pursue groundwater storage, but this would not replace the need for surface storage.

### **Los Banos Creek Recharge Project**

The Los Banos Creek Recharge and Recovery Project is proposed for an approximately 60-acre site that can recharge upwards of 4,500 acre-feet per year. The Project is located in and adjacent to Los Banos Creek, south of Los Banos, between the San Luis Canal and Central California Irrigation District's (CCID) Outside Canal. The project would develop a recharge basin, convert three rock quarry pits to temporary storage/recharge basins, construct three storage recovery sump pumps, six shallow groundwater recovery wells, a bridge crossing of Los Banos Creek, and a weir located just downstream of the outside canal. Project flood waters and surplus irrigation supply would be temporarily stored in the pits/basin for beneficial use and flood mitigation purposes with surplus waters percolated into the Upper Aquifer. Project beneficiaries include San Luis Water District, CCID, Grasslands Water District, regional groundwater users (including the City of Los Banos), and the Delta-Mendota Subbasin Groundwater Sustainability Agencies. The project beneficiaries have determined that the local geology and aquifer are likely suitable for groundwater recharge and recovery operations (Provost & Pritchard 2013).

The recharge portion of the project would increase groundwater elevations in the Upper Aquifer, along with the volume of water stored above the Corcoran Clay. Utilization of water stored in the local aquifer in surplus years for irrigation supply in drought years offsets deficit groundwater pumping and/or a portion of the need to acquire open market water, much of which is acquired through the Sacramento-San Joaquin Delta or from sources which would otherwise contribute to Sacramento-San Joaquin Delta flows. If the project is constructed, it is projected that during a Critical Year, the Exchange Contractors would be able to extract up to 7,000 acre-feet of stored groundwater. This facility would be managed to recharge and store more water than would be extracted. The excess recharged water would help offset regional groundwater usage along Los Banos Creek.

### **Orestimba Creek Recharge and Recovery Project**

The Orestimba Creek Recharge and Recovery Project consists of an existing 20-acre recharge facility that was constructed in 2018 and an additional 60-acre facility which is planned to be constructed by 2021. The Orestimba Creek Recharge and Recovery Project is located on existing farmland east of Eastin Road and north of Orestimba Road. Unstorable CVP flows and surface water from Del Puerto Water District and/or the Exchange Contractors would be delivered to the site through an existing pipeline from the DMC. Another source of water for the recharge facility is excess flood flows from Orestimba Creek to be routed through a proposed pipeline to the project site. The total 80-acre facility is expected to recharge up to 15,000 acre-feet in a given year. During Dry and Critical Years, the Exchange Contractors hope to extract up to 5,500 acre-feet of stored groundwater and DPWD can withdraw a similar amount; both volumes do not include a 10 percent leave behind. During Below Normal Years, DPWD can withdraw up to 5,500 acre-feet of stored groundwater, again minus a 10 percent leave behind. This facility would be managed to recharge and store more water than would be extracted. The excess recharged water would help offset regional groundwater usage along Orestimba Creek. The operations of this facility would help achieve regional sustainability specifically contributing to raising groundwater levels, increasing groundwater storage and improving groundwater quality. Diverting excess flood flows from Orestimba Creek would provide additional flood protection to the City of Newman, which is a Disadvantaged Community.

### **Relationship between Groundwater and Surface Water Storage Projects**

Cumulatively, the two recharge, storage and recovery projects may, assuming they are built, operated to capacity, and meet preliminary capacity estimates, ultimately have the ability to recharge approximately 19,500 acre-feet in a given year (provided the surplus waters and/or flood flows are available) and are designed such that more water is recharged to the underlying aquifer than recovered. Under the most serious of water years (Critical Years), approximately 22,200 acre-feet of water may be recovered (less a 10 percent leave behind).

Both groundwater storage projects are still in the planning stages and final yields have not been determined. Though it is hoped that groundwater storage projects can meet some of the region's water storage needs, the Project Partners have not identified enough groundwater storage opportunities to fully meet the need for storage. To develop groundwater storage equivalent to the amount of storage provided by the proposed project it would be necessary to take almost 3,000 acres of land out of production to develop recharge ponds<sup>1</sup>. Groundwater storage facilities cannot bank large volumes of water in a short period of time and similarly groundwater extraction cannot occur rapidly enough to meet seasonal demands in the same way that is possible with a surface storage facility. Surface water storage is key, when used in conjunction with groundwater storage to optimize the use of groundwater banking.

The Project Partners are committed to implementing both surface and groundwater storage projects as the best solution for managing regional surface water and groundwater resources. Given the uncertainties regarding the final usable capacity of the groundwater storage projects and the large identified need for storage, it has not been deemed prudent to rely solely on groundwater storage to meet the need for storage. The Project Partners have determined that the Del Puerto Canyon Reservoir project would be needed along with either groundwater bank.

### References

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Barr Engineering. 2001. *Minnesota Urban Small Sites BMP Manual*, Metropolitan Council of the Twin Cities Area

Provost & Pritchard 2013. Los Banos Creek Recharge – Fatal Flaw Analysis

### 9.0.6 Master Response 6 – Seismic Risk and Dam Safety

*Comment Summary: A number of comments expressed concern about seismic risks and the safety of the dam, and asked questions about the proximity of the nearest fault. Comments asked for quantification of the risk of dam failure and cited dam “failures” including Saint Francis Dam (3/12/28), Baldwin Hills Dam (12/14/63) Lower Van Norman Dam (1971 San Fernando quake caused cracks), and Oroville spillway issues.*

The design and construction of the Del Puerto Canyon Reservoir Project will be performed to provide a very high level of safety for seismic and other risks. The Draft EIR has evaluated and analyzed seismic safety using established procedures and includes appropriate mitigation to assure safety of the Del Puerto Canyon Reservoir. The Project Partners will continue to comply with required processes for reservoir design and operation and will analyze and mitigate the risk as prescribed by well established procedures, policies and oversight on an ongoing basis. The design will also meet all requirements of the California Department of Water Resources, Division of Safety of Dams (DSOD) and applicable current Federal dam safety guidelines and criteria for a new dam, reservoir and appurtenant facilities. The design engineering analyses will meet all applicable federal and state guidelines and criteria. To determine design acceptance, DSOD will perform an independent review that includes performing engineering analyses independent of the project design engineer. The DSOD's independent review serves to demonstrate the appropriate and safe design for the reservoir project. DSOD must approve the design before the dam is constructed and their independent technical evaluation will provide assurance that potential public safety hazards are identified and properly mitigated.

Faults in proximity to the dam and the estimated magnitude of seismic events that they could produce are shown in Table 3.8-1 on page 3.8-6 of the Draft EIR. The fault line does not run directly underneath the

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<sup>1</sup> The proposed project can deliver water at a rate of 300 cfs, which is equivalent to 595 AF/day (1 cfs = 1.98 AF/day). Assuming recharge at a rate of 0.2 feet per day, to achieve a supply comparable to the proposed project a recharge area of 2,975 acres would be required (595/0.2=2,975)

dam, and the Great Valley 07/Orestimba fault is not a Holocene active fault. The dams and appurtenant facilities would be designed to provide acceptable performance under the maximum credible earthquakes on nearby controlling seismic sources, including the Great Valley 07/Orestimba (San Joaquin) fault, located about 0.2 kilometer to the east of the main dam. USGS (2008) cites an estimated maximum magnitude earthquake of 6.6 to 6.7 (USGS 2008) on this fault, but the Preliminary Seismic Evaluation Technical Memorandum prepared for the project (Gannett Fleming 2020) has refined this analysis, indicating a 6.92 maximum credible earthquake magnitude event on this fault. This information will continue to be refined as the development of the project design progresses and the maximum credible earthquake to be used for design of the dam will be based on a detailed analysis prepared by the design engineer.

The facility being contemplated at this DPCR site would be a well-designed earth filled dam. There are many examples of zoned earthen embankment dams that have performed well during strong ground shaking events within California. Seed et al (1977) reported on the performance of earth dams during earthquakes. They reported that of the 33 dams shaken by the 1906 magnitude 8 San Andreas earthquake, only five were reported to have experienced any form of damage. Except in the case of one dam (where a breach formed due to water escaping from a ruptured outlet pipe), damage to the other four was restricted to minor cracks and settlement and all embankments remained operational without any need for repairs. “Thus, the remarkable fact emerges that 32 dams were shaken severely by an 8 ¼ magnitude earthquake without sustaining any significant damage.” Although one comment asserted that concrete dams are more robust and less likely to fail than earthen dams, this is not correct. Earthen dams are safer than concrete or masonry dams in seismically active areas because they are flexible and will withstand a larger magnitude earthquake event than would a concrete dam.

A well-designed dam, founded on a thoroughly characterized site and constructed with a well compacted earthen embankment over a competent foundation rock, will perform well and as intended during a strong seismic event. Facility reliability will be maintained through periodic inspections, monitoring, and review of operations and maintenance programs. The DSOD will provide independent regulatory oversight during the design, construction, and operation and maintenance phases of the project. The Project Partners will work with experts in dam safety and dam design to demonstrate that the design of the project complies with State and Federal guidelines and to confirm a reasonable and safe design for the reservoir project. The probability of failure of a dam that is properly designed, constructed and maintained is exceptionally small, but it is not possible to assign a specific probability number to the risk of a “dam failure”. It is important to note that dam failure is any uncontrolled release of water from a reservoir through a dam as a result of any structural deficiencies in the dam. Even a small uncontrolled release would be considered a failure, though it would not necessarily present any risk to areas downstream of the dam. The Project Partners are committed to constructing a safe facility that would not put the City of Patterson at risk.

None of the examples of dam failures listed by commenters have any resemblance to the design of this reservoir project. All were totally different types of dams constructed based on outdated standards and in locations very different from the site of the proposed project. The Association of State Dam Safety Officials (ASDSO), with oversight and ongoing contributions by the ASDSO Dam Failures and Incidents Committee, hosts and maintains a website ([damfailures.org](http://damfailures.org)) that provides lessons learned about past dam failures and incidents. Information about dam incidents that were cited in comments on the Draft EIR is summarized below.

The St. Francis dam was a curved concrete gravity dam that was designed and built between 1924 and 1926; failure of the dam led to the creation of the Division of Safety of Dams, which now regulates construction of all dams in California. The Baldwin Hills Dam was constructed between 1947 and 1951 and was located directly on an active fault line, which was subsidiary to the nearby Newport–Inglewood Fault. The Baldwin Hills reservoir was confined on three sides by compacted earth dikes and the Baldwin Hills Dam on the fourth side; the earthen lining was covered by asphalt paving and underlain by an



asphalt membrane. Failure occurred when the asphalt paving over the embankment cracked allowing water to penetrate and erode the soil beneath it. The crack that resulted in dam failure has been attributed to exploitation of the Inglewood Oil Field, which employed injection for waste disposal and oil recovery, aggravating fault movements. The Lower Van Norman Dam (also known as the Lower San Fernando Dam) was a hydraulic and rolled fill dam constructed beginning in 1912. The dam was damaged in the 1971 San Fernando Earthquake, but did not fail, and no water was released because of restrictions on the maximum operating reservoir level that were put in place after a seismic hazards evaluation conducted in 1966. Based on information gleaned from the 1971 earthquake, use of hydraulic fill was effectively no longer considered for embankment dams in seismic zones after 1971. The Oroville Dam was constructed in 1968 and at 770 feet, is the tallest dam in the United States. The reservoir is an on-stream facility that captures flows from the Feather River and is thus subject to large inflows in heavy rain events. In this case the dam did not fail, and the dam itself was not damaged. Investigations after the event determined that design of the service spillway did not fully meet the spillway design best practices of the era.

## References

- DamFailures.org. no date. Baldwin Hills Dam, available at <https://damfailures.org/case-study/baldwin-hills-dam/>, Accessed February 21, 2020
- DamFailures.org. no date. Lower San Fernando Dam, available at <https://damfailures.org/case-study/lower-san-fernando-dam-california-1971/>, Accessed February 21, 2020
- DamFailures.org. no date. St. Francis Dam, available at <https://damfailures.org/case-study/st-francis-dam-california-1928/>, Accessed February 21, 2020
- DamFailures.org. no date. Oroville Dam, available at <https://damfailures.org/case-study/oroville-dam-california-2017/>, Accessed February 21, 2020
- Seed, H. B., Makdisi, F. I. and P. De Alba, 1977, The Performance of Earth Dams During Earthquakes, Earthquake Engineering Research Center, Report No. UCB/EERC-77/20, August.

### 9.0.7 Master Response 7 – Risk of Landslides

*Comment Summary: Comments expressed concern that the risk of landslides was understated in the Draft EIR and said the possibility of large-scale slope failures should be addressed, including consideration of the loss of reservoir storage volume if an existing slide is reactivated. Comments requested description of the slump/earthflow complexes north and south of the reservoir, and suggested consideration of other locations with less risk of sliding.*

Landslide is defined as the movement of a mass of rock, debris, or earth down the slope, when the shear stress exceeds the shear strength of the material. Landslide activity is organized into six categories: active, suspended, reactivated, dormant, stabilized, and relict. Movement of landslides is classified as fall, topple, slide, sagging, spread, and flow-like forms. Activity and material type descriptions are used to characterized landslides by first describing the material type (rock, debris, or earth) and then by describing the type of movement (fall, topple, slide, sagging, spread, and flow-like forms). The rate of movement or velocity is dependent on the activity and material type, ranging from extremely rapid to imperceptible without instrumentation (Varnes 1978).

The Draft EIR documents the presence of landslides within and adjacent to the project area. These landslides are generally slow-moving earth flow type failures, and likely range from active, to dormant, to relict. In the reservoir inundation area, the geologic formations with relatively the highest susceptibility to landslide/slope failure include the Moreno Formation and to a lesser extent the Panoche Formation. Based on Bartow (1985), the closest landslide to the location of the main dam is approximately 0.75 mile upstream from the toe of the embankment. Landslides within the Cretaceous Moreno and Panoche Formations form a generally northwest-trending band of landslide features that mimic the northwest trend of the regional geology. Considering the characteristics of the underlying rock, it is reasonable to expect

that without engineered mitigation these existing landslides may reactivate, and new landslides may potentially form within these bedrock units as a result of reservoir infilling and operations. This is a typical issue that must be addressed for any reservoir and is not unique to the Del Puerto Canyon site. Figure 3.8-4 on page 3.8-7 of the Draft EIR provides a generalized local geology map showing the distribution of landslides in the vicinity of the reservoir. Continued or renewed movement of the earth flow type landslides likely would be slow and would not produce catastrophic sudden failure of large volumes leading to seiche overtopping of the dam or to significant infilling of the reservoir. In addition, the footprint of the proposed embankment is generally underlain by the relatively resistant lithified tuff of the Tertiary Valley Springs Formation and is not susceptible to slope failure.

Because the existing and any newly activated landslides would be expected to experience continued movement, stabilization/mitigation measures have been identified in the Draft EIR beginning on page 3.8-13. Mitigation Measure GEO-1 specifies procedures to address the potential for landslides along the perimeter of the reservoir: "Potential landslide mitigation measures that could be considered include avoidance of the feature, or reduction of vulnerability to the project through engineering design. Engineered mitigation options may include subdrains, dewatering, and/or systems to prevent surface water infiltration, and/or design of appropriate stabilization approaches to reduce driving forces and/or increase resisting forces, including regrading, retaining walls and mechanically stabilized embankments. Monitoring of the hazardous features including performance of any mitigation option will be included as part of the long-term operation and maintenance program of the proposed project."

Stability evaluations of the reservoir rim, including potential for seismically triggered landslides, would be completed as part of the design of the project. The potential loss of storage attributed to landsliding into the reservoir areas of inundation will be evaluated as part of the detailed project assessments associated with infilling and sedimentation. Detailed site investigations will be conducted and may include geologic mapping, excavation of test pits/trenches, subsurface drilling, laboratory testing, and analysis to evaluate slope stability and mitigation design, if required. Preliminary investigations have determined that there are portions of the site where landslides are a concern but that standard landslide mitigation techniques can address potential impacts associated with those features, which are detailed in Mitigation Measure GEO-1. Landslide potential within the footprint of both the dam and reservoir will be evaluated in detail during design to develop the detailed design measures that would be implemented to address those features. It should be noted that of the more than 90,000 dams within the United States there are no known cases in which a landslide failure within the reservoir induced dam overtopping.

Comments have suggested that other locations characterized by the Panoche, Moreno or other geological formations are likely to have less risk of sliding or less potential to damage downstream infrastructure than the Del Puerto Canyon site. As part of the dam site selection process, numerous other alternative dam site and reservoir locations were evaluated in streams draining the eastern foothills of the Diablo Range south of the Delta. Virtually all the drainages in the eastern foothills are underlain by variable amounts of the Panoche and Moreno Formations similar to the Del Puerto drainage. The Panoche and Moreno Formations have similar bedrock attributes and are differentiated by generally more lithified sandstone in the former and generally more clay and mudstone in the latter. The clay and mudstone units of both formations are susceptible to earthflow landslide processes, both the reactivation of existing landslides and the potential development of new landslides. Slope failures in the more resistant sandstone units of both formations are more likely to consist of rapidly moving rock topples and block slides (along bedding planes and joints) and slow to moderately moving rotational slides. In addition, alternative dam and reservoir locations in the easternmost foothills of the Diablo Range also are underlain, in part, by the Tertiary Kreyenhagen Formation consisting of highly unstable clay and expansive shale that are susceptible to earth flow and deep soil creep slope failure. Thus, the mix of existing and potential landslide types varies uniquely from drainage to drainage depending on the actual lithology of the bedrock units within the reservoir footprint.

Comments referenced an incident at the Vajont Reservoir in Italy, but the Del Puerto Canyon Reservoir is not at all similar to that facility. The Vajont Dam is a double-curved, thin-arch dam, which, at 860 feet high, is one of the tallest dams in the world. The Vajont Dam is thus much taller than the proposed 260-foot Del Puerto Canyon dam. The Vajont Dam was built in 1957, in steep mountainous terrain, within a narrow limestone canyon, high in the Italian Alps. The canyon had been sculpted by downcutting and erosion by the Vajont River. In 1963, a massive rockslide occurred, approximately 1.2 miles wide by 1.0 mile deep. The volume of the slide was about twice the volume of water impounded behind Vajont Dam and slid into the reservoir in less than 45 seconds. This massive rockslide has been considered to be unique in scale, and the geology of the Italian Alps is distinctly different from the geology of Del Puerto Canyon. A landslide of the volume that occurred at the Vajont Dam is not considered a viable possibility at the Del Puerto Canyon site.

### References

- Bartow, J. A., W. R. Lettis, H. S. Sonneman, and J. R. Switzer, Jr. 1985. Geologic Map of the East Flank of the Diablo Range from Hospital Creek to Poverty Flat, San Joaquin, Stanislaus, and Merced Counties, California. US Geological Survey Miscellaneous Investigations Series Map I-1656.
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### 9.0.8 Master Response 8 – Potential Inundation in the Event of Dam Failure

*Comment Summary: Many comments expressed concerns about the consequences of a possible dam failure and the consequences of flooding should the dam fail.*

The Draft EIR discusses the potential for a dam breach resulting in inundation of areas downstream of the dam under the heading Dam Breach Analysis, starting on page 3.11-22 of the Draft EIR. It is important to understand that this analysis assumes a highly unlikely total failure of the dam, and that the analysis is done for a very specific reason: to provide information to inform emergency response. The analysis is done for all dams that are not classified as “low hazard”, to provide information to regulatory officials and the public. In 2017, the California Legislature passed a law requiring all state jurisdictional dams, except low hazard dams (defined as facilities where failure would result in no probable loss of human life and low economic and environmental losses), to develop inundation maps and emergency action plans.

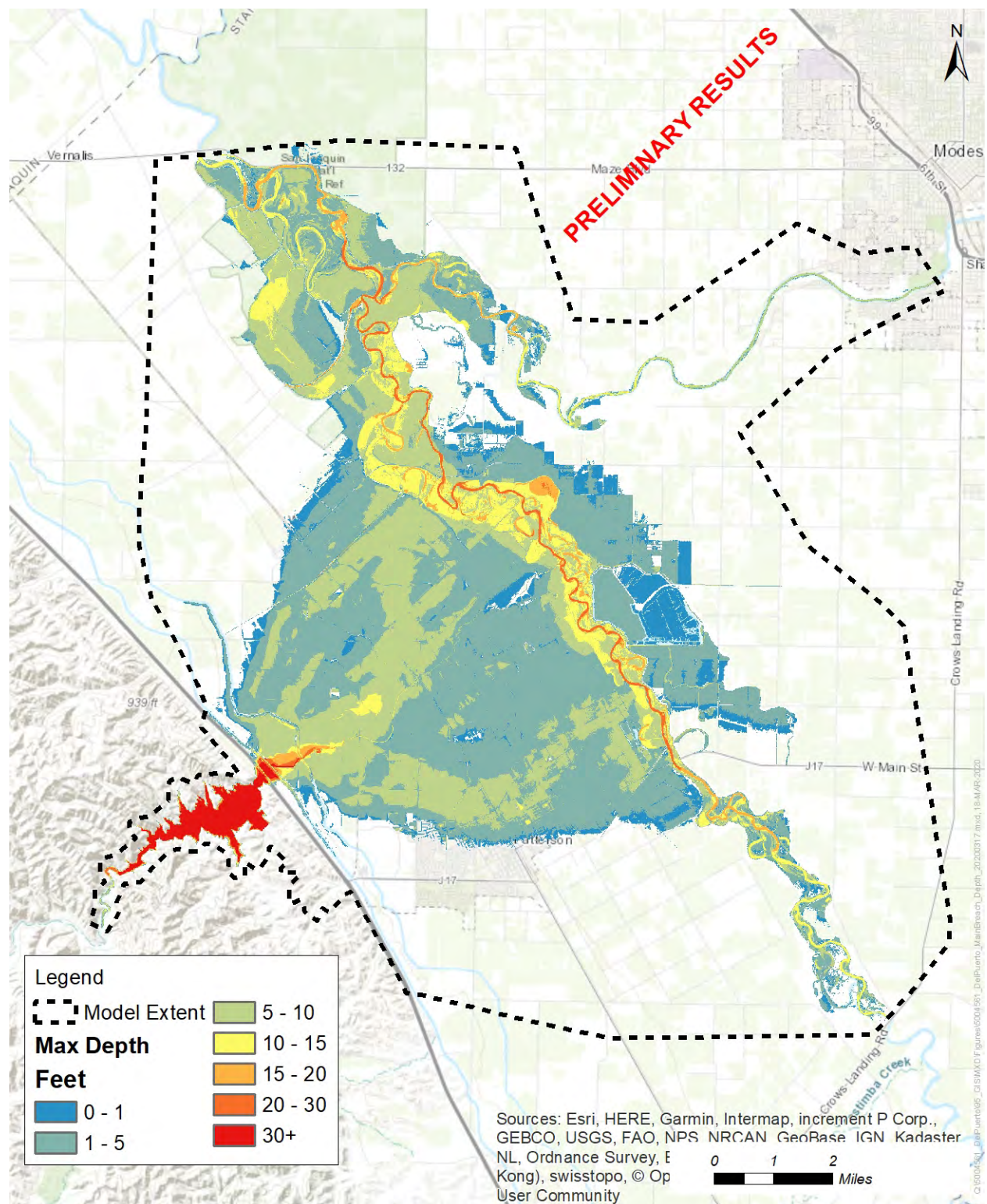
To meet DSOD requirements, the analysis of a potential dam breach assumes a very rapid and total failure of the dam when the reservoir is completely full. The dam is then designed to incorporate various structural and operational features that would prevent this from occurring. Ongoing dam surveillance and monitoring would be conducted to ensure that any structural problems are identified as soon as possible and that steps are taken immediately to ensure safety of the dam. The outlet works from the reservoir would be sized to allow rapid, controlled drawdown. The maximum flow in the outlet works is 1,000 cfs, which is within the existing downstream channel capacity of Del Puerto Creek. Thus, there would be no potential for flooding or other danger to downstream properties from a drawdown. These plans would be in place even though the Project Partners do not expect any occurrences that would require implementation of emergency procedures.

Since the publication of the Draft EIR, the Project Partners have completed a preliminary draft of the maps that show the area that would be inundated in the event of a hypothetical total collapse of either the main dam or the primary saddle dam. **Figure 9-1** shows the theoretical extent of inundation from failure of the main dam and **Figure 9-2** shows the theoretical extent of inundation failure from the saddle dam.

A significant number of Central Valley residents currently reside within one or more inundation zones of existing reservoirs. **Figure 9-3** shows the inundation zones of some of the more prominent reservoirs in the San Joaquin Valley, including San Luis Reservoir and New Melones, Tulloch, Don Pedro and New Exchequer dams.

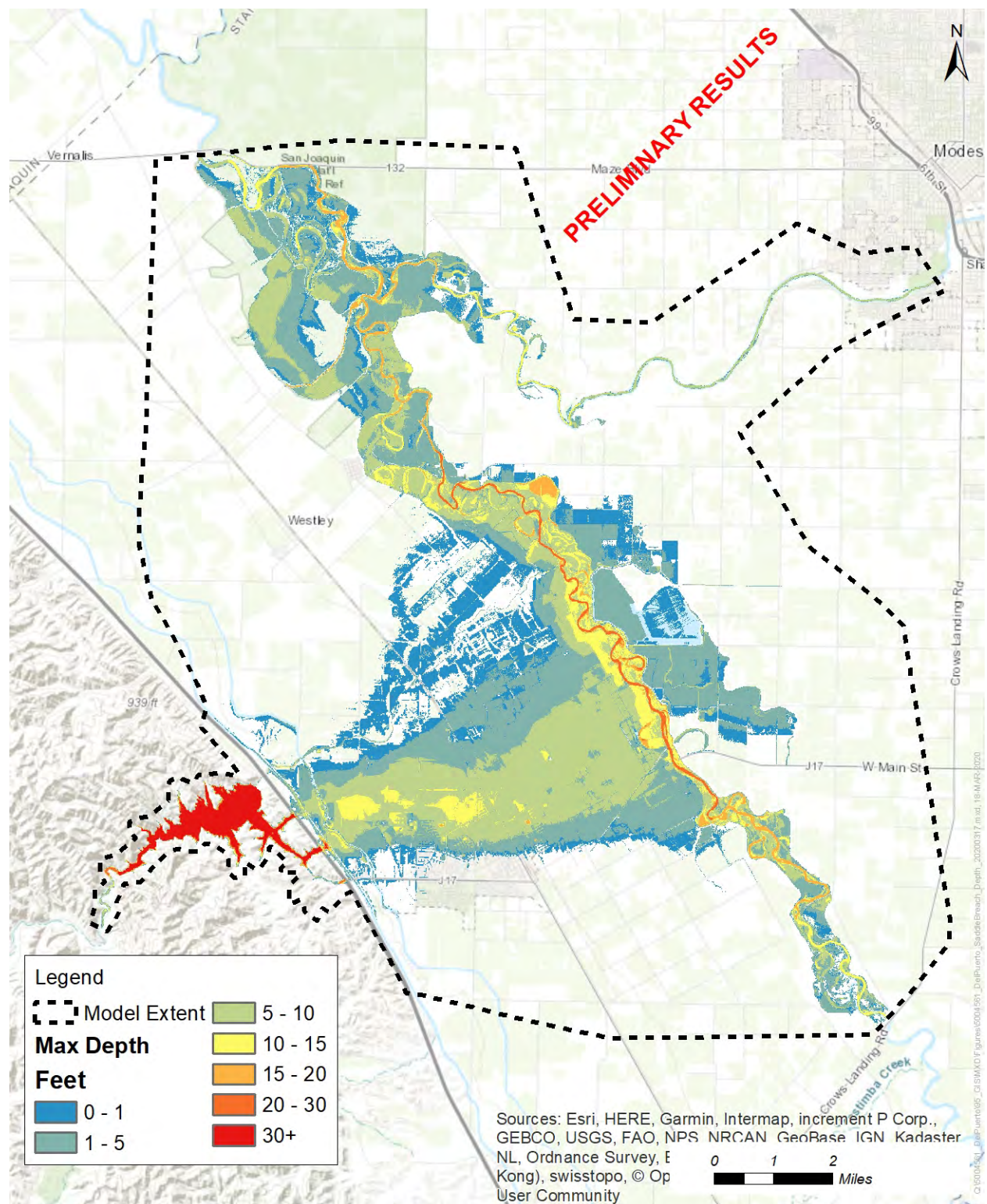
The Project Partners are committed to the planning, monitoring and maintenance to ensure safety.

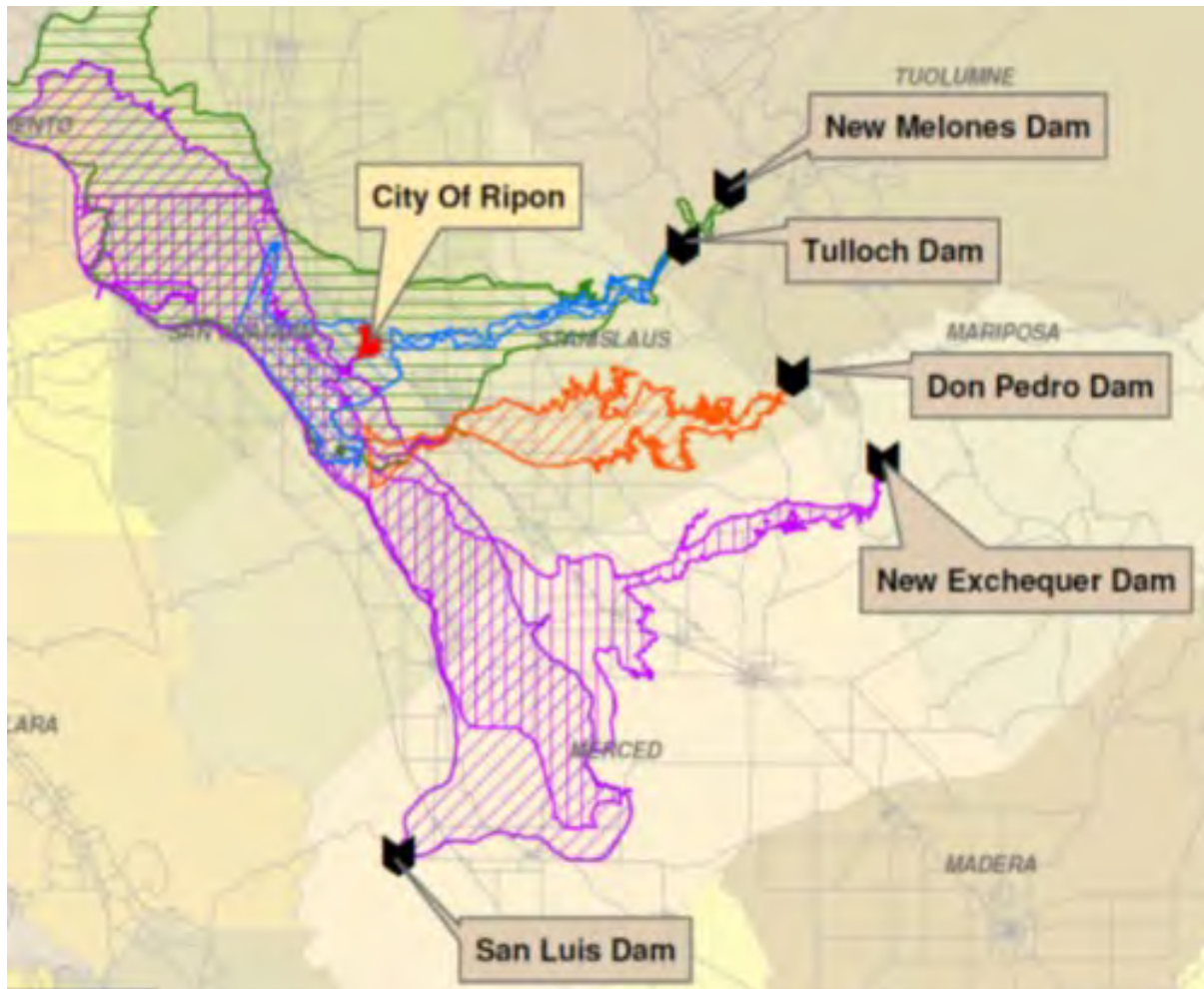
**Figure 9-1: Preliminary Inundation Extent from Hypothetical Failure of Del Puerto Main Dam**





**Figure 9-2: Preliminary Inundation Extent from Hypothetical Failure of Del Puerto Saddle Dam**



**Figure 9-3: Reservoir Inundation Zones in the San Joaquin Valley**

Source: California Water Research, available at: <https://cah2oresearch.com/2017/03/12/full-san-luis-dam-endangers-over-200000-people/>, source cited on website as City of Ripon

### 9.0.9 Master Response 9 – Emergency Action Plan

*Comment Summary: Comments asked how residents of the City of Patterson would be evacuated in the event of an emergency and requested details of the plan.*

On June 27, 2017, Governor Brown signed Senate Bill 92 into law, which set forth new requirements focused on dam safety. This legislation created the California Governor’s Office of Emergency Services (Cal OES) Dam Safety Planning Division, which is responsible for reviewing and approving dam owners’ Emergency Action Plans (EAP). This process includes developing inundation maps, outlining emergency response responsibilities, and preparing coordination, notification, and preparedness processes.

Sections 6160 and 6161 of the California Water Code and Government Code Section 8589.5 require owners of state regulated dams to submit EAPs to Cal OES and the Department of Water Resources (DWR) Division of Safety of Dams (DSOD), unless the dam has been classified as low hazard by DSOD. The downstream hazard classifications are based solely on potential downstream impacts should the dam fail when operating with a full reservoir. These classifications are not related to the condition of the dam or its appurtenant structures. The Project proponents will need to submit an EAP to Cal OES and DSOD for approval before DSOD approves construction of the dam.

Senate Bill 92 is highlighted in the State Policies and Regulations section of the Hydrology and Water Quality chapter of the Draft EIR (Section 3.11.2, page 3.11-14).

### **Inundation Mapping**

Prior to submitting an EAP, dam owners must submit inundation maps to DSOD. An inundation map shows flooding that could result from a hypothetical failure of a dam or its critical appurtenant structure. Per Government Code Section 85985, each map must include the inundation boundary, flood wave arrival time, maximum depth, and maximum velocity. The map must also include aerial imagery, critical facilities in the inundation area, and must be stamped by a California licensed civil engineer.

Section 3.11.1 in the Draft EIR (page 3.11-17) discusses the dam breach inundation analysis, and associated analyses, that were performed in 2019. One of the analyses, prepared consistent with DSOD guidance, provides a basis for design of the dam spillways to eliminate any potential for overtopping of the dam as a result of maximum precipitation event in the watershed upstream of the dam.

Further work will be performed to refine the analyses in preparation for submitting inundation mapping to DSOD and developing a compliant EAP. More information on the inundation mapping is provided in Master Response 8.

### **Emergency Action Plans**

Once the inundation maps are approved, the dam owner must submit an EAP to Cal OES. An EAP is a written document that identifies potential emergency conditions at a dam and specifies pre-planned actions to help minimize property damage and loss of life should those conditions occur. EAPs contain procedures and information that instruct dam owners to issue early warning and notification messages to downstream emergency management authorities. Specifically, EAPs must address, at a minimum, the following elements:

1. Notification flowcharts and contact information;
2. The response process;
3. The roles and responsibilities of the dam owner and impacted jurisdictions following an incident involving the dam;
4. Preparedness activities and exercise schedules;
5. Inundation maps approved by DWR; and
6. Any additional information that may impact life or property.

**Figure 9-4** below, developed by Cal OES, highlights the six elements of the EAP.



Figure 9-4: Elements of a Dam Emergency Action Plan



Source: California Office of Emergency Services, 2020.

Some commenters posed specific questions about how evacuation routes will be identified. As mentioned above, roles and responsibilities of the dam owners and impacted jurisdictions will be identified as part of the EAP. Based on an example EAP provided by Cal OES, the local Sheriff's Department and Fire Department would be responsible for, in the event of a dam incident, notifying the public of the incident and identifying and communicating safe evacuation routes. As outlined in the example EAP, the Sheriff's Department, in coordination with the Fire Department would: (1) identify safe evacuation routes, (2) identify and establish adequate evacuation reception areas, (3) request that the American Red Cross activate a shelter, if long-term evacuation is expected, and (4) provide security for evacuated areas. The project proponents, during development of the proposed project's EAP, will identify appropriate evacuation procedures which may include those identified in the example EAP. Although some comments requested that the EIR identify evacuation routes, there is no generic evacuation route or evacuation area

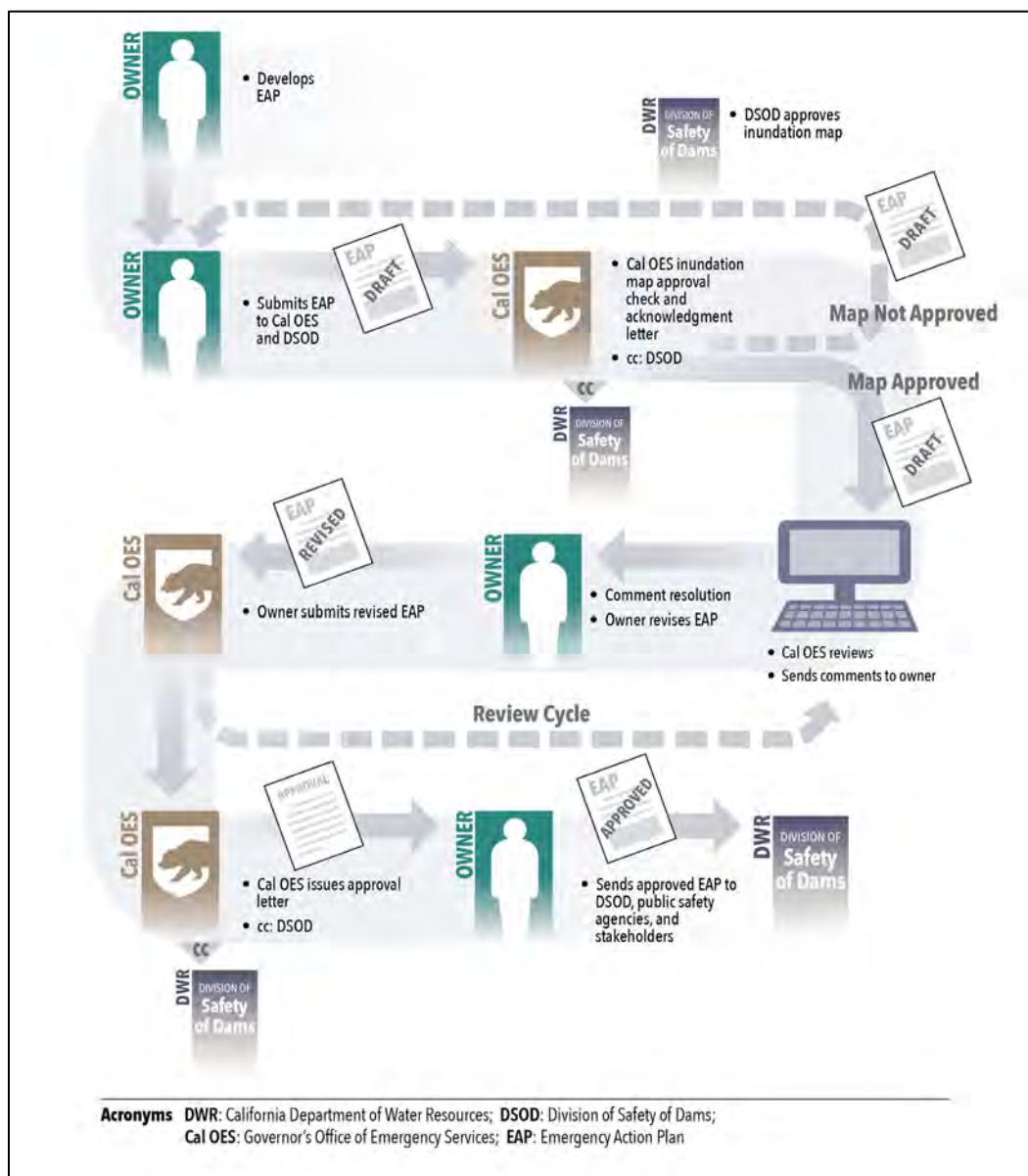
that would apply to every potential incident. Appropriate evacuation routes would be established based on the specifics of the incident.

### EAP Review and Approval

Cal OES will review and approve the EAP based on the Cal OES Review Tool, which is used to ensure that each EAP has the required elements. This review tool is based on the legislative requirements in California Water Code Sections 6160 and 6161 and Government Code Section 8589.5, which includes FEMA's Federal Guidelines for Dam Safety: Emergency Action Planning for Dams. All elements listed in the Review Tool must be met prior to EAP approval. Per the regulations, the dam owner must submit updated plans and inundation maps at least every 10 years.

**Figure 9-5** below, developed by Cal OES, provides an overview of the review process for both the inundation maps and the EAP.

**Figure 9-5: Emergency Action Plan Approval Process**



Source: California Office of Emergency Services, 2020.

## References

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- Cal OES. Santa Luisa Dam Emergency Action Plan. July 14, 2018. Available at: <https://www.caloes.ca.gov/HazardMitigationSite/Documents/Santa%20Luisa%20Dam%20EAP%2012.11.18.pdf>. Accessed February 27, 2020.
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### 9.0.10 Master Response 10 – Need for Flood Insurance and Hazard Disclosure

*Comment Summary: Comments expressed the belief that homes in the inundation area would be required to purchase flood insurance, and that they would be subject to natural hazard disclosure requirements.*

Flood insurance requirements are not environmental impacts of the proposed project and do not specifically pertain to the evaluation of impacts presented in the Draft EIR. However, the Project Partners want to ensure that accurate information regarding flood insurance is available to the public and have chosen to address comments about flood insurance in the Final EIR.

In 2017, the California Legislature passed a law requiring all state jurisdictional dams, except low hazard dams, to develop inundation maps and emergency action plans. Dam failure inundation zones are not FEMA Special Flood Hazard Areas and a property's location in a dam failure inundation zone does not trigger the FEMA flood insurance requirement<sup>2</sup>.

Flood insurance is only required by federally regulated lending institutions for properties located within FEMA Special Flood Hazard Areas designated Zone A or Zone V. There is no requirement to purchase flood insurance for properties within a dam inundation zone. FEMA has confirmed that even if a homeowner is buying private insurance not mandated by a federally backed mortgage requirement the project would not impact insurance rates or requirements (email from Edie Lohmann, National Flood Insurance Program Specialist, Department of Homeland Security/Federal Emergency Management Agency, February 18, 2020).

Properties within a Special Flood Hazard Area may never experience flooding, and conversely, properties not located within a Special Flood Hazard Area may experience flooding. As shown in Figure 3.11-1 on page 3.11-3 of the Draft EIR, portions of the City of Patterson are currently in Flood Zone A and are subject to requirements for flood insurance, while other parts of the City are not in a Special Flood Hazard Area defined by FEMA. Residents and property owners should always make their own decision about what level of insurance to buy, above the minimum required by lending institutions. The Project Partners will obtain dam liability coverage from the Association of California Water Agencies Joint

<sup>2</sup>[https://orderform.reodisclosure.com/DisclosureInfo/Child?partial=Hazards%2F\\_dam&title=Dam%20Failure%20Inundation&pdf=Content%2FFiles%2FHazards%2FFS\\_dam-failure.pdf](https://orderform.reodisclosure.com/DisclosureInfo/Child?partial=Hazards%2F_dam&title=Dam%20Failure%20Inundation&pdf=Content%2FFiles%2FHazards%2FFS_dam-failure.pdf)

Power Insurance Authority to protect against third party loss due to an unplanned release of water as a result of an earthquake.

The project would potentially eliminate the FEMA Special Flood Hazard Area associated with Del Puerto Creek because the reservoir would capture flood flows from the creek and would release them slowly so that the capacity of the creek would not be exceeded. **Figure 9-6** and **Figure 9-7** show the extent of existing flooding along Del Puerto Creek and demonstrate that with the project there would be no flooding outside the banks of the Creek.

Thus, by regulating flows, the project would reduce the floodplain. City of Patterson staff have informed the Project Partners that if the City were to do a FEMA map revision after the project is constructed, a large portion of the floodplain could be removed from the special flood hazard area. Flood insurance premiums are based off the first-floor elevation of the property in comparison to the city's base flood elevations. The elevation certificate does not consider whether the property is in a dam inundation zone. The requirement for flood insurance is based on floodways and not water storage facilities. Inclusion within a dam inundation zone would not be a trigger for flood insurance requirements. Because the City of Patterson is part of the National Flood Insurance Program, residents will have the ability to purchase flood insurance if they want extra coverage. (email from Maria Encinas, City of Patterson)

California law does require disclosure to a prospective buyer if any portion of a property is within a mapped dam failure inundation zone, so property owners will be aware of any potential hazard and can decide whether additional insurance is warranted. Requirements are specified in California Code, §1103.2, which specifies requirements for Natural Hazard Disclosure Statements. Specifically, sellers are required to identify if the property lies within "an area of potential flooding shown on a dam failure inundation map pursuant to Section 8589.5 of the Government Code." Section 8589.5, in turn, specifies that this requirement pertains to "Inundation maps approved by the Department of Water Resources pursuant to Section 6161 of the Water Code." The water code requires preparation of "an inundation map that shows the area that would be subject to flooding under various failure scenarios unique to the dam and the critical appurtenant structures of the dam". These maps must be reviewed and approved by the Department of Water Resources. There is thus not a final approved inundation map for the proposed project, and the mapping discussed in Master Response 8 is considered preliminary.



Figure 9-6: Del Puerto Creek Estimated Existing 100-Year Flood Zone

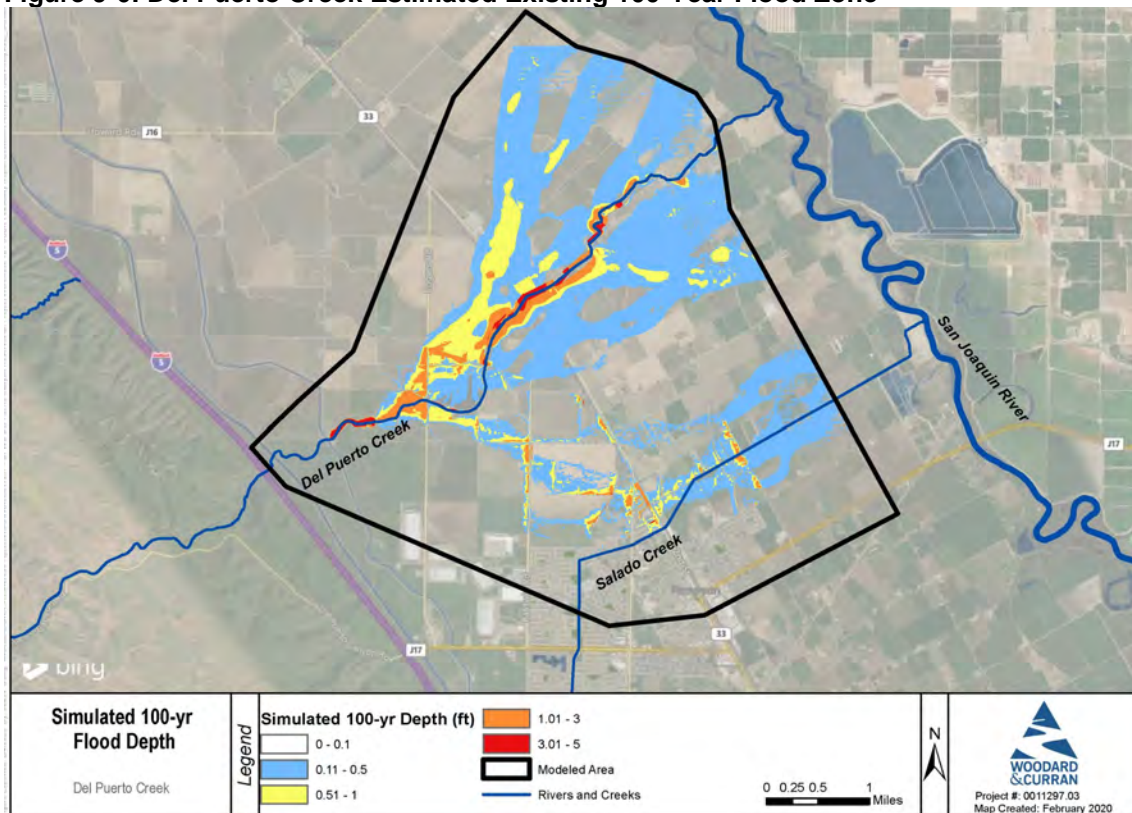
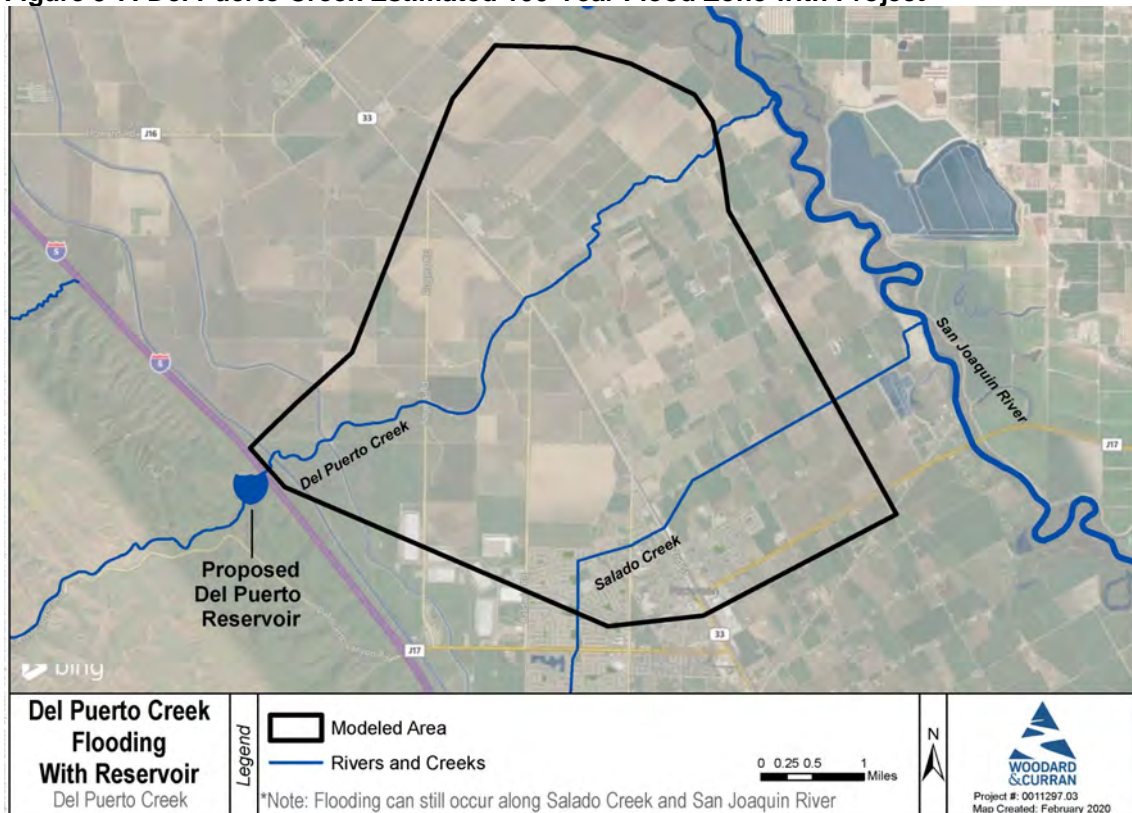


Figure 9-7: Del Puerto Creek Estimated 100-Year Flood Zone with Project



### 9.0.11 Master Response 11 – Risk of Reservoir Triggered Seismicity

*Comment Summary: Some comments expressed concern about the possibility that the reservoir could trigger seismic activity.*

Reservoir Triggered Seismicity (RTS) is defined as earthquakes that are triggered by the filling of a reservoir, or by water-level changes during reservoir operation. Two mechanisms can trigger seismicity: 1) the added load from the weight of the water, and 2) a change in stress caused by reservoir water infiltrating the underlying rock beneath the reservoir. Stress change is considered the dominant mechanism, and changes in stress levels attributed to a reservoir may potentially result in triggered seismicity. A reservoir does not cause or "induce" seismicity; rather it "triggers" the release of strain that is already stored in the rocks due to tectonic forces. Therefore, "reservoir-triggered seismicity" is preferred to the commonly used term "reservoir-induced seismicity." RTS earthquake magnitudes are not controlled by human-induced stress changes (Dahm, et al., 2012).

Empirical studies of reservoirs have shown a correlation between RTS and certain characteristics of the region and the reservoir. The primary characteristics include regional geology (rock type), type of existing regional stresses including existing faulting, and depth of water in the reservoir. RTS is most correlated with reservoir depth and volume, and to a lesser extent with state of stress and local geology (Baecher and Keeney, 1981). Those studies observed that the occurrence of RTS is more prevalent in deep (greater than 300 feet) and large-volume reservoirs; the proposed Del Puerto Canyon Reservoir in that context is neither deep nor large, having a maximum water level of 250 feet and a volume of 80,000 AF versus the 330 feet and 400,000 AF associated with RTS. RTS is also dependent on the geology of the site with a more common occurrence observed in sedimentary rocks with strong correlation to carbonate rocks, e.g., limestone and dolomite, and lesser documented instances that are associated with clastic rocks (e.g., conglomerate, sandstone, siltstone and claystone) similar to those that underlie the proposed Del Puerto reservoir site. RTS is more likely to occur in areas within extensional and strike-slip tectonic environments, as opposed to the compressional tectonic environment associated with the Great Valley (San Joaquin) thrust fault system in the vicinity of the project. In summary, considering the small size and relatively low water level of the reservoir, fine-grained clastic bedrock (e.g., conglomerate, sandstone, siltstone and claystone) at the site, and the primarily compressional tectonic environment, the conditions at the proposed Del Puerto Canyon Reservoir are not well correlated to the occurrence of RTS.

As part of the dam design and safety evaluations, a deterministic and probabilistic seismic hazard analysis will be conducted to account for the anticipated estimated levels of ground shaking and deformation that could occur due to regional and local earthquake sources. Seismic hazard evaluations will include detailed assessments of fault rupture, ground shaking, ground deformation, ground failure, and liquefaction, in compliance with DSOD regulatory criteria. The planned seismic hazard studies will include an evaluation of regional and local earthquakes and potential RTS events as well.

An important point to emphasize is that the proposed Del Puerto Canyon Reservoir, including dams and appurtenant facilities, will be designed to provide acceptable performance under the maximum credible earthquake on nearby controlling seismic sources, including the Great Valley 07/Orestimba fault, located about 0.2 kilometer to the east of the main dam, with an estimated maximum magnitude earthquake of 6.6 to 6.92 (USGS 2008; Gannett Fleming 2020). Given that the Project structures are designed for ground shaking levels associated with the maximum credible earthquake, the small magnitude earthquakes associated with potential RTS are not considered to pose a dam safety concern. The Project, however, will consider the hazard attributed to RTS, and the impact it may have, if any, on the surrounding communities.

Lastly, to address the potential for RTS from the proposed reservoir, the recorded historical seismicity in the reservoir vicinity will be documented to provide a baseline for comparing changes in magnitude and rate of seismicity, if any, due to reservoir filling. The monitoring program described below will help

distinguish events that are attributed to historical background seismicity, from potential RTS events, see Draft EIR Figure 3.8-3: Regional Seismicity Map.

As noted on page 2-18 of the Draft EIR, “Prior to reservoir infilling, a seismic monitoring array would be designed and implemented as part of the project to monitor seismic activity”. Monitoring would include identifying any increase in seismicity rate that could be attributed to potential RTS. While RTS is not anticipated to significantly affect the safe operation of the reservoir, the potential for RTS will be monitored through the deployment of strong motion instruments at the crests, abutments, and toes of the main dam and the primary saddle dam, before, during, and after the reservoir reaches the maximum normal storage level. As part of the initial impoundment/filling of the reservoir, the rate of impoundment will be monitored in conjunction with seismic monitoring and adjusted, if needed. The seismic monitors would remain in service over the life of the Project and would be part of the dam safety monitoring program.

### References

- Baecher, G. B, and R.L. Keeney, 1982, Statistical Examination of Reservoir-Induced Seismicity, Bulletin of the Seismological Society of America, Vol 72, No 2, pp 553-569, April 1982
- Dahm, T., D. Becker, M. Bischoff, S. Cesca, B. Dost, R. Fritschen, S. Hainzl, C. D. Klose, D. Kühn, S. Lasocki, Th. Meier, M. Ohrnberger, E. Rivalta, U. Wegler, and Stephan Husen., 2012, Recommendation for the Discrimination of Human-Related and Natural Seismicity, Journal of Seismology, DOI 10.1007/s10950-012-9295-6.
- USGS. 2008. Documentation for the 2008 Update of the United States National Seismic Hazard Maps: U.S. Geological Survey Open-File Report 2008–1128, 61 p

### 9.0.12 Master Response 12 – City of Patterson is Not a Responsible or Trustee Agency

*Comment Summary: Comments suggested that the City of Patterson is a responsible agency who must approve the project, or a trustee agency.*

The Project Partners have been communicating with the City on an ongoing basis and are committed to working cooperatively with the City to address its questions concerning the project. The Notice of Preparation, including the Initial Study, was sent to the City, soliciting their comments on the scope of the Draft EIR, but, as a result of multiple discussions with the City prior to issuance of the Notice of Preparation, the City had no comments in response to the Notice of Preparation. The City was consulted on multiple occasions during the preparation of the Draft EIR, and the Draft EIR was provided to the City for review. City staff have provided comments on the Draft EIR (see Letter 8) and the City does not claim to be a responsible agency.

As discussed on page 3.11-28 of the Draft EIR, “California Government Code Section 53090 et seq. provides that public agencies receive intergovernmental immunity from the zoning and building laws of other cities and counties for construction of facilities for production, generation, storage, treatment or transmission of water.” The Project Partners would thus not require permits from the City of Patterson for construction of the pump station, electrical substation and portions of the conveyance facilities within city limits. Because the Project Partners do not need approvals from the City of Patterson, the City has not been listed in the EIR as a responsible agency. The City also does not meet the definition of a trustee agency which is defined in the CEQA Guidelines §15386 as” a state (emphasis added) agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California.” As an example, the California Department of Fish and Wildlife is a trustee agency with jurisdiction over the proposed project, but the City of Patterson is not a trustee agency.

### 9.0.13 Master Response 13 – Consistency with City of Patterson General Plan

*Comment Summary: Several comments assert that the project is not consistent with the City of Patterson General Plan and have referenced purported conflicts with the Draft Parks and Recreation Master Plan.*

The Land Use and Recreation Section of the Draft EIR evaluates Project facilities that would be located within the City of Patterson city limits, which are the pump station on the DMC, proposed to be located within the right of way for the canal, and associated facilities including an electrical substation. An underground pipeline would extend from the pump station to the reservoir and the portion of the pipeline between the DMC and the California Aqueduct would be within the Patterson City limits. The project facilities within Patterson would be located within an area zoned for light industrial use, as shown in Figure 3.12-2 on page 3.12-3 of the Draft EIR. As noted on page 3.12-6 of the Draft EIR, “Public utility structures are permitted in light industrial areas”. Project facilities within the City of Patterson are thus not deemed to be inconsistent with the City of Patterson General Plan.

Project facilities are also proposed for areas that are outside the city limits but within the City’s sphere of Influence. The City has established General Plan designations for those area, which are also shown on Figure 3.12-2. Project facilities proposed to be located west of Interstate 5, including the main dam, saddle dam, reservoir and associated facilities would be located in land designated by the City of Patterson for mixed use. The mixed-use designation does not specifically address the development of public utility structures.

It should be noted that none of the area proposed for project facilities has been designated by the City of Patterson General Plan for park or open space use. Although the Draft Parks and Recreation Master Plan mentions concepts such as an equestrian staging area or outdoor performance venue along Del Puerto Creek west of Interstate 5, this plan was never finalized and was not adopted as part of the General Plan.

The Project Partners are cooperating with the City of Patterson in development of the project. DPWD has submitted a request to the City of Patterson Community Development Department for a report on the conformity of the project with the city’s adopted General Plan and pursuant to Government Code Section 65402(c), the proposed project has been deemed to be in conformity with the adopted General Plan.

### 9.0.14 Master Response 14 – Air Quality and Greenhouse Gases and their Health Effects

*Comment Summary: Comments have been made pertaining to air pollution associated with construction of the proposed project. The comment letters are concerned about the project’s emissions in the context of the existing nonattainment status of the San Joaquin Valley Air Basin. Specific concerns were raised about the health impacts of air pollution, namely asthma and valley fever.*

The Draft EIR fully analyzes and discloses the potential air quality impacts associated with the proposed project. Page 3.3-4 of the Draft EIR identifies that the San Joaquin Valley Air Basin has been classified with nonattainment status for several criteria air pollutants: Ozone (O<sub>3</sub>), respirable particulate matter (PM<sub>10</sub>), and fine particulate matter (PM<sub>2.5</sub>). The EIR Draft (page 3.3-2) recognizes that exposure to particulate matter and ozone, which is formed when oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOC) react in the presence of sunlight, can cause adverse health effects. Ozone exposure can adversely affect the respiratory system and aggravate cardiovascular disease. Particulate matter can cause health effects when it enters the lungs. Recent research (EPA 2018) has found that exposure to carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), PM<sub>2.5</sub>, PM<sub>10</sub>, and ozone is associated with asthma. The Draft EIR (page 3.3-2) also acknowledges that disruptions to the soil in the San Joaquin Valley have the potential to release the fungal organisms that cause valley fever. The Draft EIR (page 3.3-5) recognizes that sensitive receptors are more susceptible to the adverse effects of emissions of air pollutants, and Figure 3.3-1 identifies the closest sensitive receptors as being located 4,800 east and 5,000 feet south of the proposed pump station site. The receptor south of the pump station site is an isolated residence in the City of Patterson, in an undeveloped area along the Delta-Mendota Canal that is zoned for light industrial



uses. The most intensive and longest-duration construction activity would occur at the area west of Interstate 5, at the proposed location of the main dam. The closest residential neighborhood to the dam construction activities is a residential neighborhood east of Baldwin Road in Patterson, which is over 2.5 miles from the proposed dam.

The thresholds of significance set by the San Joaquin Valley Air Pollution Control District and used in the Draft EIR to evaluate air quality impacts are based on the attainment plans for achieving the National Ambient Air Quality Standards. Ambient Air Quality Standards represent the levels of air quality considered sufficient, with a margin of safety, to protect public health and welfare. They are designed to protect people most susceptible to respiratory distress, such as children under 14, persons over 65, persons engaged in strenuous work or exercise, and people with cardiovascular and chronic respiratory diseases. Project-specific emissions below the thresholds are assumed to have a less than significant impact on air quality and consequently would not have adverse effects on public health.

As analyzed in the Draft EIR, construction of the project would involve large amounts of grading requiring use of construction equipment that would temporarily generate criteria air pollutants. The use of heavy vehicle equipment, worker, vendor, and hauling trips would result in emissions of CO, and ozone precursors NO<sub>x</sub> and VOC. Site clearing, grubbing, excavating, grading, as well as driving vehicles on unpaved roads would disturb soil, result in emissions of PM<sub>10</sub> and PM<sub>2.5</sub>. Diesel particulate matter, a subset of PM<sub>2.5</sub> would also be emitted by heavy construction equipment. As explained on page 3.3-22, even without mitigation measures, construction related emissions of CO and VOC are not expected to exceed SJVAPCD thresholds and would thus not be expected to adversely affect the health of Patterson residents. Table 3.3-9 shows that although NO<sub>x</sub> emissions would exceed the SJVAPCD threshold without mitigation, the emissions of CO and VOC/ROG would be below thresholds for criteria pollutants.

The project would implement the SJVAPCD mandatory control measures to reduce fugitive dust emissions in accordance with SJVAPCD Regulation VIII. A dust management plan would be submitted to the SJVAPCD in accordance with SJVAPCD Rule 8020 Section 6.3. The dust control measures are identified on page 3.3-12 of the Draft EIR. With incorporation of mandatory dust control measures, emissions of PM<sub>10</sub> and PM<sub>2.5</sub> would be lower than SJVAPCD thresholds and would likewise not be expected to adversely affect the health of Patterson residents.

Without mitigation, emissions of NO<sub>x</sub> during construction would exceed the SJVAPCD threshold of 10 tons/year in four of the construction years, with emissions ranging from about 23 tons per year to a peak of 72 tons per year at the height of construction (see Table 3.3-9 on page 3.3-21 of the Draft EIR). NO<sub>x</sub> is the only criteria pollutant for which pre-mitigation emissions would exceed thresholds. According to the 2016 Ozone Plan for the San Joaquin Valley Air Basin (SJVAPCD 2016), the NO<sub>x</sub> inventory for the valley for 2019 is 81,687 tons per year, so the project's temporary contribution to that amount would be less than one-tenth of one percent at the height of construction if no mitigation were implemented.

Evaluation of health effects of toxic air contaminants (TACs) is routinely performed but this is not the case for criteria pollutants such as NO<sub>x</sub>. As noted by SJVAPCD (2015) "while it is common practice to analyze the correlation between an individual facility's TAC emissions and the expected localized human health impacts, such is not the case for criteria pollutants. Instead the human health impacts associated with criteria pollutants are analyzed and taken into consideration when EPA sets the national ambient air quality standards for each criteria pollutant". Because impacts of particular criteria pollutants are evaluated on a regional and not a facility level it is not feasible to conduct health risk analysis for criteria pollutants "because currently available computer modeling tools are not equipped for this task" (SJVAPCD 2015). Thus, attempts to quantify health risk associated with four years of construction emissions of NO<sub>x</sub> would not be meaningful.

As noted above, NO<sub>x</sub> is the only criteria pollutant that exceeds SJVAPCD thresholds for construction emissions. NO<sub>x</sub> is an ozone precursor that combines with volatile organic compounds to produce ozone. "Because of the complexity of ozone formation, a specific tonnage amount of NO<sub>x</sub> or VOC emitted in a

particular area does not equate to a particular concentration of ozone in that area” (SJVAPCD 2015). It is currently not possible to ascertain local increases in concentrations of photochemical pollutants like ozone, and even if it were possible it is not possible to correlate that increase to a specific health impact.

To reduce emissions of NO<sub>x</sub> during construction, the project would apply all feasible on-site NO<sub>x</sub> emissions reduction methods. The project would also enter into a Voluntary Emissions Reduction Agreement (VERA), which would implement off-site emissions reduction projects and thereby provide pound-for-pound mitigation of air pollutant exceedances to achieve net zero emissions per year. As explained in the Draft EIR (page 3.3-26), off-site reduction projects of Project Partner landowners would be given priority. With mitigation, emissions of NO<sub>x</sub> would be below SJVAPCD thresholds and would thus not result in adverse health effects.

Finally, as acknowledged in the Alternatives chapter (page 4-10), under the No Project alternative in which conditions in the project area would proceed without the proposed project, the Project Partners would have to pursue obtaining additional surface water resources to meet water demands, or portions of the service area would need to be fallowed due to lack of water supply. In dry years, the Project Partners have historically needed to resort to land fallowing when CVP water was not available. Under the No Project alternative, land fallowing could increase wind generated dust and other particulates due to the loss of irrigation and crops which help stabilize the soil. Therefore, in the long term, it is possible that the proposed project could have a net benefit on dust and particulate matter in the SJVAB.

The Draft EIR fully analyzes construction-related air pollution and the project would implement mitigation to reduce the impacts to the fullest extent feasible. The residents of Patterson, therefore, would not be unduly burdened by air quality impacts of the proposed project.

Comments have been made pertaining to the indirect emissions of greenhouse gases (GHG) associated with the proposed project’s electricity use. Comments express concerns about the Draft EIR analyzing and implementing mitigation to address impacts from increased GHG emissions to ensure residents of the City of Patterson are not unduly burdened.

The Draft EIR fully analyzes and discloses both the direct and indirect GHG emissions that would result from implementation of the proposed project. As discussed on page 3.9-9, long-term operations and maintenance of the proposed facilities would result in mobile and area source GHG emissions, as well as energy consumed to power the pumping plant. The project would result in an additional 149 vehicle miles travelled (VMT) and would consume an estimated 40,447,020 kWh of electricity per year. Long-term, these activities would result in GHG emissions of 14,500 MT CO<sub>2</sub>e per year (Draft EIR page 3.9-12).

The project would implement all feasible mitigation to reduce operational GHG emissions. In accordance with SJVAPCD Best Performance Standards, the project would implement the most energy efficient equipment design possible, rely on alternative sources of energy such as solar and wind power, and encourage operations and maintenance employees to carpool or otherwise commute using a method other than a single-occupancy fossil-fuel powered vehicle.

The project would support conservation of agricultural land and sequestration of carbon in agricultural soils. The project would create a more reliable source of surface water for farms and rangelands, thereby offsetting groundwater pumping and water transfers, and increasing the efficiency of on-farm water and energy use.

The Draft EIR recognizes that, even though the project would incorporate all feasible mitigation measures and be implemented in the most energy efficient way possible, the project would result in significant levels of GHG emissions, primarily related to energy use. However, the project would be an investment in reliable water supply infrastructure, consistent with California’s strategy for adapting to the effects of climate change. Climate change is a global phenomenon and the cumulative effects of the project would not unduly burden the residents of the City of Patterson.

## References

SJVAPCD. 2015. Amicus Curiae Brief of San Joaquin Valley Unified Air Pollution Control District in Support of Defendant and Respondent, County of Fresno and Real Party in Interest and Respondent, Friant Ranch, L.P.

SJVAPCD. 2016. 2016 Plan for the 2008 8-hour Ozone Standard. Appendix B. Emissions Inventory.

US EPA. 2018. "The Links Between Air Pollution and Childhood Asthma." October 22. Accessed February 5, 2020. Available online at: <https://www.epa.gov/sciencematters/links-between-air-pollution-and-childhood-asthma>.

### 9.0.15 Master Response 15 – Impacts on Recreation in Del Puerto Canyon

*Comment Summary: A number of commenters state that they spend time hiking and enjoying nature in the canyon and express concern that the project would deprive them of those recreational opportunities. Some comments mention visits to Graffiti Rock to explore and hang out.*

As noted on page 3.12-4 of the Draft EIR: "Recreational activities that are known to take place in Del Puerto Canyon include birdwatching, wildlife viewing, photography, bicycling, and motorcycling. The land on either side of the Del Puerto Canyon Road is private property, but members of the public still enjoy birdwatching and other activities from the public right of way. Del Puerto Canyon is a noted birding destination with well over 100 species of birds recorded from the canyon by birders (eBird 2019)." There are no public hiking trails or parks within the area of the canyon that would be inundated by the reservoir, and access to Frank Raines Park and its hiking, biking and other public recreational facilities would be maintained. Graffiti Rock and the adjacent area are located on private property that would be acquired for the project, and are not a designated local, state or federal cultural or historic resource of significance, and spray painting of local natural areas is illegal.

The portion of Del Puerto Canyon Road that would be inundated by the reservoir would be relocated and access to both the lower portion of the canyon below the saddle dam and the upper portion of the canyon above the reservoir would be provided. Although the lower portion of the road between Diablo Grande Parkway and the saddle dam would no longer be a county road, the Project Partners at a minimum would allow pedestrian access to the lower portion of the existing Del Puerto Canyon Road; potential recreation opportunities could be developed by Stanislaus County or City of Patterson. The project thus would not deprive the public of scenic bicycling and driving or wildlife observation and bird watching activities that currently take place along the road. DPWD staff have met with representatives of the Audubon Society and are aware that there are some specific birdwatching locations that would be within the reservoir footprint. The relocated roadway would provide access to similar habitats within the lower portion of the canyon and would continue to provide access for birding and bicycling. Impacts to existing recreational activities were evaluated on page 3.12-11 of the Draft EIR, which concluded that "Birdwatching, wildlife viewing, photography, and other activities could still occur from the public right-of-way along Del Puerto Canyon Road and access to the upper reaches of Del Puerto Canyon would be maintained." The new road would include a larger shoulder for safer bicycling and turnouts could potentially be developed for birders and photographers. The Project Partners thus believe that the project would not result in a material loss of existing recreational opportunities along the Del Puerto Canyon Road right-of-way.

The property purchased around the reservoir could be used for recreational uses as long as those uses do not conflict with the primary purposes of the reservoir. The Project Partners are supportive of further uses of the lands, such as recreation, but uses would have to be managed by a partner, such as a public recreation agency. The Project Partners are coordinating with Stanislaus County and the City of Patterson to assist in identifying recreational amenities. The County or City could potentially develop activities such as hiking, picnicking, or an educational center. The County and/or City would be responsible for determining the necessary planning steps and funding needs, and the Project Partners have committed to participating in and have already initiated an informal process that develops this potential.

### 9.0.16 Master Response 16 – Geology of Del Puerto Canyon

*Comment Summary: Some comments have asserted that the geologic resources of the canyon are of special significance and of unique educational value. Comments claim that Del Puerto Canyon is the only place in Central California where one can drive from the earth's surface into its mantle.*

Page 3.12-4 of the Draft EIR acknowledges that “Del Puerto Canyon also provides educational opportunities ... to learn about native plants, birds, and geology. Commenters also emphasized that Del Puerto Canyon is of local importance to botanists, entomologists, herpetologists, geologists and conservationists. Del Puerto Canyon provides access into the inner coast range and is notable for its rugged landforms and a generally perennial stream with its associated riparian vegetation.”

The existing Del Puerto Canyon Road does allow drivers to see the whole sequence of geologic history in California, but the proposed project would not eliminate the opportunity to do that. The project would only eliminate access to about 4 miles of Del Puerto Canyon Road between milepost 1.5 and milepost 5.5 and would not affect upper portions of the canyon where the most interesting geologic formations are found within close proximity to the road. Access to the upper portion of the road above the reservoir would be maintained and access to the lower portion of the road below the proposed saddle dam would also be available.

None of the comments submitted on the Draft EIR provides detailed information about specific locations that are of importance to geologists but based on available information it appears that the area of the canyon that would be inundated by the reservoir does not contain the most interesting geologic formations. In the lower portion of the roadway, it would still be possible to view the roadcut exposure that yields fossil leaves and wood fragments from the upper Cretaceous sedimentary facies in the upper Cretaceous to Paleocene Moreno Formation. In the upper portion of the canyon, the Coast Range Ophiolite would still be accessible, as would the quartz dike above mile marker 10. The relocated roadway would pass through the same geologic formations as the existing road, so the Tertiary and Great Valley Sequences would still be visible to students, teachers, geologists and others who may wish to visit the area. New road cuts that would be developed for construction of the relocated road could provide even better views of geologic strata.

Additionally, there are similar drives from the San Joaquin Valley through the Coast Ranges that provide a trip through the geologic formations of the Coast Range. For example, drivers can drive along Little Panoche Road to Panoche Road and see a cross section of geology from the valley into the central core of the Coast Ranges.

In summary, while the project would make a portion of the lower Del Puerto Canyon inaccessible, access to the majority of the middle and upper canyon would be maintained, and the new roadway would provide access to the same geologic formations along the lower canyon that would be covered by the reservoir.

### 9.0.17 Master Response 17 – Paleontology

*Comment Summary: Several comments pointed out the importance of Del Puerto Canyon as an area rich in fossils and stated that the first dinosaur bones found in California were discovered in the inundation area for the reservoir.*

The Draft EIR contains a discussion of paleontological resources in Section 3.8, Geology, starting on page 3.8-8. The Draft EIR notes that “The University of California Museum of Paleontology (UCMP) database contains 765 records of vertebrate fossils found in the county” and states that the geologic units in the reservoir footprint are “considered highly sensitive for paleontological resources because of the large number of recorded fossil finds”. The Draft EIR finds that the potential impacts to paleontological resources are significant and includes mitigation to reduce those impacts to less than significant through implementation of a Paleontological Resources Monitoring and Protection Plan.

The Draft EIR thus recognizes the importance of the project area as an area that contains fossils, though it is worth noting that other areas in the northwestern portion of Stanislaus County also have been found to contain substantial numbers of vertebrate fossils. **Table 9-1** provides an excerpt of the UCMP database for the project vicinity. Ingram Creek, north of Del Puerto Canyon is the location of more than half of the recorded fossil finds in Stanislaus County.

**Table 9-1: Excerpt of Fossil Records in Northwest Stanislaus County**

Location	Fossil Finds
Del Puerto Creek	1 Equus (Pleistocene horse)
(Del) Puerto Canyon	1 Mosasaur, 1 Hadrosaur 1 Merycodus (Miocene antelope)
Ingram Creek	461 Miocene vertebrate fossils, primarily mammals (horse, mammoth, antelope) with some reptiles and fish

Source: University of California Museum of Paleontology Database

Note: Entries under "Puerto Canyon" are assumed to be Del Puerto Canyon

While the EIR does not specifically discuss the dinosaur find that commenters reference, based on further research it does not appear that the Del Puerto Canyon find is the first dinosaur found in the state of California. Early fossil discoveries in the San Joaquin Valley date back to 1918 or 1920 when vertebrae of a giant marine lizard known as a Plotosaur were found in Fresno County. The first dinosaur find in California is described in *Dinosaurs and other Mesozoic Reptiles of California* (Hilton 2003): "On June 11, 1936, Allan Bennison, then a high school senior, found the first dinosaur in California in the hills west of Gustine." The find, which is listed in the University of California Paleontology Database for Stanislaus County, occurred several miles west of Gustine in the hills west of Interstate 5 and the Merced/Stanislaus County line, and is identified as a Hadrosaur (a type of duck-billed dinosaur). As shown in **Table 9-1** there have been fossil finds of a Mosasaur (at type of Ichthyosaur) and a Hadrosaur at the mouth of Del Puerto Canyon, but these appear to be distinct from the first find in Stanislaus County west of Gustine. Hilton (2003) also notes that there have been 14 Hadrosaur finds in the state of California, ranging from Tehama County to San Diego County.

While efforts to preserve fossils typically focus on vertebrate fossils, Del Puerto Canyon also contains some identified locations for leaf fossils (Mitchell 2005). Although at least one identified leaf fossil locale along Del Puerto Canyon Road may be under the proposed saddle dam, there are locations along the southern end of the road that would be outside the reservoir inundation area, and access to those areas would continue to be available. Please refer to Master Response 15 regarding impacts to recreational in Del Puerto Canyon.

## References

Hilton, Richard P. 2003. *Dinosaurs and other Mesozoic Reptiles of California*, University of California Press

Mitchell, James R. 2005. *Gem Trails of Northern California*. Gem Guides Book Company

### 9.0.18 Master Response 18 – Native American Coordination Regarding Sites in Del Puerto Canyon

*Comment Summary: Several commenters suggested there are Native American burial sites and/or Native American Sacred Sites located in the project area. Specifically, commenters noted burial sites and burial caves between mile marker 4 and 5.*

Cultural resources investigations discussed in Section 3.6, Cultural Resources, subsection 3.6.1 Record Search, Surveys, and Native American Consultation did not identify any Native American Burials, or indications of possible burials near Del Puerto Creek, in the hills above the creek, or at the Native

American sites that were tested for subsurface material. None of the records searches nor correspondence with the Native American Heritage Commission identified sacred sites. No indications of burials were present (i.e. grave goods or human remains) as a result of the subsurface material testing. Furthermore, no caves were identified within the hills between mile marker 4 and 5. A field visit was conducted on December 11, 2019 with representatives of the Santa Rosa Rancheria (Tachi Yokuts) and Nototomne Cultural Preservation (North Valley Yokuts) and the Native American representatives did not identify known burial sites within the project area. Site 50-344, described in Section 3.6, identified as a potentially eligible cultural resources site, but not a burial or identified sacred site, is located at mile 3.75.

If construction activities inadvertently discover or disturb human remains, Mitigation Measure CULT-3: Implement measures if construction activities inadvertently discover or disturb human remains is listed in the Draft EIR on page 3.6-11 and 3.6-12. This mitigation measure states:

“If human remains are discovered during any stage of construction, including disarticulated or cremated remains, the construction contractor will immediately cease all ground-disturbing activities within 100 feet of the remains and notify the Del Puerto Water District and the Stanislaus County Coroner. In accordance with California Health and Safety Code section 7050.5, no further disturbance will occur until the following steps have been completed:

- The Stanislaus County Coroner has made the necessary findings as to the origin and disposition pursuant to Public Resources Code section 5097.98.
- If the remains are determined by the County Coroner to be Native American, the Coroner shall notify NAHC within 24 hours.

A professional archaeologist with Native American burial experience will conduct a field investigation of the specific site and consult with the most likely descendant, if any, identified by the NAHC. As necessary and appropriate, the professional archaeologist may provide technical assistance to the most likely descendant, including the excavation and removal of the human remains.”

### **9.0.19 Master Response 19 – Mitigation for Biological Resources**

*Comment Summary: Some comments have suggested that the proposed mitigation for biological resources does not provide sufficient details about potential presence of species and the specifics of mitigation and have asserted that use of mitigation banks or mitigation credits is not appropriate mitigation.*

As noted in Section 3.4 of the Draft EIR reconnaissance level field studies were conducted to evaluate the presence of sensitive plants and wildlife. The evaluation of impacts on biological resources was not exclusively done through the use of databases and maps though these resources were employed to assist in characterization of habitats and identification of species that have been previously found in the project area. This is standard practice for evaluation of potential project effects in CEQA documents because protocol-level surveys can take multiple seasons to complete and the results of surveys are typically valid for a limited period of time and thus may no longer be valid by the time construction begins. Protocol-level surveys would be conducted during the appropriate season and in accordance with accepted methods prior to the start of construction, and preconstruction surveys would be conducted during the appropriate time frame as described in the mitigation measures presented in the Draft EIR prior to initial ground disturbing activities associated with project construction. The mitigation measures in the Draft EIR include commitments to conduct protocol-level surveys for sensitive plant species, vernal pool branchiopods, California tiger salamander, California red-legged frog, foothill yellow-legged frog, Swainson’s hawk and San Joaquin kit fox. Because protocol level surveys have not been conducted, the EIR assumes presence of species where suitable habitat is present.

Some comments have questioned whether mitigation at a 1:1 ratio is sufficient to address impacts. The Draft EIR states that minimum mitigation would be achieved at a 1:1 ratio. The adequacy of the

compensatory mitigation takes into consideration not only the acreage protected and/or restored but also the current quality of the habitat being affected and the long-term management of any lands being used for mitigation (i.e., areas managed specifically for the resource). The final compensatory mitigation ratios for state and federally listed species habitat and wetlands/waters of the U.S./State will be determined in consultation with resource agencies during the permitting phase of the project.

For biological resources, the mitigation banks and/or conservation easements used would contain the resources that need to be mitigated as required by all mitigation measures identified in the Draft EIR. The U.S. Fish and Wildlife Service and California Department of Fish and Wildlife approve these mitigation banks and associated service areas. These two agencies also have approval authority over any compensatory mitigation for state and federally listed species.

Additional information about the specifics of the evaluation of particular species and habitats and details of specific mitigation measures is provided below in the responses to individual comments.

### **9.0.20 Master Response 20 – Notification and Public Information**

*Comment Summary: Comments expressed concern about how and when notification about the proposed project was provided and asked why information had not been provided earlier. Comments also expressed concern about the timing of meetings.*

Notification about the project and about the Draft EIR has exceeded requirements for notification established by the California Environmental Quality Act (CEQA).

The Del Puerto Water District has contemplated for quite a while the possibility of constructing a local storage facility to increase the reliability of water supply. The Project Partners began initial assessments in 2016 to determine if it might be feasible to construct a local storage project and completed a Phase 1 Feasibility Assessment. At that point in time it was by no means certain that development of the project would proceed past this initial evaluation. Some comments have suggested that the public should have been involved at that stage, but the project was not sufficiently developed to warrant a press release or public announcement. The project, was, however, not in any way hidden from the public. The District holds monthly public meetings of its board, the agendas for which are publicly noticed 72 hours in advance of the meeting, and since May 2016, the topic of the Del Puerto Canyon Reservoir has been on the agenda for discussion every month. The results of the Phase 1 Feasibility Assessment were discussed at a public board meeting and interested members of the public had multiple opportunities to find out about the project during early stages of development. In late 2018, after a prolonged drought, the Del Puerto Water District and Exchange Contractors decided to invest in studying the possibility of constructing a storage reservoir to capture water supplies when they are available and store the water for times of shortage. By mid-2019 studies had progressed far enough for the Project Partners to embark upon environmental review of the proposed project and to ask for input from the public regarding the environmental issues that they would like to see evaluated in the Environmental Impact Report (EIR).

The EIR process began with the issuance of a Notice of Preparation, which was published in the Patterson Irrigator on June 27, 2019 and made available on the project website along with an Initial Study presenting the preliminary evaluation of environmental impacts. This notice started the 30-day scoping period for the project. On July 18, 2019, the Project Partners published a notice in the Patterson Irrigator, informing the public that a public scoping meeting would be held at Patterson Fire Station #2 on July 24, 2019. It is important to note that a public scoping meeting is not required by CEQA, which only requires that the Notice of Preparation be distributed to “responsible and trustee, agencies, the Office of Planning and Research, and county clerk” (CEQA Guidelines §15082(a)(1)). Scoping meetings are not required under CEQA, though they may be requested by “a responsible agency, a trustee agency, the Office of Planning and Research or a project applicant” (CEQA Guidelines §15082(c)). The CEQA Guidelines encourage, but do not require, public consultation. As noted in the CEQA Guidelines §15083, “Prior to

completing the draft EIR, the Lead Agency may (emphasis added) also consult directly with any person or organization it believes will be concerned with the environmental effects of the project.”

Although a scoping meeting was not requested by any agency, with the intent to encourage public input, the Project Partners opted to hold a meeting to inform the public about the project. The scoping meeting was well-attended, and 37 attendees signed in. Members of the public had the opportunity to sign up for the project mailing list to receive future notifications about the project. In addition to the notice published in the paper on July 18, 2019 the online version of the Patterson Irrigator published an article on July 26, 2019 headlined “Public’s time to speak on reservoir project ends 5 p.m. Monday”.

In the months after the scoping meeting, the project was regularly in the news, with articles and opinion pieces, both in support of the project and in opposition to the project. The Patterson Irrigator published a letter to the editor on August 15, 2019, and articles about the project were published on October 31 and December 3, 2019. The Modesto Bee published an article about the project on October 28, 2019 and an editorial piece on October 30, 2019. Although this is not a comprehensive list of all media information that was presented about the project, it does demonstrate that the project continued to be in the news after the initial notice about the start of environmental review were published, and that the Project Partners continued to provide information to the public through the news media. During this period information was posted regularly on the project website at <https://delpuertocanyonreservoir.com/>.

The day before the release of the Draft EIR, the Project Partners held a public workshop to educate the community about the project and the background for its development to assist in them in reviewing the Draft EIR. The workshop was held at the Patterson Unified School District Professional Development Center on December 11, 2019. Notices of the workshop were published in the Patterson Irrigator on both November 27 and December 5, 2019, and notice was sent to everyone who had requested to be included on the project mailing list. The workshop provided additional information about the project, highlighted the imminent publication of the Draft EIR, and enabled members of the public to ask questions about the project; about 100 people attended. This workshop was not required by the CEQA environmental review process and was specifically held to engage the public and provide more opportunities for the citizens of Patterson to obtain information about the project.

CEQA Guidelines §15087 specifies the requirements for public review of a Draft EIR. As specified in CEQA Guidelines §15087 (a): “The lead agency shall provide public notice of the availability of a draft EIR at the same time as it sends a notice of completion to the Office of Planning and Research. ... Notice shall be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing and shall also be given by at least one of the following procedures:

- (1) Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.*
- (2) Posting of notice by the public agency on and off the site in the area where the project is to be located.*
- (3) Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.*

The Project Partners decided that the first option, newspaper publication, provided the most comprehensive notification to the citizens of Patterson and other areas in the vicinity of the reservoir, especially since the local Patterson Irrigator newspaper is delivered to all residences and post office boxes in Patterson, without paid subscription.



Posting of a notice on the project site was deemed not to provide sufficient visibility as the proposed reservoir and conveyance facilities are all located in areas with little to no public access. Posting of a notice along Del Puerto Canyon Road would have been legally sufficient but would not likely have been discerned by travelers along the road and would certainly not have been a good way to reach those who do not regularly drive along the road.

Direct mailing to owners and occupants of property contiguous to the parcels on which the project would be located was also determined not to provide a sufficiently broad notification to members of the public who might be interested in the project. The Project Partners have worked directly with all of the owners of parcels that would be affected by the project because the environmental surveys needed for completion of the Draft EIR required access agreements to enter upon their properties. Those nine property owners have been provided with information throughout the study process.

The Notice of Availability announcing publication of the Draft EIR was thus published in the Patterson Irrigator on December 12, 2019. That notice included notification about a meeting to receive comments to be held at the Hammon Senior Center in Patterson on January 15, 2020. Lead agencies are encouraged but not required to hold meetings to receive comments. As noted in CEQA Guidelines §15087 (i), “Public hearings may be conducted on the environmental documents, either in separate proceedings or in conjunction with other proceedings of the public agency. Public hearings are encouraged, but not required as an element of the CEQA process.” Even among those lead agencies that routinely hold public meetings to receive comments it is common for comments to be received during the regularly scheduled board meetings for those agencies, many of which occur during business hours. The Del Puerto Water District holds board meetings on the third Wednesday of each month at 8:30AM at the District office and the San Joaquin River Exchange Contractors Water Authority hold meetings on the first Friday of each month at 9:00AM. Because these times might have been inconvenient for members of the public, it was decided to hold an evening meeting, which was scheduled from 4 to 6 pm. This time was selected to allow public agency staff to attend during work hours while still allowing time for members of the public to get to the meeting after work. Attendance at the meeting was only one of several options to provide public comments, which were also accepted by regular mail, email to the lead agency, or messages through the project website. On January 9, 2020, the Project Partners published an open letter to the community in the Patterson Irrigator with information about the project and a reminder about the public meeting on January 15, 2020 to receive comments on the Draft EIR. An estimated 80 members of the public attended the meeting on January 15.

In summary, the Project Partners have fully complied with all notification requirements and have exceeded all legal obligations for notification. The Project Partners have kept the public informed about the project and are committed to maintaining a dialog with project stakeholders.

## **9.0.21 Master Response 21 – Project Funding**

*Comment Summary: Several comments claimed that the because the project is seeking federal funding, the Project Partners would be spending taxpayer dollars.*

Funding issues are outside the scope of the CEQA and are not addressed in the Draft EIR, so comments about the source of funding do not pertain to the adequacy of the environmental impact analysis. However, the Project Partners have decided to use the Final EIR to provide additional information about project funding. The Project Partners are hoping to receive funding through the Water Infrastructure Improvements for the Nation (WIIN) Act, which was passed by Congress on December 16, 2016 “To provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes.” While the WIIN Act includes a number of provisions and funding mechanisms, the proposed Project would seek funding available for water storage projects. Under Section 4011 of the WIIN Act, Central Valley Project (CVP) contractors have the option to prepay certain repayment contracts. Of the funds generated by this prepayment, up to \$335,000,000 has been made available for the U.S. Bureau of Reclamation to fund water storage projects

in California (§4011(e)(1)). Therefore, funds awarded to projects under Section 4011 of the WIIN Act are not taxpayer dollars, but instead paid by CVP contractors, such as DPWD. The Project Partners are not currently pursuing any other funding opportunities, though additional funding may be sought in the future.

**References**

WIIN Act (<https://www.congress.gov/114/plaws/publ322/PLAW-114publ322.pdf>)

USBR WIIN Act FAQ (<https://www.usbr.gov/mp/wiin-act/docs/wiin-act-faqs.pdf>)

## 9.1 Comment Letter 1 - United States Department of the Interior, U.S. Geological Survey, J. David Wiens, Ph.D., Supervisory Research Wildlife Biologist

### 9.1.1 Response to Comment 1-1

*Comment Summary: The comment notes that information relevant to the presence of golden eagles in the study area was not included in the Draft EIR, specifically that several golden eagle occupied territories occur within 5 miles of the project area. The comment provides references for several published studies and mentions unpublished data that supports these statements.*

For the analysis of the project's potential effects on special-status wildlife species in the study area, the Draft EIR relies on occurrence records in the California Department of Fish and Wildlife's California Natural Diversity Database (CNDDB), which maintains records for nest locations that are submitted to CDFW. Page 3.4-16 of the Draft EIR describes the study area as providing potential foraging habitat and that the species was observed in flight during surveys.

The discussion of golden eagle in Section 3.4.1 *Environmental Setting, Special-Status Species* of the Draft EIR (Draft EIR page 3.4-16) is modified as follows:

There are no CNDDB occurrences within 5 miles of the study area. The closest CNDDB occurrence is approximately 10.5 miles south of the study area (California Department of Fish and Wildlife 2019b). Studies by others indicate that there are golden eagle nesting territories within 5 miles of the study area (Wiens et al. 2015, Hunt et al. 2017 and Dunk et. al. 2019). Potential foraging habitat for golden eagle is present in the study area and the species was observed in flight during the wildlife surveys. Potential nesting habitat occurs to the west of the study area where there are cliffs and escarpments, as well as where there are trees within the study area.

This modification does not substantially alter a mitigation measure or result in a change to an impact determination.

### References

- Dunk J.R., B. Woodbridge, T.M. Lickfett, G. Bedrosian, B.R. Noon, and D.W. LaPlante. 2019. Modeling spatial variation in density of golden eagle nest sites in the western United States. PLoS ONE 14(9): e0223143. <https://doi.org/10.1371/journal.pone.0223143>.
- Hunt, W.G., J.D. Wiens, P.R. Law, M.R. Fuller, T.L. Hunt, D.E. Driscoll, and R.E. Jackman. 2017. Quantifying the demographic cost of human-related mortality to a raptor population. Plos One e0172232. doi: 10.1371/journal.pone.0172232.
- Wiens, J.D., P.S. Kolar, M.R. Fuller, W.G. Hunt, and T. Hunt. 2015. Estimation of occupancy, breeding success, and predicted abundance of golden eagles (*Aquila chrysaetos*) in the Diablo Range, California, 2014: U.S. Geological Survey Open-File Report 2015-1039, 23 p., <http://dx.doi.org/10.3133/ofr20151039>.

## 9.2 Comment Letter 2 - State of California Department of Toxic Substances Control, Gavin McCreary, Project Manager, Site Evaluation and Remediation Unit

### 9.2.1 Response to Comment 2-1

*Comment Summary: The comment states that the EIR should identify the potential for project site activities to have resulted in the release of hazardous wastes/substances and carry out further studies if releases have occurred, identifying the mechanism for any required investigation or remediation.*

The Draft EIR includes a description of the project area in Section 3.12. The landscape consists of rolling hills with sparse structural development. Rangelands and agricultural lands dominate the land use pattern across the study area, with an area of abandoned orchards (Draft EIR, Page 3.12-4). Review of the Department of Toxic Substances Control Envirostor website, as documented in the Initial Study in Appendix A of the Draft EIR, did not identify any previous releases of hazardous materials. Mitigation Measure HAZ-1, which begins on page 3.10-11 of the Draft EIR, specifies procedures upon the accidental release of hazard materials into the environment. Mitigation Measure HAZ-1a details the development of a Hazardous Materials Management and Spill Control Plan (HMMSCP), a project-specific contingency plan for hazardous materials and waste operations that includes spill control and countermeasures. The plan also includes a documentation of procedures. Mitigation Measure HAZ-1b involves the development of a Hazardous Materials Business Plan (HMBP) if project operations involve the use, handling, or storage of hazardous materials in excess of threshold quantities. The HMBP includes an emergency response plan. Both the HMMSCP and HMBP will identify the mechanism for initiation of any required investigation or remediation. Any spill of hazardous materials during construction would be reported to the County Fire Department, with other agencies informed as appropriate.

### 9.2.2 Response to Comment 2-2

*Comment Summary: The comment states that surveys for hazardous materials should be conducted if buildings or structures would be demolished.*

There is currently sparse structural development in the project area. Existing structures are described on Page 3.4-5 of the Draft EIR and include “one building at the site of the former Del Puerto Fire Control Station. An old water tower and livestock corrals are associated with this building. The building and corrals total about 1.6 acres.” These structures are within the reservoir footprint and would need to be demolished and removed. The comment correctly implies that, due to their age, the structures could contain asbestos, polychlorinated biphenyl caulk, mercury, or lead and lead-based paint or products. Also, as noted on page 3.10-10 of the Draft EIR, “9,000 feet of petroleum pipeline within the reservoir footprint must be relocated”. Mitigation Measure HAZ-1e on page 3.10-12 of the Draft EIR specifies completion of both Phase I and Phase II Environmental Site Assessments, which would include evaluation of any structures on the site.

Mitigation Measure HAZ-1e is modified to clarify that structures will be evaluated as part of the assessments. The Draft EIR is revised as follows to include the following text on page 3.10-12.

#### **Mitigation Measure HAZ-1e: Soil Sampling and Disposal**

Prior to acquiring property or obtaining easements for construction of project facilities, Project Partners shall complete a Phase I Environmental Site Assessment for soil and groundwater contamination and potential hazardous materials in structures. The recommendations set forth in the Phase I assessment shall be implemented to the satisfaction of applicable agencies before construction begins. If Phase I assessments indicate the potential for contamination, a Phase II Environmental Site Assessment shall be completed before construction begins. The Phase II assessment may include building material, soil and/or groundwater sampling and analysis for any anticipated contaminants. If the Phase I assessment identifies potential presence of contamination

from agricultural activities, the Phase II Assessment would include evaluation of abandoned orchards to test for the presence of organochlorine pesticides (OCPs) in accordance with DTSC's Interim Guidance for Sampling Agricultural Properties. The Phase II sampling is intended to identify how to dispose of any potentially harmful material from excavations, and to determine if construction workers need specialized personal protective equipment while constructing the pipeline through that area. Contaminated soil will not be reused for backfill following excavation. If soil or groundwater contaminated by potentially hazardous materials is exposed or encountered during construction that was not identified in the Phase I assessment, the appropriate hazardous materials agencies shall be notified. If contaminated soils must be excavated and removed from the site, the removal of contaminated soil would be subject to the measures described under **Mitigation Measure HAZ-1a.**

### **9.2.3 Response to Comment 2-3**

*Comment Summary: The comment states that fill material or imported soil should be tested if backfill is required following excavation.*

The project would import fill from commercial sources as needed for construction of the reservoir, conveyance facilities and pump station. Specifications would require that the supplier provide clean fill material.

### **9.2.4 Response to Comment 2-4**

*Comment Summary: The comment requests that the EIR investigate project area for sites previously used for agricultural, weed abatement, or related activities.*

According to the Page 3.2-7 of the Draft EIR, much of the project area is classified by the California Department of Conservation (CDOC) as grazing land, as seen in Figure 3.4-1 (Page 3.4-4). Portions of the project area have been used for agriculture in the past. "Orchards were planted west of the mouth of Del Puerto Canyon starting in 2008; however, these orchards are not within an irrigation district and have not been maintained, and the trees have died. These abandoned orchards occupy about 318 acres of the survey area (Page 3.4-6)." The area of land dominated by abandoned orchards is located within the utility realignment zone and a portion of the inundation area.

Mitigation Measure HAZ-1e: Soil Sampling and Disposal outlines practices for soil sampling prior to construction and specifies preparation of both Phase I and Phase II Environmental Assessment. This mitigation measure has been modified to clarify that the assessment would include evaluation of past agricultural use and soil sampling in agricultural areas as needed, in accordance with DTSC's 2008 Interim Guidance for Sampling Agricultural Properties. Please refer to the updated text of Mitigation Measure HAZ-1e, which is presented in Response to Comment 2-2.

## **9.3 Comment Letter 3 - State of California Department of Water Resources, Anna Fock, Supervising Engineer**

### **9.3.1 Response to Comment 3-1**

*Comment Summary: The comment expresses appreciation that the DEIR identified the need for an encroachment permit from DWR for construction within the California Aqueduct right-of-way.*

The Project Partners will continue to work with DWR to coordinate any work within the Aqueduct right-of-way.

### 9.3.2 Response to Comment 3-2

*Comment Summary: The comment requests that Impact HYD-4 be modified to also address potential affects to the State Water Project (SWP) as a potential conflict and requests a more detailed analysis of projects operations on hydrology and water quality in the Delta.*

As noted in Section 2.3.1 of the Draft EIR, the proposed project operations are subject to the Coordinated Operation Agreement and annual allocations and entitlements, and therefore would have no material effect on existing CVP (or SWP) Delta pumping operations. Accordingly, the Proposed Project would have no impact on the SWP or CVP operations with respect to material issues such as Unstored Water Available for Export, Sacramento Valley Inbasin Uses, or Sharing of Flows During Excess Conditions with Export Restraints. Therefore, a detailed technical evaluation is not needed.

Impact HYD-4 will be modified to note the potential for conflict with existing SWP operations (in addition to CVP operations). The discussion text for HYD-4 will be updated to note that SWP operations and facilities will not be affected by the proposed operation.

Impact HYD-4 on page 3.11-23 of the Draft EIR is revised as follows:

**Impact HYD-4: Conflict with Coordination Operation Agreement and Existing CVP and SWP Operations**

...

The North Valley Regional Recycled Water Program Environmental Impact Report/Environmental Impact Statement (RMC 2015) analyzed the impact of the North Valley Project on DMC, SWP and CVP operations.

...

As a result of this proposed operational scenario, operation of the DMC and California Aqueduct would not be impacted by the proposed project. No new infrastructure or modifications of existing facilities or operations at the C.W. Bill Jones Pumping Plant or at Banks Pumping Plant would be required. CVP and SWP facilities would not be impacted.

Section 2.3.1 on page 2-11 is revised as follows:

The proposed project operations ~~would be consistent with~~ are subject to the Coordinated Operation Agreement and would not affect existing CVP or SWP Delta pumping operations.

## 9.4 Comment Letter 4 - State Water Resources Control Board, Division of Water Rights, Diane Riddle, Assistant Deputy Director

### 9.4.1 Response to Comment 4-1

*Comment Summary: The comment states that the Division of Water Rights has conducted an initial review of the Draft EIR but may have additional comments.*

The Project Partners will continue to work with the Division of Water Rights to address any comments and concerns about environmental impacts of the project.

#### 9.4.2 Response to Comment 4-2

*Comment Summary: The comment states that the Division of Water Rights provided comments in responses to the Notice of Preparation for the project, which were not addressed in the scoping report that is included in Appendix A of the Draft EIR.*

The Project Partners have determined that through an error at the State Clearinghouse the response to the Notice of Preparation that was prepared by State Water Board staff was not provided to DPWD, the lead agency. The project team has communicated with State Water Board staff, and the project partners are committed to addressing the comments that were submitted on the Notice of Preparation in these responses to comments. Responses to comments on the Notice of Preparation are provided in Responses to Comments 4-9 through 4-12.

#### 9.4.3 Response to Comment 4-3

*Comment Summary: The comment states that a new appropriative water right permit will be required to collect water from Del Puerto Creek for storage in DPCR. Hydrologic analyses and proposed operational rules included in the Final EIR will be considered when processing any water right application.*

The text has been modified to note that the water right application will be filed (as opposed to having already been filed). A water availability analysis will be performed during submittal of the water right permit.

The last sentence of the State Water Rights section on page 3.11-15 has been modified as follows:

The Project Partners ~~will file~~ ~~have filed~~ a water right for any flows diverted from Del Puerto Creek to storage and/or subsequent use.

#### 9.4.4 Response to Comment 4-4

*Comment Summary: The comment states that the EIR should evaluate the effects the proposed project would have on diversions from the Delta and any associated impacts to fish and wildlife species in the Delta and propose appropriate mitigation for any impacts, including cumulative impacts.*

As noted in Section 2.3.1, the proposed project operations are subject to the Coordinated Operation Agreement and annual allocations and entitlements, and therefore would have no material effect on existing CVP (or SWP) Delta pumping operations, and therefore would have no material effect on existing CVP (or SWP) Delta pumping operations. Therefore, a detailed technical evaluation is not needed.

Section 2.3.1 also notes the potential for impacts if Reclamation were to choose to utilize the proposed reservoir for additional pumping or a shift in pumping. However, this operation is not envisioned in the current project description, and as the text notes, such modification to Delta pumping would be evaluated by Reclamation in a separate NEPA document if needed.

### 9.4.5 Response to Comment 4-5

*Comment Summary: The comment states that the EIR should provide additional quantitative information on the existing monthly and seasonal hydrology of Del Puerto Creek. Summary statistics of the changes in flows in Del Puerto Creek should be provided along with a detailed explanation of how these changes affect downstream water quality and fish and wildlife.*

Impact HYD-4 on page 3.11-24 of the Draft EIR has been revised as follows to add discussion of water quality and seasonal flows and to update Del Puerto Creek flow data:

The proposed project would have a negligible impact on San Joaquin River flows below the confluence of the San Joaquin River and Del Puerto Creek. Based on CalSIM modeling using the 1921 to 2003 historic hydrology, existing average annual San Joaquin River flows are 3,137,000 AF, while average annual Del Puerto Creek flow into the San Joaquin River is ~~2,700~~ 2,100 AF, contributing to approximately ~~0.0669~~ 864% of the San Joaquin River flows. With the project, average annual Del Puerto Creek flows in the San Joaquin River would decrease to about ~~300~~ 400 AF. **Table 3.11-6** shows average annual flows from Del Puerto Creek to the San Joaquin River and **Table 3.11-7** shows monthly Del Puerto Creek flows as measured at the stream gage upstream of Interstate 5. Downstream of Interstate 5 the majority of flows percolate into the groundwater and do not reach the San Joaquin River. Del Puerto Creek flows discharging into the San Joaquin River only occur during wet weather events, when flows in the San Joaquin River are already high, so the small reduction during high flow periods would be imperceptible. During the dry season, creek flows are only present because of agricultural return flows, and these flows will not be changed by the proposed project. Reductions in creek flows into the San Joaquin River are thus not expected to impair water quality in the river. As shown in **Figure 3.5-4** through **3.5-8** in *Section 3.5, Biological Resources-Fish*, Del Puerto Creek accounts for a very small fraction of the total seasonal flows in the lower San Joaquin River. In water years 2015 – 2019, Del Puerto Creek flows reached the San Joaquin River only during high-flow events in December through April, when the San Joaquin River was also at peak flows for the season. Under proposed project operations, major flow events in Del Puerto Creek would continue to be released downstream in a pattern consistent with natural patterns of flow variability (as discussed in *Section 2.3.1, Reservoir Operations*).

Table 3.11-7 has been added to the Draft EIR, showing the average Del Puerto Creek flow in each month for current and proposed project conditions, as follows:

**Table 3.11-7: Del Puerto Creek Monthly Average Flows without and with Project (AF)**

<u>Flow to SJR</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>
<u>Without project</u>	-	-	<u>50</u>	<u>370</u>	<u>920</u>	<u>540</u>	<u>150</u>	<u>10</u>	<u>10</u>	-	-	-
<u>With project</u>	-	-	-	<u>110</u>	<u>130</u>	<u>80</u>	<u>50</u>	<u>10</u>	<u>10</u>	-	-	-
<u>Reduction</u>	-	-	<u>50</u>	<u>260</u>	<u>790</u>	<u>460</u>	<u>100</u>	-	-	-	-	-

Impacts on downstream fish and wildlife are evaluated in the Draft EIR. As noted on page 3.5-1 of the Draft EIR the lower portion of the creek often dries out and is characterized by poor water quality because much of the water is from agricultural return flows. Conditions are not expected to support native fish species and fish in the lower portion of the creek are expected to be limited to small introduced species such as fathead minnow, green sunfish and red shiner. A detailed discussion of impacts on fish is provided in Impact BIO-FISH-1, which begins on page 3.5-8 of the Draft EIR. The Draft EIR concludes that there is a potential effect in the availability of spawning gravels in the San Joaquin River and includes Mitigation Measure BIO-FISH-1: Spawning Gravel Monitoring and Mitigation to address those impacts.



#### 9.4.6 Response to Comment 4-6

*Comment Summary: The comment states that modeling does not evaluate the potential changes in diversions from the Delta that would occur under the proposed project and the associated impacts to fish and wildlife. The scope of the cumulative impact analysis could be broadened to include other projects that could potentially affect Delta flows, Delta exports and south of Delta reservoir storage. It could also be modified to analyze proposed future changes to biological opinion requirements.*

As noted in Section 2.3.1, the proposed project operations are subject to the Coordinated Operation Agreement and annual allocations and entitlements, and therefore would have no material effect on existing CVP (or SWP) Delta pumping operations. Therefore, a detailed technical evaluation is not needed because the project would not affect diversions from the Delta. Please refer to Response to Comment 4-5 for an explanation of why the project would not have an adverse effect on flows into the Delta.

Section 2.3.1 also notes the potential for impacts if Reclamation were to choose to utilize the proposed reservoir for additional pumping or a shift in pumping. However, this operation is not envisioned in the current project description, and as the text notes, such modification to Delta pumping would be evaluated by Reclamation in a separate NEPA document if needed.

#### 9.4.7 Response to Comment 4-7

*Comment Summary: The comment requests that the mitigation measure for impacts to wetlands be updated to comply with the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State, which take effect on May 28, 2020.*

Mitigation Measure BIO-TERR-2 and Mitigation BIO-TERR-3 (page 3.4-63) have been modified to include the State Water Resources Control Board among the agencies consulted for development of the restoration and monitoring plans for riparian habitat and wetlands. This modification does not substantially alter the mitigation measure or result in a change to the impact determination.

Mitigation Measure BIO-TERR-2, on page 3.4-63 of the Draft EIR is revised as follows:

Riparian habitat shall be created or acquired and permanently protected to compensate for project effects to ensure no net loss of riparian habitat functions and values. Land that could be acquired could include acres upstream of the reservoir or elsewhere that satisfied appropriate compensation ratios. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (CDFW, USFWS, USACE, SWRCB). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of offsite restoration/creation and mitigation credits. A restoration and monitoring plan shall be developed and implemented concurrently with project construction. The plan shall describe how riparian habitat will be created and monitored, including funding mechanisms and appropriate long-term management measures, and agency reporting requirements.

Mitigation Measure BIO-TERR-3, on page 3.4-63 of the Draft EIR is revised as follows:

Suitable wetland habitat shall be created or acquired and permanently protected to compensate for project effects to ensure no net loss of wetland habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (CDFW, USFWS, USACE, SWRCB). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of offsite restoration/creation and mitigation credits. A restoration and monitoring plan shall be developed and implemented. The plan shall describe how riparian habitat will be created and monitored, including funding mechanisms and appropriate long-term management measures, and agency reporting requirements.

#### 9.4.8 Response to Comment 4-8

*Comment Summary: The comment provides SWRCB staff contact information for water rights permitting questions and for questions related to the Bay-Delta Plan.*

The Project Partners appreciate the efforts of the State Water Board staff in reviewing the Draft EIR and will continue to work with Board staff on the water rights application process.

#### 9.4.9 Response to Comment 4-9

*Comment Summary: The comment states that a water right permit and/or other water right approvals involving modification of the Central Valley Water Project water rights via petition may be necessary to implement the project, and if so, the EIR should consider all potential direct, indirect and cumulative impacts associated with diversion and use of water, as well as a range of alternatives that reduce or avoid flow-rated impacts on terrestrial and aquatic species.*

The Project Partners will not require a water right permit or other water right approval involving modification of Central Valley Project water rights. Both DPWD and the Exchange Contractors have existing contracts with Reclamation for water deliveries from the Central Valley Project. The DPCR Project would store water that is already entitled to the Project Partners under their existing Reclamation contracts. Reliable local water storage would allow the Project Partners to take delivery of their contracted water supply when it is available during wet periods and store it for use when there is demand for irrigation supply. However, the Project Partners will apply to the State Water Resources Control Board Division of Water Rights for the right to store a portion of Del Puerto Creek flows in the reservoir. The Project Partners are coordinating with Reclamation regarding Reclamation's water rights.

#### 9.4.10 Response to Comment 4-10

*Comment Summary: The comment states that applicants for a federal Clean Water Act permit for discharge into navigable waters also requires water quality certification under Section 401 of the Clean Water Act.*

The Project Partners will apply for a Section 401 Water Quality Certification. In accordance with SWRCB criteria outlined in the letter, the 401 Water Quality Certification application will be submitted to the SWRCB Executive Director rather than the CVRWQCB.

Table 1-1 on page 1-5 of the Draft EIR which lists agency approvals required for the project is revised as follows:

Central Valley Regional Water Quality Control Board (CVRWQCB) State Water Resources Control Board	CWA, Section 401 Water Quality Certification
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#### 9.4.11 Response to Comment 4-11

*Comment Summary: The comment suggests the EIR should evaluate changes in Delta pumping and the impacts associated with those changes.*

The project operations are subject to the Coordinated Operation Agreement and annual allocations and entitlements, and therefore would have no material effect on existing Delta pumping at either the Jones (CVP/DMC) or the Banks (SWP/California Aqueduct) Pumping Plants. The project proposes to divert a portion of the annual Project Partners' CVP allocations and entitlements from the DMC into Del Puerto Canyon Reservoir when the allocated flows in the DMC exceed irrigation requirements. Stored water would be released back to the DMC during periods of time when irrigation requirements exceed allocated flows in the DMC. The portion of the annual CVP allocation and entitlements available to the partners is limited to water that has been previously stored by Reclamation in upstream reservoirs and within the operating constraints of the COA.

#### **9.4.12 Response to Comment 4-12**

*Comment Summary: The comment provides SWRCB staff contact information for questions regarding to Section 401 water quality certification, water rights permitting, permit modification, and Bay-Delta Plan update.*

The Project Partners appreciate the information regarding appropriate staff members with whom to coordinate regarding various aspects of the project and will continue to work with Board staff.

### **9.5 Comment Letter 5 - State of California, Department of Fish and Wildlife, Julie A. Vance, Regional Manager, Central Region**

#### **9.5.1 Response to Comment 5-1**

*Comment Summary: The comment explains CDFW's role as a trustee and responsible agency, summarizes the project description and states that use of unallocated stream flows is subject to appropriation and approval from the State Water Resources Control Board. CDFW also notes concerns about the potential impacts to a number of special-status species, for which focused biological surveys should be conducted.*

The summary of the project description is correct, and the Project Partners recognize CDFW's role as a trustee and responsible agency. Table 1-1 on page 1-5 of the Draft EIR identifies CDFW as a responsible agency for issuance of a Streambed Alteration Agreement and Incidental Take Permit. Table 1-1 also identifies the need for State Water Resources Control Board (SWRCB) approval of a water right for any appropriation of flows from Del Puerto Creek. Specific concerns about special-status species are addressed in the following responses to comments.

#### **9.5.2 Response to Comments 5-2**

*Comment Summary: The comment states that California tiger salamander has the potential to occur in the study area and that based on review of aerial imagery the study area contains upland habitat that could be used as refugia for the species and that Del Puerto Creek provides breeding habitat, and that these areas would be impacted by the project. The comment also recommends several mitigation measures to be incorporated into the Final EIR and that these measures be made conditions for approval for the project.*

The Draft EIR does acknowledge that the study area provides suitable upland and aquatic habitat for California tiger salamander. As stated on page 3.4-11 of the Draft EIR: "Per USFWS and CDFW guidelines, annual grasslands within 1.24 miles of aquatic habitat can be used as upland habitat". In addition, the stock ponds in and adjacent to the study area were identified as potential habitat (Figure 3.4-3). California tiger salamander aquatic breeding habitat is identified as "standing bodies of fresh water (natural and artificial) including ponds, vernal pools, and other ephemeral or permanent water bodies that are typically inundated during winter rains and hold water for a minimum of 12 weeks during an average rainfall year" (California Department of Fish and Game 2010: 11). The U.S. Fish and Wildlife Service states in their 2017 recovery plan for the species that "This species is not known to breed in streams or rivers; however, breeding populations have been reported in ditches that contain seasonal wetlands (D. Cook, in literature, 2009; Seymour and Westphal 1994) and in slow-moving swales and creeks situated near other suitable breeding habitat (Alvarez et al. 2013)" (U.S. Fish and Wildlife Service 2017: I-5). As noted on page 3.11-1 of the Draft EIR, the mean peak flows in Del Puerto Creek are 373 cubic feet per second, which is not indicative of a slow-moving stream. In other words, Del Puerto Creek typically moves too fast to be considered suitable California tiger salamander aquatic habitat. As such, Del Puerto Creek is not included in Section 3.4, Biological Resources-Terrestrial, as aquatic habitat for California

tiger salamander. The Draft EIR addresses impacts on California tiger salamander in Impact BIO-TERR-1d.

The comment does not specifically address the measures included in the Draft EIR for California tiger salamander but does offer recommended measures. These measures included a recommendation for protocol level surveys for California tiger salamander, avoidance measures for the species, and a request to seek take authorization from the California Department of Fish and Wildlife. The Draft EIR includes a commitment for conducting protocol level surveys following the same protocol the comment refers to in Mitigation Measure BIO-TERR-1e: Avoid and Minimize Impacts on Special-Status Amphibians. The avoidance measure proposed by the comment (Recommended Mitigation Measure 2: CTS Avoidance) asks that, if protocol level surveys are not conducted, 50-foot no-disturbance buffers around all small mammal burrows and a 250-foot no-disturbance buffer around potential or known breeding habitat be established. As noted above, the Draft EIR has a commitment to conduct protocol level surveys for CTS and includes avoidance and minimization measures in Mitigation Measure BIO-TERR-1e. These measures do not include the no-disturbance buffers proposed by the comment because small mammal burrows are so numerous that avoiding all burrows would preclude the development of the proposed project. The footprints of the dam, associated infrastructure, and the inundation area could not completely avoid small mammal burrows because they are too ubiquitous and thus the project could not be implemented with such a measure.

The comment's request to include Recommended Mitigation Measure 3: CTS Authorization, is helpful guidance on how the proposed project should deal with a species listed under the California Endangered Species Act (CESA). If based on the protocol level surveys take of California tiger salamander would result, the Project Partners would obtain an Incidental Take Permit (ITP) pursuant to Fish and Game Code Section 2081(b) and a Biological Opinion (BO) from the U.S. Fish and Wildlife Service. It is anticipated the ITP and BO may have specifics for avoidance and minimization, while compensatory mitigation may be identified through the permitting process related to CESA and ESA.

### 9.5.3 Response to Comment 5-3

*Comment Summary: The comment states that Swainson's hawk has the potential to occur in the study area and that the proposed project could impact nesting Swainson's hawks and result in the loss of potential nesting and foraging habitat. The comment also recommends several mitigation measures to be incorporated into the Final EIR and that these measures be made conditions for approval for the project. The comment also disagrees with some aspects of the measures proposed in the Draft EIR, which include the proposed survey distance and the no disturbance buffers for Swainson's hawk nests.*

The Draft EIR does acknowledge that the study area provides suitable nesting and foraging habitat for Swainson's hawk. Page 3.4-15 of the Draft EIR notes that "There are two CNDDDB occurrences within 5 miles of the study area, with the closest occurrence inside the study area (California Department of Fish and Wildlife 2019b)". Swainson's hawks were observed in the study area during surveys in May and July of 2019. Potential nesting habitat for Swainson's hawk includes riparian woodland and ornamental trees and potential foraging habitat includes annual grassland". Potential impacts on the species are addressed in Impact BIO-TERR-11 *Impact on Swainson's Hawk*.

The Draft EIR in Mitigation Measure BIO-TERR-11 Avoid and Minimize Impacts on Swainson's Hawk recommends that surveys be conducted within 0.25 mile of the limits of disturbance and the comment recommends that surveys be conducted with 0.5 of the limits of disturbance. The 0.25-mile survey distance is selected based on the guidance in the 1994 *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California*. This document recommends that no intensive new disturbances or other project related activities that may cause nest abandonment or forced fledging, should be initiated within 0.25 mile of an active nest between March 1 – September 15 (California Department of Fish and Game 1994: 11). The CDFG document does recommend the buffer zone be increased to 0.5 mile in areas away from urban development or where heavy equipment operation

is not a normal occurrence during the nesting season (California Department of Fish and Game 1994: 11); however, the areas within 0.5 mile of the limits of disturbance encompass Interstate 5 and agricultural areas. Interstate 5 and the agricultural areas are areas where there is frequent heavy equipment operation and pedestrian activity for crop harvesting and thus the 0.25-mile buffer is more appropriate. Therefore, conducting surveys out to 0.5 mile from the limits of disturbance would not inform the establishment of buffers and any subsequent monitoring. Mitigation Measure BIO-TERR-11 includes a 600-foot no-disturbance buffer for active Swainson's hawk nests. This is a general distance based on biologists' professional judgement and observations and similar distances that have been used in Incidental Take Permits issued by the California Department of Fish and Wildlife (e.g., in San Joaquin County ITP No. 2081-2011-019-03 used a 650-foot buffer). The mitigation measure does also note that the buffer can be modified based on site-specific conditions and that the project monitor shall have the authority to temporarily stop work if activities are disrupting nesting behavior to the point of resulting in potential take (i.e., eggs and young chicks are still in the nest, and adults appear agitated and could potentially abandon the nest).

The comment's request to include Recommended Mitigation Measure 6: SWHA Take Authorization, is helpful guidance on how the project should deal with a species listed under the California Endangered Species Act (CESA). If based on the protocol level surveys the project footprint will result in take of Swainson's hawk, the Project Partners would obtain an ITP pursuant to Fish and Game Code Section 2081(b). It is anticipated the ITP may have specific avoidance and minimization measures, and compensatory mitigation may be identified through the permitting process related to CESA.

The comment recommends that the loss of Swainson's hawk foraging habitat be mitigated (Recommended Measure 7: Loss of SWHA Foraging Habitat) according to existing CDFW guidelines. The Draft EIR includes Mitigation Measure BIO-TERR-1m: Compensate for the Loss of Swainson's Hawk Foraging Habitat, which refers to the same CDFW guidance on mitigation that the comment references.

The comment recommends that removal of known raptor nests trees be replaced with appropriate native tree species planting at a ratio of 3:1 at or near the project area. Trees that would be suitable for Swainson's hawk nesting within the footprint of the proposed project are those found within riparian habitat along Del Puerto Creek. The loss of suitable nesting habitat for Swainson's hawk would be mitigated through Mitigation Measure BIO-TERR-2: Compensate for Effects on Riparian Habitat or Other Sensitive Natural Community, which at a minimum proposes replacement at 1:1 on a per acre basis. Not all of the existing acreage of mapped riparian habitat includes trees suitable for nesting.

#### 9.5.4 Response to Comment 5-4

*Comment Summary: The comment states that San Joaquin kit fox has been documented in the vicinity and that the proposed project could impact the species. The comment also recommends several mitigation measures to be incorporated into the Final EIR and that these measures be made conditions for approval for the project.*

The Draft EIR does acknowledge that the study area provides low quality habitat for San Joaquin kit fox and may be used as a dispersal corridor. As described on page 3.4-17 of the Draft EIR (with minor revision):

“...the portion of Stanislaus County within which the study area lies has fragmented, narrow areas of low to moderate or moderate to high quality habitat from the Sperry ~~Road~~ Avenue/Diablo Grande Parkway – I5 Interchange north to around the Stanislaus County line. Though this data is not to be interpreted at the project level, it does emphasize the general lack of suitable San Joaquin kit fox habitat in this region and that this portion of the species range may only serve as a narrow dispersal corridor between areas north and south.

Potentially suitable habitat for San Joaquin kit fox in the study area includes annual grasslands in the areas with slopes less than 15 percent, which is depicted in **Figure 3.4-6**. The area depicted in this figure totals 269 acres, which would be on the low end of previously reported home ranges and with the one large contiguous piece in the valley along Del Puerto Creek totaling approximately 130 acres it is unlikely to provide sufficient area for a kit fox home range...

...Based on the background information presented above and the results of the reconnaissance level surveys, the study area represents low quality habitat for San Joaquin kit fox though it may be used as a dispersal corridor between more suitable habitat to the south and areas to the north.”

Potential impacts on the species are addressed in Impact BIO-TERR-1n Impact on San Joaquin Kit Fox.

The comment voices agreement with the Mitigation Measure BIO-TERR-1o Avoid and Minimize Impacts on San Joaquin Kit Fox, which requires surveys be conducted prior to construction. This measure will be modified to match the specific timing identified by the comment, which is consistent with USFWS’s *U.S. Fish and Wildlife Service Standard Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance* (Standard Recommendations) (U.S. Fish and Wildlife Service 2011).

Mitigation Measure BIO-TERR-1o on page 3.4-60 of the Draft EIR has been modified as follows:

A qualified biologist shall conduct a preconstruction survey, within the limits of proposed temporary and permanent construction footprints in the habitat identified in **Figure 3.4-5**, no less than 14 days and no more than 30 days before the beginning of ground disturbance.

This modification does not represent a significant modification to the document, a substantial modification to existing mitigation measures, or a change in a significance determination.

The comment’s request to include Recommended Mitigation Measure 10: SJKF Take Authorization, is helpful guidance on how the project should deal with a species listed under CESA. If based on the protocol level surveys take of San Joaquin Kit Fox would occur, the Project Partners would obtain an ITP pursuant to Fish and Game Code Section 2081(b) and a BO from the U.S. Fish and Wildlife Service. It is anticipated the ITP and BO may have specific avoidance and minimization requirements, and compensatory mitigation may be identified through the permitting process related to CESA and ESA.

### 9.5.5 Response to Comment 5-5

*Comment Summary: The comment states that foothill yellow-legged frog and California red-legged frog have been documented to occur in the project vicinity and that the proposed project could impact these species. The comment also recommends several mitigation measures to be incorporated into the Final EIR and that these measures be made conditions for approval for the project.*

The Draft EIR does acknowledge that the study area provides habitat for California red-legged frog and foothill yellow-legged frog. As described on page 3.4-13 of the Draft EIR:

“...Potential aquatic habitat for California red-legged frog is present in the large pond and in Del Puerto Creek (**Figure 3.4-4**). For the purposes of identifying potentially suitable upland habitat, a 300-foot area around potential aquatic habitat was used to define where frogs may occupy upland habitats for foraging and cover at any time of year, a distance that is based upon the studies done by Bulger et al. (2003). Dispersal habitat includes grasslands within 1 mile of potential aquatic habitat...

As described on page 3.4-15 of the Draft EIR:

“...Potential habitat for foothill yellow-legged frog is present in Del Puerto Creek and adjacent riparian woodlands and riparian wetlands in the study area.”

Potential impacts on these species are addressed in in Impact BIO-TERR-1e Impacts on California Red-legged Frog and in Impact BIO-TERR-1g Impacts on Foothill Yellow-legged Frog.

The comment requests that surveys be conducted for California red-legged frog and foothill yellow-legged. Mitigation Measure BIO-TERR-1e includes a commitment to conduct protocol level surveys for California red-legged frog following the U.S. Fish and Wildlife Service's guidelines and that surveys for foothill yellow-legged frog be conducted in accordance with recent guidance from the California Department of Fish and Wildlife (California Department of Fish and Wildlife 2018) or the most up to date survey protocol at that time.

In Recommended Mitigation Measure 12: FYLF and CRLF Avoidance, the comment requests that construction be timed to avoid the period when the species are mostly likely to be moving through uplands (November 1 to March 31) and that if work occurs during this time period that a biological monitor be present. The Draft EIR does include equivalent measures in Mitigation Measure BIO-TERR-1e, which includes wet season restrictions and the use of a biological monitor when work does occur during the wet season.

The comment's request to include Recommended Mitigation Measure 13: FYLF Take Authorization is helpful guidance on how the project should deal with a species listed under CESA. If based on the protocol level surveys the project footprint take of foothill yellow-legged frog would occur, the Project Partners would obtain an ITP pursuant to Fish and Game Code Section 2081(b). It is anticipated the ITP may have specific avoidance and minimization requirements, and compensatory mitigation may be identified through the permitting process related to CESA.

### 9.5.6 Response to Comment 5-6

*Comment Summary: The comment states that least Bell's vireo has been observed in the project vicinity and that the proposed project could impact the species. The comment also recommends several mitigation measures to be incorporated into the Final EIR and that these measures be made conditions for approval for the project.*

The Draft EIR considered least Bell's vireo's potential to occur within the study area but determined in Table B4-2 in Appendix B4, Special Status Species Tables, that the study area is outside of the current known range of the species and that there is no suitable habitat for the species in the study area. The current range depicted by the U.S. Fish and Wildlife Service on their *Environmental Conservation Online System* does not include the study area though it does include the area around the San Joaquin River National Wildlife Refuge, which is approximately 8.5 miles north of the study area. Breeding was documented at the refuge in 2010 and is one of two locations within the Central Valley considered to be part of the vireo's current range (U.S. Fish and Wildlife Service 2020). The species list obtained from the U.S. Fish and Wildlife Service's IPaC website for the study area did not include least Bell's vireo, which is included in Appendix B1 of the Draft EIR.

Least Bell's vireo is an obligate riparian breeder that typically inhabits structurally diverse woodlands, including cottonwood-willow woodlands/forests, oak woodlands, and mule fat scrub (U.S. Fish and Wildlife Service 1998). Two features appear to be essential for breeding habitat: (1) the presence of dense cover within 3 to 6 feet (1 to 2 meters) of the ground, where nests are typically placed; and (2) a dense stratified canopy for foraging (Goldwasser 1981; Gray and Greaves 1981; Salata 1981, 1983; RECON 1989). While least Bell's vireo typically nests in willow-dominated areas, plant species composition does not seem to be as important a factor as habitat structure. Kus (2002) found least Bell's vireo territories to range between 0.5 and 7.5 acres.

Riparian woodland is present in the western half of the study area (Figure 3.4-1); however, as described on page 3 of Appendix B3, this riparian habitat consists mostly of intermittent trees dominated by Fremont cottonwood (*Populus fremontii*) with occasional red willows (*Salix laevigata*) with an understory consisting of mule fat (*Baccharis salicifolia*) and tree tobacco (*Nicotiana glauca*). This

riparian habitat lacks dense cover for nesting in the understory, largely due to cattle grazing, and lacks a dense stratified canopy for foraging.

Appendix B6, Photos of the Study Area, has been included to provide additional information regarding the communities and habitats addressed in the EIR. The inclusion of this appendix and the reference to it in Section 3.4 does not represent a significant modification to the document or result in a change in a significance determination.

Text has been added at the end of the paragraph under the heading “Special-Status Wildlife” on page 3.4-8 of the Draft EIR as follows:

...Table B4-2, in Appendix B4, provides an explanation for the absence of each of these species from the study area. The 22 wildlife species that may occur in the study area or that could be affected by the proposed project are discussed below for those federally listed, state listed, and fully protected species, and the other special-status wildlife species are discussed in Appendix B5, Special-Status Wildlife Accounts (Excluding Listed and Fully Protected Species). Appendix B6, Photos of Study Area, identifies photos of habitats identified during the field work.

There is a CNDDDB record of least Bell’s vireo in Del Puerto Canyon from 1928; however, the specific location of this occurrence (#509) was not described in this record. A review of least Bell’s vireo observations reported in eBird do not overlap with the study area despite several years of observations by several individuals at two eBird hotspots within the study area (eBird 2020). The nearest eBird record overlaps with previous records at the San Joaquin River National Wildlife Refuge (eBird 2020).

Least Bell’s vireo was not observed during surveys conducted by ICF biologists along Del Puerto Creek between May and July of 2019.

Based on this information, the likelihood that least Bell’s vireo may nest in the study area is still considered to be low; therefore, mitigation for Least Bell’s vireo is not deemed to be necessary and the information contained in Section 3.4 and Appendix B4 has not been modified.

### 9.5.7 Response to Comment 5-7

*Comment Summary: The comment states that crotch bumble bee is documented to occur in the project vicinity and that the proposed project could impact the species. The comment states that the Draft EIR does not address crotch bumble bee. The comment also recommends several mitigation measures to be incorporated into the Final EIR and that these measures be made conditions for approval for the project.*

The Draft EIR considered crotch bumble bee’s potential to occur within the study area but determined in Table B4-2 in Appendix B4, Special Status Species Tables, that the potential to occur in the study area is low. This is because there are no recent records in the Central Valley and Coast Range foothills and because the study area lacks a reliable source of nectar throughout the nesting season. Crotch bumble bees are best suited to forage on open flowers with short corollas and most commonly forage on flowers in the Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, Hydrophyllaceae, Asclepiadaceae and Boraginaceae plant families (Thorpe et al. 1983; Richardson 2017 in California Department of Fish and Wildlife 2019).

The study area does contain several species of plants that fall within the families commonly used for foraging by crotch bumble bee and that have open flowers with short corollas but the plants were only observed during the 2019 surveys (reconnaissance surveys and aquatic resource delineation June-July 2019 and botanical survey October 2019) and at low densities. A botanical survey was conducted in the spring of 2020, but because rainfall in late winter of 2019-2020 was well below normal, the number and cover of native plant species was proportionately low, an assessment of foraging habitat adapted from the protocol for rusty patched bumble bee (*Bombus affinis*) (Xerces Society 2017) could not be done.



### 9.5.8 Response to Comment 5-8

*Comment Summary: The comment states that western spadefoot toad has a potential to occur in the study area and that the proposed project could impact the species. The comment also recommends several mitigation measures to be incorporated into the Final EIR and that these measures be made conditions for approval for the project.*

The Draft EIR does acknowledge that the study area provides habitat for western spadefoot toad (Appendix B5, Special-Status Wildlife Species Accounts (excluding listed and fully protected species)): “There are four CNDDDB occurrences within 5 miles of the study area, with the closest occurrence just outside the southwestern boundary of the study area (California Department of Fish and Wildlife 2019). Potential aquatic habitat for western spadefoot toad is present in Del Puerto Creek and associated riparian wetlands and in the stock pond shown in **Figure 3.4-3: California Tiger Salamander Habitat**, and suitable upland habitat is present in grasslands throughout the study area”.

Potential impacts on the species are addressed in Impact BIO-TERR-1f: Impacts on Western Spadefoot Toad. The comment requests that surveys be conducted for western spadefoot toad. Mitigation Measure BIO-TERR-1e Avoid and Minimize Impacts on Special-Status Amphibians includes a commitment to conduct surveys for western spadefoot toad.

In Recommended Mitigation Measure 22: Western Spadefoot Avoidance, the comment requests that a 50-foot no-disturbance buffer be established around burrows. The Draft EIR has a commitment to implement avoidance and minimization measures in Mitigation Measure BIO-TERR-1e. This measure does not include the no-disturbance buffers proposed by the comment because the small mammal burrows are so numerous that it would preclude the development of the proposed project. The footprints of the dam, associated infrastructure, and the inundation area could not completely avoid small mammal burrows because they are too ubiquitous and thus the project could not be implemented with such a measure.

### 9.5.9 Response to Comment 5-9

*Comment Summary: The comment notes that tule elk occur within the study area and that the proposed project would impact this species. The comment also recommends several mitigation measures to be incorporated into the Final EIR and that these measures be made conditions for approval for the project.*

Tule elk were not analyzed as a species in the Draft EIR because the species does not meet the criteria for being a special-status species, as defined on page 3.4-7 of the Draft EIR:

“For the purpose of this EIR, special-status species are plants and animals that are legally protected under the Endangered Species Act (ESA), the California Endangered Species Act (CESA), or other regulations, and species that are considered sufficiently rare by the scientific community to qualify for such listing. Special-status plants and animals are those species in any of the categories listed below:

- Species listed or proposed for listing as threatened or endangered under ESA (50 CFR 17.11 [listed animals], 50 CFR 17.12 [listed plants], and various notices in the Federal Register [FR] [proposed species]).
- Species that are candidates for possible future listing as threatened or endangered under ESA (81 FR 87246, December 2, 2016).
- Species listed or proposed for listing by the State of California as threatened or endangered under CESA (14 CCR 670.5).
- Plants listed as rare under the California Native Plant Protection Act (CFGF 1900 et seq.).
- Plants with a California Rare Plant Rank (CRPR) of 1 or 2 (California Department of Fish and Wildlife 2019c).

- Animal species of special concern to California Department of Fish and Wildlife, Special Animals List (California Department of Fish and Wildlife 2019d).
- Animals fully protected in California (CFGF Section 3511 [birds], 4700 [mammals], 5050 [amphibians and reptiles], and 5515 [fish])”

The species is not state or federally listed and is not tracked on the California Department of Fish and Wildlife’s *Special Animals List* (California Department of Fish and Wildlife 2019). The California Department of Fish and Wildlife does manage tule elk as a public resource under Fish and Game Codes Section 1801 and 3950, which includes game management. The study area falls within the Santa Clara/Mount Hamilton Tule Elk Management Unit, which includes portions of Merced, Santa Clara, and Stanislaus counties, and is approximately 760,000 acres in size (California Department of Fish and Wildlife 2018). The current population in this unit is estimated at 150 animals and the total population in the state is estimated to be approximately 5,700 elk (California Department of Fish and Wildlife 2018).

The comment states that tule elk were spotted west of the study area in November 2019 and that “tule elk were also found to regularly utilize the lower flats in the Project site.” No tule elk were observed during the surveys conducted between May and July of 2019. The comment’s report of tule elk in the study area is acknowledged. The flatter portions of the study area have historically been and currently are being used for cattle grazing. Elk within California occupy several habitat types, including coastal coniferous rainforests, coastal prairies, emergent wetlands, grasslands, hardwood forests, juniper, mixed-conifer forests, oak woodlands, shrublands, and sagebrush (Harper et al. 1967, McCullough 1969, Franklin and Lieb 1979, Happe et al. 1990, California Department of Fish and Wildlife, unpublished data in California Department of Fish and Wildlife 2018).

The Draft EIR does address general impacts on the interference with the movement of native resident wildlife species in Impact BIO-TERR-4: Interference with the Movement of Native Resident or Migratory Wildlife Species or Established Native Resident or Migratory Wildlife Corridors or Use of Native Wildlife Nursery Sites, which would encompass tule elk. A total of about 825 acres of land would be developed and inundated from the construction of the reservoir, which represents 0.11 percent of the management unit and would not represent a substantial reduction in the amount of habitat available to tule elk in the Santa Clara/Mount Hamilton Tule Elk Management Unit.

The comment recommends that tule elk habitat be conserved at a minimum of 1:1 for the amount of habitat lost. Because this loss of habitat is not substantial relative to the overall acreage of the Santa Clara/Mount Hamilton Tule Elk Management Unit, specifically mitigating for this loss is not warranted. However, the Draft EIR does commit to protecting and restoring habitat for several special-status species, riparian, oak woodland, and wetlands (Mitigation Measures BIO-TERR-1f, -1g, -1h, -1p, -2, -3, and -5, all of which include habitat elements used by tule elk and most of which would likely occur somewhere within or adjacent to the Santa Clara/Mount Hamilton Tule Elk Management Unit.

The comment recommends that the project not use physical barriers that may impede tule elk movement and access to water and foraging areas. The Draft EIR does include Mitigation Measure BIO-TERR-4a Implement Wildlife Crossings, which includes measures for wildlife friendly crossings along the new road alignment, Mitigation Measure BIO-TERR-4b: Wildlife Corridor Preservation and Enhancement, which commits to conserving a wildlife corridor between the proposed project and I-5, and Mitigation Measure BIO-TERR-4c: Roadway Wildlife Crossing Signage, which requires wildlife crossing signage to reduce the potential for vehicle collisions with wildlife.

### 9.5.10 Response to Comment 5-10

*Comment Summary: The comment notes the occurrence of Tracy's eriastrum, a state-listed plant, in the vicinity of the project area and recommends mitigation measures to address potential impacts to special-status plants, including a special-status plant habitat assessment, special-status plant surveys, avoiding impacts if possible, and obtaining take authorization from CDFW.*

A special-status plant habitat assessment was conducted for the preparation of the Draft EIR and is included in Appendix B3, Memorandum regarding Special-Status Plant Assessment-Del Puerto Canyon Reservoir Project, including the results of the fall and spring botany surveys. The assessment concluded that suitable habitat is not present in the project area for several species, including Tracy's eriastrum. Mitigation Measure BIO-TERR-1a requires general avoidance and minimization measures that would be applicable to all terrestrial species, including special status plant species. Mitigation Measure BIO-TERR-1b requires special-status plant surveys of the project area be conducted, avoidance and minimization measures to be implemented and compensation for permanent impacts to be determined. All mitigation measures identified in the Final EIR will be in a Mitigation Monitoring and Reporting Program (MMRP) prepared for the project in accordance with Public Resources Code Section 21081.6 and Section 15097 of the CEQA Guidelines. In accordance with state law, the MMRP will identify the action being monitored, responsibility for implementation, the schedule for implementation, and the mechanism that verifies that monitoring is complete.

### 9.5.11 Response to Comment 5-11

*Comment Summary: The comment states that the Draft EIR does not include a hydrologic study or other information that identifies and analyzes the impacts to the riparian woodland and aquatic habitats in the Del Puerto Creek or the species supported by these habitats.*

Information on riparian and aquatic habitats in the project area is provided in Section 3.4, Biological Resources—Terrestrial and obtained from a wetland delineation and from habitat assessments for listed invertebrates, amphibians, and raptors. Impact BIO-TERR-2, Substantial adverse effect on Riparian Habitat or Other Sensitive Natural Community and Impact BIO-TERR-3, Substantial Adverse Effect on State or Federally Protected Wetlands evaluates potential impacts on riparian woodlands and aquatic habitats, such as wetlands. Information on aquatic resources and stream flows is provided in Section 3.5, Biological Resources—Fish. Impact BIO-FISH-1, Substantial Adverse Effect on Candidate, Sensitive, or Special-Status Species, evaluates potential impacts on fisheries habitat. The project includes release of flows from the reservoir to Del Puerto Creek, which are described on page 2-13 of the Draft EIR.

### 9.5.12 Response to Comment 5-12

*Comment Summary: The comment states that impacts on Del Puerto Creek would be subject to a Lake and Streambed Alteration Agreement with CDFW.*

The Project Partners understand that obtaining a Lake and Streambed Alteration Agreement is necessary and will do so. Obtaining a Lake and Streambed Alteration Agreement is a regulatory requirement and would be included in the project permitting phase. Table 1-1 on page 1-5 of the Draft EIR lists the requirement to include a Streambed Alteration Agreement for construction on Del Puerto Creek.

### 9.5.13 Response to Comment 5-13

*Comment Summary: The comment states that project diversions would affect riparian, wetland, fisheries and wildlife species and habitat and notes that the Project Partners have applied to the SWRCB Division of Water Rights for a right to capture Del Puerto Creek flows. Because the SWRCB must consult with CDFW, it is recommended that the Project Partners consult with CDFW in advance of the water right process.*

The Project Partners will work with CDFW to address issues associated with the proposed appropriation of water and impacts associated with project construction and operation.

### 9.5.14 Response to Comments 5-14

*Comment Summary: The comment recommends that the Project Partners consult with the U.S. Fish and Wildlife Service for potential impacts on species listed under the federal Endangered Species Act well in advance of any ground-disturbing activities.*

The Project Partners, through the Bureau of Reclamation, will be consulting with the U.S. Fish and Wildlife Service for the project's potential to result in take of species listed under the federal Endangered Species Act.

### 9.5.15 Response to Comment 5-15

*Comment Summary: The comment requests that any special-status species and natural communities detected during project surveys be reported to the California Natural Diversity Database (CNDDDB).*

At the publication of the Draft EIR, two special-status plant species were observed in the study area and field survey forms were submitted to the CNDDDB. During the spring botany surveys, results of which are included in Appendix B3, one additional special-status plant species was observed in the study area. No natural communities or special-status animals were observed in the study area during all field surveys described in Section 3.4.1, Environmental Setting, excluding special-status birds observed in flight because the CNDDDB only tracks nest locations. The results of the spring botany survey will also be submitted to the CNDDDB.

### 9.5.16 Response to Comment 5-16

*Comment Summary: The comment reminds to the Project Partners of the need to submit the appropriate fees for filing the Notice of Determination if the project has the potential to impact biological resources.*

The Project Partners will submit the appropriate fees for filing the Notice of Determination.

## 9.6 Comment Letter 6 - State of California, Governor's Office of Planning and Research, State Clearinghouse, Scott Morgan, Director

### 9.6.1 Response to Comment 6-1

*Comment Summary: The comment states that comments submitted by state agencies on the Draft EIR are available at the State Clearinghouse CEQA database and confirms that the Del Puerto Water District has complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.*

DPWD appreciates the assistance of the State Clearinghouse in complying with CEQA requirements for environmental review.

## **9.7 Comment Letter 7 - City of Patterson, submitted through Churchwell White LLP, Douglas White**

### **9.7.1 Response to Comment 7-1**

*Comment Summary: The comment summarizes concerns of residents of the City of Patterson and asks that the safety of City residents in the event of a dam failure be considered in the EIR. The comment specifically requests that operational requirements include procedures for emergency notification and evacuation planning as well as clear operating standards to prevent dam failure. The comment emphasizes that planning and mitigation must comply with all local, state, and federal requirements to provide the highest level of protection to Patterson residents.*

The Project Partners are committed to developing a project that would be constructed and operated to meet all applicable requirements and that would ensure the safety of Patterson residents. For additional information please refer to Master Response 6 regarding dam safety, Master Response 7 for a discussion of risks of landslides, Master Response 8 regarding the evaluation of inundation areas in the event of a dam failure, and Master Response 9 for information regarding the requirement for an Emergency Action Plan. The Project Partners will not move forward with a project if it cannot be implemented safely.

### **9.7.2 Response to Comment 7-2**

*Comment Summary: The comment requests evaluation of federal and state law requirements to determine if additional City properties would be subject to new requirements in FEMA identified flood hazard areas.*

Please refer to Master Response 10 for a discussion of the need for flood insurance. The project would not result in new requirements for flood insurance and the flood control benefits associated with capturing Del Puerto Creek flows would enable the City to request a map revision that would eliminate flood insurance requirements for portions of the City that must currently purchase flood insurance.

### **9.7.3 Response to Comment 7-3**

*Comment Summary: The comment requests implementation of mitigation to address air quality impacts and increased GHG emissions.*

Please refer to Master Response 14 regarding air quality and greenhouse gas emissions. The proposed project includes mitigation to ensure that air quality impacts are less than significant, which includes entering into a Voluntary Emissions Reduction Agreement (VERA) with the San Joaquin Valley Air Pollution Control District.

### **9.7.4 Response to Comment 7-4**

*Comment Summary: The comment requests that the project include mitigation to provide traffic control to address impacts at the Sperry Avenue interchange on Interstate 5.*

The Draft EIR includes mitigation for impacts to traffic during construction. Mitigation Measure TR-1: I-5 Sperry Avenue Interchange Improvements Project Contributions, is described on page 3.13-13 of the Draft EIR and Mitigation Measure TR-2: Implementation of Construction Traffic Management Plan, is described on page 3.13-15 of the Draft EIR. The Project Partners are willing to contribute towards funding interchange improvements at Sperry Avenue, which would reduce construction traffic impacts to less than significant. However, the Draft EIR acknowledges that these improvements are outside the control of the Project Partners, and thus determines that this impact could be significant and unavoidable. To further mitigate construction traffic impacts the Project Partners will explore alternative access to the site and will implement traffic control measures such as scheduling truck trips to avoid peak traffic hours. As described on page 3.13-12 of the Draft EIR, operational traffic would be minimal and would not add

measurable traffic to the Sperry Avenue interchange, thus traffic impacts during operation would be less than significant.

### **9.7.5 Response to Comment 7-5**

*Comment Summary: The comment states that the EIR must evaluate impacts to the aesthetics of Del Puerto Canyon and mentions that the canyon provides recreational activities such as birdwatching and photography to City residents.*

Visual impacts are discussed in Section 3.1 of the Draft EIR, Aesthetics, which concludes that the project would have significant unavoidable visual impacts because the dam would “permanently impede views west along the canyon from a scenic highway” and “would create permanent changes in the visual character of the inundation area in Del Puerto Canyon that could not be reasonably mitigated.” Please refer to Master Response 15 for a discussion of recreational opportunities within the canyon, which would still be supported after the project is constructed.

### **9.7.6 Response to Comment 7-6**

*Comment Summary: The comment states that there are several special status species in the project vicinity and that the proposed project would permanently impact habitat for these species. The comment further states that these impacts would be significant and therefore must be mitigated. The comment also notes that the project area is currently used for wildlife viewing and that without a thorough analysis and appropriate mitigation, there will no longer be an opportunity for City residents to engage in these activities.*

The Draft EIR describes the study area providing habitat for several special-status plant and wildlife species starting on page 3.4-6 and includes an analysis of impacts on these species, makes determinations on the significance of these impacts, and proposes measures to mitigate these impacts, which are addressed in Impacts BIO-TERR-1a through -1o (pages 3.4-37 through 3.4-62 of the Draft EIR). Regarding the use of the study area for wildlife viewing, please see Master Response 15.

### **9.7.7 Response to Comment 7-7**

*Comment Summary: The comment states that the EIR must address impacts to cultural resources and provide a plan to address discovery of human remains and address impacts on current recreational use of Del Puerto Canyon.*

Impacts to cultural resources are addressed in Section 3.6 of the Draft EIR. Text on page 3.6-11 of the Draft EIR details Mitigation Measures CULT-3: Implement measures if construction activities inadvertently discover or disturb human remains. The mitigation ensures that human remains are treated with appropriate dignity. Please refer to Master Response 15 for a discussion of recreational opportunities within the canyon, which would still be supported after the project is constructed. The Project Partners are ready to work with the City of Patterson, Stanislaus County, California Department of Parks and Recreation or any other agency that would like to develop options for recreational activities.

## 9.8 Comment Letter 8 - Stanislaus County Environmental Review Committee, Patrick Cavanah

### 9.8.1 Response to Comment 8-1

*Comment Summary: The comment states that Stanislaus County, as the maintaining agency for public highways, does not support the roadway alignment option depicted in the Draft EIR. The comment also notes that the Transportation Impact Assessment analyzed a second alternative, which is not addressed in the Draft EIR, and requests that the Draft EIR consider a preferred alignment with the agreement of Stanislaus County Department of Public Works.*

Based on ongoing discussions with the County Department of Public Works, the Project Partners are aware of the fact that the roadway alignment depicted in the Draft EIR is not supported by the County. The comment is correct that the Draft EIR does not address an alternative alignment that was originally considered and is discussed in the Transportation Impact Assessment in Appendix G of the EIR. When the Notice of Preparation was issued in June 2019, the Project Partners were considering two alternative alignments for the roadway relocation, which are shown in Figure 4: DPCR Roadway in Appendix A. After publication of the Notice of Preparation, the other roadway alignment, which was designated Alternative 2 in the Notice of Preparation, was evaluated further, and it was determined to be infeasible based on the extensive grading required to achieve acceptable grades and speeds on the new road. The Project Partners consulted the County Department of Public Works, who have suggested other potential roadway alignments, but none of these had been sufficiently developed for inclusion in the Draft EIR. The roadway alignment evaluated in the EIR would adequately replace the existing road and the Draft EIR has fully evaluated the impacts of the roadway alignment described in the Draft EIR; however, the Project Partners have not foreclosed consideration of other options.

The Project Partners will continue working with County staff to develop an acceptable alignment and understand that further environmental review would be needed for a revised roadway alignment. This is acknowledged on page 2-8 of the Draft EIR, which states that “The roadway alignment has been developed at a conceptual level and is subject to refinement during design. Any alignment revision would be evaluated to determine if supplemental environmental documentation is required.”

### 9.8.2 Response to Comment 8-2

*Comment Summary: The comment states that the regulatory framework discussion for traffic in the Draft EIR should include reference to the latest and ongoing revisions of the 2014 California Manual on Uniform Traffic Control Devices.*

Page 3.13-14 of the Draft EIR does note that roads associated with the proposed project would be designed in conformance with “roadway standard plans and specifications maintained by Stanislaus County, the Caltrans Highway Design Manual (where applicable), and the California Manual on Uniform Traffic Control Devices.” Conformity with the California Manual on Uniform Traffic Control Devices has thus been assumed, but a description of the manual was unfortunately omitted from the regulatory setting section.

Page 3.13-6 of the Draft EIR is revised to include the additional information requested by the County:

#### **California Manual on Uniform Traffic Control Devices**

Caltrans has modified the FHWA’s Manual on Uniform Traffic Control Devices for use in California. Effective March 29, 2019, the latest version of the manual is Revision 4 (Caltrans 2019). The manual provides uniform standards and specifications for all official traffic control devices in California. These standards are the relevant adopted regulatory standards in the State of California for use on public roadways.

## 9.9 Comment Letter 9 - Mount Diablo Audubon Society, Nancy H. Wenninger, Chair

### 9.9.1 Response to Comment 9-1

*Comment Summary: The comment states that proposed project would result in the temporary and permanent loss of habitat for many species and disrupt and result in the injury and mortality of special-status and migratory birds, other wildlife, and native plants. The comment also states that once completed, the project would obstruct the movement of wildlife.*

The Draft EIR addresses the loss of habitat and other effects on special status species and migratory birds in Impacts BIO-TERR-1a through -1o (pages 3.4-37 through 3.4-62). The Draft EIR addresses impacts on wildlife corridors in Impact BIO-TERR-4, Interference with the Movement of Native Resident or Migratory Wildlife Species or Established Native Resident or Migratory Wildlife Corridors or Use of Native Wildlife Nursery Sites (page 3.4-64 of the Draft EIR) and provides mitigation for these potentially significant impacts.

### 9.9.2 Response to Comment 9-2

*Comment Summary: The comment expresses concern regarding the project's impacts on western burrowing owl, white-tailed kite, tricolored blackbird, loggerhead shrike, golden eagle, Swainson's hawk, and nesting migratory birds. The comment also states that impacts to all wildlife must be considered. The comment also expresses concern that 1:1 mitigation would not truly compensate for lost habitat.*

The Draft EIR addresses impacts on these species in Impact BIO-TERR-1j Impacts on Western Burrowing Owl (page 3.4-51), Impact BIO-TERR-1k Impacts on Special-Status Birds and Nesting Migratory Birds (page 3.4-53), which covers white-tailed kite, tricolored blackbird, loggerhead shrike, and golden eagle, and Impact BIO-TERR-1l Impact on Swainson's Hawk (page 3.4-55). The Draft EIR addresses impacts on other special-status wildlife species, including non-special status bats, in Impacts BIO-TERR-1b through -1i, Impact BIO-TERR-1m through -1o, and Impact BIO-TERR-4 (pages 3.4-37 through 3.4-65).

Regarding 1:1 mitigation, the Draft EIR states that, at a minimum, mitigation would be achieved at these ratios. The adequacy of the compensatory mitigation takes into consideration not only the acreage protected and/or restored but also the current quality of the habitat being affected, and the long-term management of any lands being used for mitigation (i.e., areas managed specifically for the resource). The final compensatory mitigation ratios for state and federally listed species habitat and wetlands/waters of the U.S./State will be determined during the permitting phase of the project.

### 9.9.3 Response to Comment 9-3

*Comment Summary: The comment states that the project would eliminate opportunities for wildlife viewing, which is viewed by Audubon members as a significant impact.*

Please refer to Master Response 15 for a discussion of impacts on recreational activities in Del Puerto Canyon, including wildlife viewing. Most of the canyon will be untouched and the relocated road alignment can provide improved opportunities for birdwatching and wildlife viewing.



## **9.10 Comment Letter 10 - Comment Letter 4 - Stanislaus Audubon Society, David Froba, Treasurer**

### **9.10.1 Response to Comment 10-1**

*Comment Summary: The comment states that the riparian mitigation plan proposed in the Draft EIR is not specific enough and needs to identify the configuration of the compensation acreage. The commenter recommends a linear configuration with fencing to exclude livestock.*

The Draft EIR specifies a minimum 1:1 ratio performance standard for loss of riparian habitat (1 acre restored or created for every 1 acre filled) (page 3.4-63). The mitigation site(s) would be identified prior to defining the configuration of the compensation acreage. It is correct that riparian habitat would need to be in proximity to a riparian corridor, and the comment's recommendation regarding the configuration of mitigation areas will be considered in the final design of mitigation.

### **9.10.2 Response to Comment 10-2**

*Comment Summary: The comment asserts that any impact on wildlife observation needs to be addressed and mitigated and requested that pullouts be incorporated into the design and construction of the relocated road.*

Please refer to Master Response 15 for a discussion of impacts on recreational activities in Del Puerto Canyon. As noted there both the unaffected portions of Del Puerto Canyon Road and the relocated segment of the road would continue to provide opportunities for wildlife observation and birdwatching.

## **9.11 Comment Letter 11 - California Native Plant Society, Nick Jensen, Conservation Scientist**

### **9.11.1 Response to Comment 11-1**

*Comment Summary: The comment summarizes concerns that special-status plants and habitats within the project area have been insufficiently evaluated and that mitigation measures would not reduce impacts to plants to less than significant and states that the project does not provide an estimate of the number of acres that would be affected by the project and its components.*

Please refer to Response to Comments 11-2 through 11-21 for detailed responses to specific comments about the evaluation of impact and adequacy of mitigation measures. The comment is correct that the Draft EIR presents information about the size of the overall study area but did not include current estimates of the footprint of facilities. As noted in Table 4-2 on page 4-7 of the Draft EIR, the initial estimate of the reservoir area was 897 acres. Since publication of the Draft EIR, the preliminary design of facilities has been refined and updated estimates of acreage are now available. The estimated acreage of permanent impacts is substantially less than the acreage of the overall study area.

The following text is added to Chapter 2, Project Description.

Page 2-1 of the Draft EIR is revised to add text at the bottom of the page as follows:

The footprint of the reservoir and dams would about 825 acres.

Page 2-6 of the Draft EIR, the first sentence under pumping plant is revised as follows:

The pumping plant would consist of the following components, located at a single 2.25-acre site on federally owned property adjacent to the DMC ...

Page 2-8 of the Draft EIR, the sixth sentence in the last paragraph is revised as follows:

The new section of roadway would be approximately 24,500 linear feet in total length with an area of about 40 acres, but the total length and size of the roadway footprint could vary depending on final design considerations.

Page 2-20 of the Draft EIR, the first full sentence on the top of the page is revised as follows:

The lengths of these open cut reaches would be approximately 2,500 feet and 550 feet, respectively and the construction easement would be 100 feet wide for a temporary construction footprint of about 7 acres.

### 9.11.2 Response to Comment 11-2

*Comment Summary: The comment states that the Draft EIR does not provide an estimate of the acreage that would be temporarily impacted by construction and staging activities.*

As noted on page 2-17 of the Draft EIR, all “Staging areas would be within the designated construction area and would be set up in close proximity to work areas, including the main dam, saddle dams, inlet/outlet structures, conveyance pipelines, pumping plant, new roadway location, and utility relocation corridors.” Staging for the dam and reservoir would be within the proposed footprint of the dam and reservoir, and additional staging areas are not expected to be required. The Draft EIR has identified a broad area between the reservoir and Interstate 5 for relocation of utilities, but while the entire area has been evaluated for the presence of native plants and habitats, the impacts associated with the footprint of the utility relocation would be limited to access road and the footings for powerline towers. The construction footprint for open cut construction of the conveyance pipeline is defined in the Draft EIR, which defines the width and length of the construction corridor, but to clarify the extent of the temporary construction footprint additional information is provided.

Page 2-20 of the Draft EIR, the first full sentence on the top of the page is revised as follows:

The lengths of these open cut reaches would be approximately 2,500 feet and 550 feet, respectively and the construction easement would be 100 feet wide for a temporary construction footprint of about 7 acres.

### 9.11.3 Response to Comment 11-3

*Comment Summary: The comment requests acreage associated with various components of the proposed project.*

The proposed project components are identified in Chapter 2, Description of the Proposed Project. As noted in Response to Comment 11-1 the areas of these components are:

- Inundation area and Dams: 825 acres
- Roadway: 40 acres
- Pumping Plant: 2 acres

The study area identified in Section 3.4, Biological Resources–Terrestrial, identifies an area that is larger than these components, which is reflected in the information in Table 3.4-1. This study area includes areas that may be temporarily disturbed during construction as well as buffers for various species evaluated in Section 3.4.

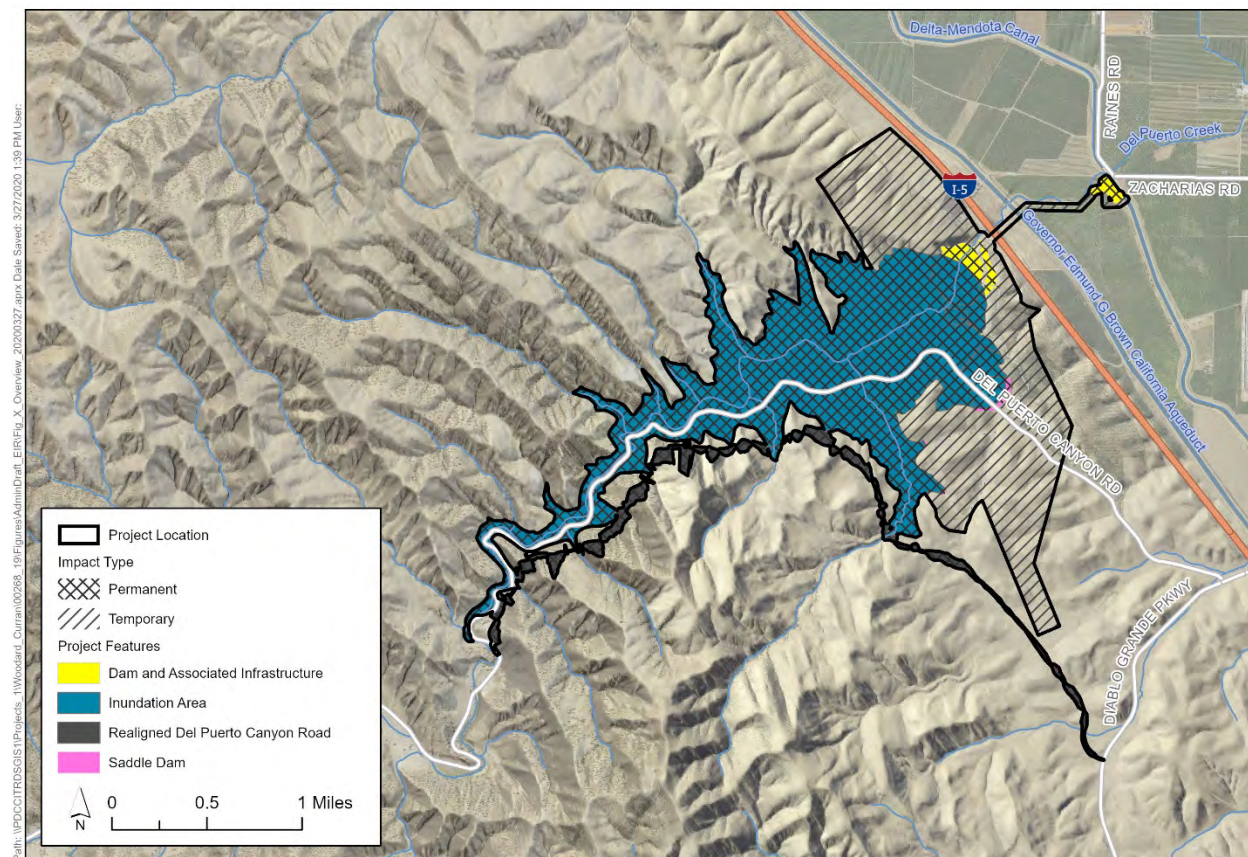
### 9.11.4 Response to Comment 11-4

*Comment Summary: The comment requests a figure showing construction staging and construction activities as well as dam inundation. It further requests a figure showing jurisdictional boundaries.*

The maps and figures in the Draft EIR show all of the areas that would be affected by construction, including staging areas (which are primarily within the reservoir footprint) and the area that would be

affected by the relocation of Del Puerto Canyon Road. As noted on page 2-17 of the Draft EIR, “Staging areas would be within the designated construction area and would be set up in close proximity to work areas, including the main dam, saddle dams, inlet/outlet structures, conveyance pipelines, pumping plant, new roadway location, and utility relocation corridors. Staging areas would be required for the contractor’s office trailers and construction materials storage.” Figure 2-1 shows the area that would be affected by dam construction, Figure 2-4 shows the area that would be affected by construction of conveyance facilities, including the pump station site. Figure 2-6 shows the area that would be affected by road construction, and Figure 2-7 shows the corridor in which power lines would be relocated. To address the comment’s request, a composite figure has been developed for ease of reference. Please see **Figure 9-8**.

**Figure 9-8: Overview of Temporary and Permanent Impact Areas**



Impacts associated with each of those facilities were clearly explained in Section 3.4, Biological Resources—Terrestrial, which is organized into construction and operation headings. As discussed in the Methodology subsection (page 3.4-34):

“Permanent direct impacts on terrestrial resources were quantified using the estimated amount of land cover that would be converted as a result of construction of new facilities and the operation of the project, which would be from the filling of the reservoir. Temporary impacts on biological resources were quantified using the estimated amount of land cover that would be temporarily disturbed during project construction but would be restored to pre-project conditions within one year of disturbance. Temporarily impacted areas that would ultimately be inundated by the reservoir were totaled under the operational impacts to avoid double counting and because these would ultimately be considered permanent impacts. It is assumed that the conditions on parcels of land surrounding the reservoir would be maintained similar to existing conditions, e.g., grazing.”

As noted in Section 3.4, Terrestrial Biological Resources, page 3.4-6:

“Wetlands subject to federal and state jurisdiction include riparian woodland, riparian wetlands, seasonal wetlands, seeps, and ponds, as described in the preceding paragraphs. The acreages presented in **Table 3.4-1** are preliminary, as the wetland delineation has not been subjected to jurisdictional review by the federal and state agencies. The extent to which federal and state agencies may exert jurisdiction is likely to differ because of differences in federal and state laws and regulations.”

In addition, Figure 3.4-1 identifies vegetation types that could include jurisdictional features (i.e., seasonal wetland, seasonal stream, riparian wetland and seep).

Impact BIO-TERR-3 identifies the potential acreages that could be impacted under construction and operation as follows:

*“Construction Impacts*

The proposed project could result in the permanent loss of 0.1 acre of ponds from construction of the road relocation.

*Operation Impacts*

The proposed project could result in the permanent loss of 31.1 acres of riparian wetlands along Del Puerto Creek, 0.6 acres of riparian wetlands associated with the unnamed tributary to Del Puerto Creek, acre of seeps, 0.1 acre of seasonal wetlands, and 0.2 acre of ponds due to inundation of the proposed reservoir”.

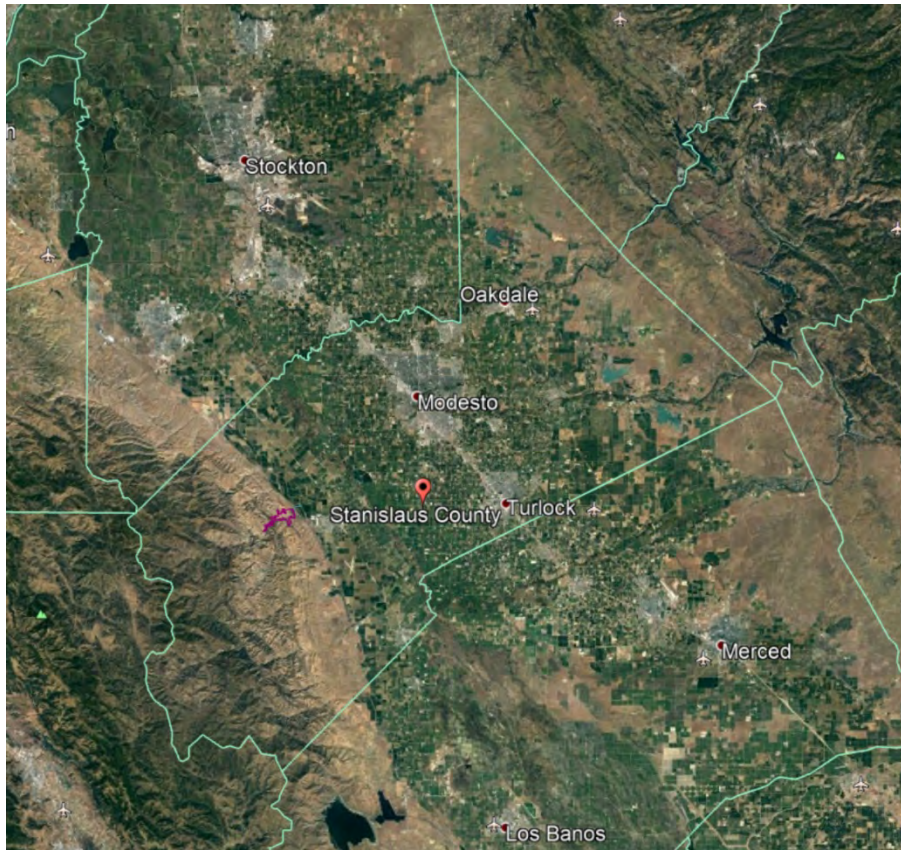
The Project Partners are communicating with USACE regarding identification of, and impacts on, jurisdictional features. The Project Partners participated in a pre-application meeting with the agency on November 11, 2019 to engage the USACE prior to preparing the application for the Clean Water Act Section 404 permit (see subsection Clean Water Act, page 3.4-30 for a description of Section 404). As part of the 404 process with USACE, the Project Partners will prepare an Aquatic Resources Delineation Report and submit it to USACE for identification of jurisdictional features. Therefore, a figure of jurisdictional features has not been prepared for the purposes of the EIR.

### **9.11.5 Response to Comment 11-5**

*Comment Summary: The comment claims that the Draft EIR does not provide a map or drawing in the project description illustrating boundaries of Stanislaus County and the City of Patterson.*

The entire project area is within Stanislaus County, so graphics do not illustrate the boundaries of the county, which are 9 to 10 miles to the west and north of the project facilities. Stanislaus County is 1,515 square miles in area or approximately 969,600 acres. For reference, **Figure 9-9** shows the proposed project location within Stanislaus County. The reservoir location is the small area outlined in magenta in **Figure 9-9**. The Patterson City limits are shown in the Section 3.12, Land Use, of the Draft EIR in both Figure 3.12-1 on page 3.12-2 and Figure 3.12-2 on page 3.12-3.



**Figure 9-9: Project Location within Stanislaus County**

### 9.11.6 Response to Comment 11-6

*Comment Summary: The comment states that the vegetation map prepared for the project has not been field-verified and that sensitive plant communities and habitats may be present that could be affected by the proposed project.*

The vegetation map included in the Draft EIR as Figure 3.4-1 prepared for the proposed project has been field verified, as it was prepared based on multiple field surveys identified on page 3.4-1:

- “General habitat evaluation to determine whether suitable habitat exists for special-status plant and animal species; performed by ICF biologists May 2019 through July 2019.
  - Placing motion activated trail cameras near the mouth of Del Puerto Canyon for a total of two weeks in mid to late June 2019.
  - Recording wildlife observations made during field surveys.
- A delineation of waters of the United States and Waters of the State; performed by ICF biologists on June 17–20, 2019, and July 26, 2019.
- Botany surveys; conducted by ICF botanists October 28–31, 2019 and March 26–April 8, 2020.”

As described in Section 3.4, Biological Resources–Terrestrial, sensitive plant communities and habitats (other than wetlands) were a focus of the botanical surveys (page 3.4-1 and 2). The Draft EIR documents the baseline for riparian woodland and wetlands, which were the only Natural Communities of Special Concern and were identified in the study area and mapped during the Aquatic Resources Delineation (page 3.4-6).

### 9.11.7 Response to Comment 11-7

*Comment Summary: The commenter states that because surveys for spring-blooming plants were not conducted, the Draft EIR fails to determine baseline conditions and does not disclose the extent of potential impacts of project actions on special-status plants.*

Surveys for spring-blooming special-status plants were conducted March 26-April 8, 2020, following CDFW protocols. Only one additional special-status plant was identified in the study area, San Benito poppy, which was present in less than 0.01 acre of habitat. The results of these surveys have been added to the EIR in Appendix B3. The spring botany surveys do not result in the addition of substantial new information, as the results confirmed the presence or absence of most sensitive plants assumed present where suitable habitat was present in the Draft EIR. The results of the spring botany surveys do not change the impact determinations in Section 3.4, Biological Resources-Terrestrial.

### 9.11.8 Response to Comment 11-8

*Comment Summary: The comment states that conclusions about the impacts to rare plants are not possible without thorough pre-project botanical surveys conducted per CDFW protocols.*

Please see Response to Comment 11-7 regarding spring botany surveys and how the impact determination remains unchanged. The fall and spring botanical surveys are sufficient for pre-project botanical surveys. The EIR and Appendix B3 fully describe the presence of special-status plants. Table 4, in Appendix B3, identifies which plants have a California Rare Plant Rank.

### 9.11.9 Response to Comment 11-9

*Comment Summary: The comment states that the Draft EIR does not contain the estimated amount of land cover that would be affected by the project and that the acreage affected needs to be categorized by temporary vs. permanent impacts.*

The Draft EIR does provide the estimated land cover of riparian habitat, wetlands, and oak woodland that would be affected by the project in Impact BIO-TERR-2 (page 3.4-62 and 63), Substantial adverse impacts on riparian habitat or other sensitive natural community, Impact BIO-TERR-3 (page 3.4-63), Substantial adverse effect on state or federally protected wetlands, and Impact BIO-TERR-5 (page 3.4-65), Conflict with local policies or ordinances protecting biological resources. It does not disclose the acreage of common habitats that would be affected because that is not a requirement of CEQA. To clarify this information the acreages of affected habitat have been summarized in the discussion of Impact BIO-TERR-1a; this does not substantially alter the impact analysis or result in a change to the impact determination for Impact BIO-TERR-1a.

Impact BIO-TERR-1a on page 3.4-37 of the Draft EIR is revised as follows:

#### **Impact BIO-TERR-1a Special-Status Plants and Their Habitats**

The proposed project could result in direct impacts, indirect impacts, and loss of habitat for special-status plants. The proposed project would result in direct permanent loss of upland habitat for special-status plants, including 39 acres of blue oak woodland, 79 acres of coastal scrub, and 854 acres of grasslands. In addition, the proposed project could result in temporary disturbance of 2 acres of coastal scrub and 529 acres of grassland. The proposed project could result in direct permanent loss of at least 25.0 acres of occupied habitat for big tarplant, 0.03 acre of occupied habitat for California alkali grass, 0.01 acre of habitat for San Benito poppy, and an undetermined amount of habitat for diamond-petaled California poppy and Lemmon's jewelflower. Most of these impacts would occur as the result of reservoir inundation, but some of the impacts to big tarplant would be due to realignment of Del Puerto Canyon Road. The proposed project could also result in indirect impacts on up to 7.0 acres of occupied habitat for big tarplant from utility realignment. As described in Section 3.4.1, Environmental Setting, Special-Status Plants, the Del

Puerto Canyon occurrences of the big tarplant are significant because they represent the southernmost locality for the species and are the second-largest known population. Therefore, loss of these plants is likely to result in the loss of substantial genetic diversity for the species. Furthermore, the new occurrence of the California Alkali Grass is locally significant, as it represents the only known extant occurrence in Stanislaus County. ~~The proposed project could also potentially result in direct permanent loss of occupied habitat for 17 other special-status species, including one federally listed species, large-flowered fiddleneck (see Table B4-1 for the list of special-status species). The full extent of impacts on special-status plants is currently unknown, because botanical surveys for spring-blooming special-status plants have not been conducted in the study area.~~

#### *Construction and Operation Impacts*

The proposed project could result in temporary construction-related impacts on special-status plants where occupied habitat may be adjacent to construction areas in the utility relocation area and the saddle dam and access areas. The project could result in direct permanent loss of special-status plants where ground-disturbing activities would take place during construction. The proposed project could result in direct permanent loss of occupied habitat for special-status plants where the habitat would be inundated by reservoir operation.

#### Significance before Mitigation

Construction and operation of the proposed project would result in the permanent loss of big tarplant, and California alkali grass, and the potential permanent loss of diamond-petaled California poppy and Lemmon's jewelflower, and 17 other special-status species plants. This would have a substantial adverse effect on these special-status plants and impacts would be significant. Loss of San Benito poppy in the study area would be an adverse impact but would not be significant because it is locally and regionally common, despite its restricted distribution.

### **9.11.10 Response to Comment 11-10**

*Comment Summary: The comment states that the lack of appropriate and timely botanical surveys makes it impossible for the Lead Agency to make any meaningful impact determinations, develop feasible mitigation measures, or make defensible CEQA findings regarding botanical resources.*

See the Responses to Comment 11-7 and Comment 11-8. Appropriate and timely botanical surveys have been completed, which allow the Lead Agency to make a specific impact determination(s) on special-status plants and develop feasible mitigation measures, as identified in Impact BIO-1a, Special-Status Plants and Impact BIO-2, Substantial Adverse Effect on Riparian Habitat or Other Sensitive Natural Community.

### **9.11.11 Response to Comment 11-11**

*Comment Summary: The commenter states that because Mitigation Measure BIO-TERR-1a applies only to construction impacts and not to inundation impacts, the FEIR must also include an analysis of the effects of inundation on special-status plants, conclusions about the significance of these effects, and a determination of whether mitigation measures would reduce this impact to less than significant.*

While Mitigation Measure BIO-TERR-1a pertains to construction impacts, in addition to addressing construction impacts, the Draft EIR also addresses effects of permanent inundation on special-status plants and provides mitigation for those impacts. The effects are quantified for three species, and the surveys determined that no impacts would occur on most other potentially occurring special-status plants. The EIR acknowledges that four other special-status species could not be conclusively determined to be absent from the study area and could be similarly affected. Please refer to Impact BIO-TERR-1a (page 3.4-37). The Draft EIR concludes that these impacts are significant and presents mitigation measures to reduce this impact to less than significant. Mitigation Measure BIO-TERR-1b includes a requirement to

provide “compensation habitat for each affected species” in the inundation area that would be permanently affected. The title of this mitigation measure has been revised to clarify that it pertains to both temporary and permanent impacts.

The title of Mitigation Measure BIO-TERR-1b on page 3.4-38 of the Draft EIR is revised as follows:

**Mitigation Measure BIO-TERR-1b: Avoid and Compensate for Adverse Effects on Special-Status Plant Species ~~Where Temporary Ground-disturbing Activities Would Take Place~~**

### **9.11.12 Response to Comment 11-12**

*Comment Summary: The comment questions whether botanical surveys and avoidance measures would reduce impacts to special-status plants to less than significant, because surveys are a planning tool, not a mitigation measure; without botanical surveys, the Draft EIR does not provide sufficient information for the Lead Agency to make an informed decision about the ability of Mitigation Measure BIO-TERR-1b to reduce impacts to special-status plants to less than significant; and, botanical surveys are not shown in the project’s construction schedule.*

Please see Master Response 19 and Responses to Comments 11-6, 11-7, 11-8, and 11-10 regarding mitigation and surveys. All mitigation measures identified in the Final EIR will be in a Mitigation Monitoring and Reporting Program (MMRP) prepared for the project in accordance with Public Resources Code Section 21081.6 and Section 15097 of the CEQA Guidelines. In accordance with state law, the MMRP will identify the action being monitored, responsibility for implementation, the schedule for implementation, and the mechanism that verifies that monitoring is complete. Within the schedule for implementation, mitigation/compensation measures will be identified as to when implementation would occur (e.g., no less than 1 year prior to ground disturbing activities).

In addition, the commitments and level of detail described in the mitigation are sufficient for impact evaluation under CEQA because the project has not yet been approved and permitted and thus any specific detail for the mitigation (e.g., specific location, specific acreage, specific management plan) would be premature at this time. CEQA Guidelines Section 15126.4 (a)(1)(B) states the following:

The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.

The Project Partners will follow all applicable CEQA Guidelines, including those identified above.

### **9.11.13 Response to Comment 11-13**

*Comment Summary: The comment states that measures to avoid and minimize construction impacts on special-status plants cannot be implemented until after surveys for special-status plants have been done and have determined where those plants are located.*

Please see Responses to Comments 11-7, 11-8, 11-10, and 11-12 regarding surveys and mitigation measures.



#### 9.11.14 Response to Comment 11-14

*Comment Summary: The commenter states that mitigation to compensate for permanent impacts on special-status plants is not feasible because the Draft EIR does not disclose the amount of impacts on all special-status plant species and because the Draft EIR does not identify whether suitable compensation habitat exists or could be acquired. In addition, the commenter notes that impacts on federal or state listed species would require take authorization, which would be contingent on the project being fully able to mitigate impacts on these species.*

Please see Responses to Comments 11-6 and 11-7 regarding surveys. Federal or state listed plants are not present in the study area and would not be affected. As the comment notes the Project Partners have identified several options to meet the anticipated mitigation needs for the project, including acquisition of habitat in-fee, use of conservation easements or from a conservation bank (see Mitigation Measure BIO-TERR-1b on page 23.4-38 of the Draft EIR). With the completion of spring surveys, the need for mitigation has been further clarified. Mitigation would only be needed for 0.03 acre of occupied habitat for California alkali grass, 0.01 acre of habitat for San Benito poppy and 25.0 acres of occupied habitat for big tarplant. The Project Partners are prepared to work with resource agencies to identify appropriate areas for acquisition of property or conservation easements or with mitigation bank providers to establish a new mitigation bank that would provide the necessary mitigation.

#### 9.11.15 Response to Comment 11-15

*Comment Summary: The comment states that mitigation for permanent effects on special-status plants lacks specific details on mitigation monitoring.*

Please see Response to Comment 11-12 regarding the timing of mitigation and the appropriate level of detail for mitigation measures in a CEQA document. The mitigation sets a performance standard for 2:1 compensation (2 acres preserves to 1 acre of impact) (page 3.4-38). Specific details on managing and monitoring the compensation habitat will be developed in consultation with resource agencies. Details such as size of endowment and mechanisms for managing the endowment are not necessary for the CEQA analysis.

#### 9.11.16 Response to Comment 11-16

*Comment Summary: The comment states that the Draft EIR does not propose any measures for preserving plants prior to project implementation.*

Preserving plants by salvage or by seed banking was not proposed as mitigation because the habitat would be completely removed by inundation, so there would be no opportunity to restore habitat by transplanting individuals or re-seeding. Transplanting or banking seeds for introducing plants into an offsite location would be an experimental approach. There are very few published studies on this type of mitigation for any plants, and none that apply to species that may be potentially impacted (i.e., big tarplant). Given the above, this would not be considered feasible mitigation.

#### 9.11.17 Response to Comment 11-17

*Comment Summary: The comment states that impacts on special-status plants should be characterized as significant and unavoidable because the DEIR presumes, rather than demonstrates, that impacts can be mitigated to less than significant levels and does not show that mitigation measure BIO-TERR-1b is feasible.*

Please see Response to Comment 11-12 regarding the timing of mitigation and the appropriate level of detail for mitigation measures in a CEQA document. As identified in Mitigation Measure BIO-TERR-1b (page 3.4-38), project construction would not occur until after compensation for impacts on special-status has been successfully completed. The mitigation identified in the Draft EIR is potentially feasible. For example, mitigation for California alkali grass generally occurs in seeps/alkali wetlands and would

require acquiring and preserve property. This type of mitigation would likely overlap with mitigation for wetlands, which could be satisfied through various existing options such as Cosumnes Floodplain Mitigation Bank or Corps In-Lieu Fee Program. The Project Partners would follow a process for further refining the mitigation options based on the needs and details in the Draft EIR across the spectrum of species identified in Section 3.4, including plant species. This process would include identification of potential mitigation sites (such as the Cosumnes Floodplain Mitigation Bank or the Corps In-Lieu Fee Program) and preparation of a basic restoration concept that meets the mitigation needs and details identified in the Draft EIR and obtains concurrence with various state and federal agencies. After this occurs, additional tasks the Project Partners would complete include detailed data collection, preparation of draft and final restoration plans, and obtaining permits and agency approvals. As noted in Response to Comment 14, if necessary, the Project Partners are prepared to work with resource agencies and mitigation bank providers to establish a new mitigation bank that would provide the necessary mitigation.

#### **9.11.18 Response to Comment 11-18**

*Comment Summary: The comment states that impacts on riparian habitat would not be reduced to less than significant because the Draft EIR lacks details and specificity on the mitigation measures.*

Please see Response to Comment 11-12 regarding the timing of mitigation and the appropriate level of detail for mitigation in a CEQA document. The Draft EIR specifies a performance standard requiring that loss of riparian habitat shall be compensated for at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) (Mitigation Measure BIO-TERR-2, page 3.4-63). Mitigation Measure BIO-TERR-2 specifically states that “Land that could be acquired could include acres upstream of the reservoir”. Details of compensation and restoration will be developed further when the mitigation site or bank has been identified.

#### **9.11.19 Response to Comment 11-19**

*Comment Summary: The comment states that impacts on blue oak woodland would not be reduced to less than significant because the Draft EIR lacks details and specificity on the mitigation measures.*

Please see Response to Comment 11-12 regarding mitigation and the level of detail in the mitigation. Mitigation for oak woodland was based on Stanislaus County General Plan policies, which do not identify a mitigation ratio. To clarify the intent of the mitigation measure a performance standard has been added to Mitigation Measure BIO-TERR-5. This refinement does not substantially alter the mitigation measure or result in a change to the impact determination.

Mitigation Measure BIO-TERR-5 on page 3.4-66 of the Draft EIR is revised as follows:

##### **Mitigation Measure BIO-TERR-5: Develop a Management Plan for the Protection and Enhancement of Oak Woodlands**

Per Policy 4, 4.1, of the Stanislaus County General Plan, the Project Partners shall develop and implement a management plan for the protection and enhancement of oak woodlands to offset the loss of oak woodlands from the project. This plan will include measures for the protection, management, and enhancement of oak woodlands on lands that are acquired for the development of the reservoir but that are above the high-water line for the reservoir. A minimum of 1 acre of oak woodland shall be preserved, managed, and monitored for every acre of oak woodland lost as a result of project implementation.

### 9.11.20 Response to Comment 11-20

*Comment Summary: The comment states that the conclusion that invasive plant species would have no effect on sensitive resources because the entire project area would be inundated is incorrect, because it does not consider impacts in areas subject to temporary disturbance.*

As identified in Chapter 2, Project Description, Section 2.4.4, Dam Facility Construction, Site Restoration (page 2-19) once construction of the dam facilities is complete, disturbed areas “would be revegetated to limit surface erosion. The disturbed areas outside of the area of inundation would be restored to their original condition.” In addition, as identified in Chapter 2, Section 2.3.3, Maintenance, vegetation control is part of the proposed project (page 2-15). “Maintenance for proposed project facilities would include debris removal, dredging, vegetation control, rodent control, erosion control and protection, routine inspections (dams, tunnels, pipelines, pumping/generating plants, inlet/outlet works, fence, signs, gates) ....” The maintenance activities would be described in a long-term management and/or reservoir management plan so as to document the types of actions that are needed to maintain the reservoir and lands around the reservoir.

The Project Description also describes Environmental Commitments in Section 2.4.10 on page 2-29. These commitments include implementation of BMPs including a Storm Water Pollution Prevention Plan (SWPPP). Many of the measures that would be implemented as part of the SWPPP would also serve to minimize spread of noxious weeds. Specific BMPs are identified in Mitigation Measure GEO-2 on page 3.8-15 of the EIR, which includes a measure that requires that the contractor “Stabilize temporary construction entrances to limit transport/introduction of invasive species...”.

Revegetation after construction would be done with non-invasive, naturalized and native plant species, considering site conditions and existing species presence (see Appendix B3 for a list of species present), overall revegetation goals, and likelihood of successful establishment and persistence at the site. Non-invasive plant and native plant species that could be used for revegetation purposes, include, but are not limited to, woody and shrub vegetation and native seed mix. Example plants are as follows:

- California bay (*Umbellularia californica*)
- California buckeye (*Aesculus californica*)
- Interior live oak (*Quercus wislizenii*)
- Toyon (*Heteromeles arbutifolia*)
- Coast live oak (*Quercus agrifolia*)
- Canyon live oak (*Quercus chrysolepis*)
- California coffeeberry (*Rhamnus californica*)
- Coyote brush (*Baccharis pilularis*)
- Creeping wildrye (*Elymus triticoides*)
- Buckwheat (*Eriogonum sp.*)
- Meadow barley (*Hordeum brachyantherum*)

Impact Bio-TERR-7 has been modified to reference Section 2.4.4 and 2.3.3 (see below) and to clarify vegetation control that would occur during maintenance. This modification does not substantially alter a mitigation measure or result in a change to the impact determination.

The impacts discussion under Impact BIO-TERR-7 on page 3.4-67 of the Draft EIR is revised as follows:

#### *Construction and Operation Impacts*

Introduction or spread of invasive species into the project area during construction activities would not have a substantial adverse effect on special-status species, sensitive natural communities, or wetlands, because these resources would be permanently removed by the proposed project, as identified in BIO-TERR-1, BIO-TERR-2 and BIO-TERR-3. If there were

spread of invasive plant species during the construction phase, they would be inundated along with the other plants and habitats under reservoir operations. There are no on-water recreation facilities proposed, so spread of aquatic invasive plant species would not occur via recreation. Finally, the invasive plant species identified in Appendix B3 are also very common and widespread to California and the Central Valley; therefore, there is a relatively low likelihood they would spread from the study area to places where they are not present to have an effect on sensitive terrestrial resources.

For those areas that would not be inundated (adjacent to the spillway or the DMC), as described in Chapter 2, Section 2.4.4 once construction of the dam facilities are complete areas would be revegetated and Section 2.3.3, Maintenance of the proposed project facilities would include vegetation control. Standard vegetation control includes:

- Regular monitoring of area around proposed facilities adjacent to the DMC and at the base of the reservoir.
- Identification of non-native weeds around proposed facilities and control of non-native weeds through hand or mechanical removal and/or chemical treatment.
- Management of upland areas to control non-native weeds around the reservoir by maintaining grazing for control of invasive weeds on upland areas and targeted grazing refocusing outputs of grazing from livestock production to vegetation management and landscape enhancement. Specific targeted grazing regimes will need to be developed on a case-by-case basis as infestations of invasive weeds are identified. Livestock will be excluded from areas of the restoration site not targeted for grazing with temporary livestock fencing

The proposed project therefore includes vegetation control that would limit the spread and introduction of invasive species around proposed facilities that are not inundated.

#### **9.11.21 Response to Comment 11-21**

*Comment Summary: The commenter states that the Draft EIR provides no specific information about post-construction site restoration in the areas of the dam and spillway, such as invasive species control measures and revegetation measures.*

See Response to Comment 11-20 regarding post-construction restoration. Note that not all of the listed vegetation types are appropriate for each specific area. The dam face for example is not a suitable location for trees.

## **9.12 Comment Letter 12 - Friends of the River, Sierra Club Motherlode Chapter, Save Del Puerto Canyon, Environmental Water Caucus Southern California Watershed Alliance, California Sportfishing Protection Alliance, California Water Impact Network, The Fly Fishers of Davis, Save California Salmon, California Water Research**

### **9.12.1 Response to Comment 12-1**

*Comment Summary: The comment asserts that the project description on page 2-1 describes the purpose of the project as being to “increase storage of water” and claims that this is inconsistent with the project objectives as stated in the Executive Summary. The comment also claims that the Draft EIR is inconsistent in that it states that the Bureau of Reclamation would have an opportunity to participate in the project to store water for wildlife purposes but does not include this as a project objective.*

The project objectives are listed in the Draft EIR on page ES-1 of the Executive Summary and are repeated below:

- *“Increase South of Delta water storage capacity in California’s Central Valley by 80,000 AF;*
- *Provide local water storage in proximity to the DMC and to users;*
- *Improve water supply reliability;*
- *Increase peak irrigation season water supplies;*
- *Improve the ability to manage regional surface water and groundwater resources;*
- *Improve regional self-reliance and economic benefit from agricultural production, jobs, and industry multipliers;*
- *Develop a cost-effective project that provides water at an affordable cost to landowners; and*
- *Avoid displacement of homes and businesses.”*

Although the comment claims that the purpose of the project is defined on page 2-1 of the Draft EIR “as being to increase storage of water”, the word “purpose” is not used anywhere on page 2-1, which describes the project location and project components. It is unclear why the commenter believes that development of water storage is inconsistent with the project objectives as listed above, which clearly include development of water storage as a primary objective.

It is correct that the ability to store water would enable the Project Partners to store water when ample supplies are available and then use the stored water during times of water shortage. However, this would not require an increase in Delta exports. As detailed in the EIR in the Section 3.11, Hydrology, on page 3.11-24:

*“The operation of the proposed project would be to accept CVP deliveries at the turnout to the proposed reservoir, store the diverted water in the proposed reservoir, then release the water back to the DMC and deliver it to the respective Project Partners as need to meet irrigation and/or transfer requirements. Water diverted from the DMC to storage would be limited to water that has been previously stored in and released from CVP reservoirs, consistent with Reclamation’s proposed modifications to its existing water rights permits.*

*Water stored in the proposed reservoir is water that would have been delivered directly to Del Puerto or the Exchange Contractors or would have otherwise been delivered to and stored in San Luis Reservoir. The proposed project would reduce the Project Partners’ reliance on San Luis Reservoir for storage, thus increasing potential for San Luis to better meet other CVP needs.*

*As a result of this proposed operational scenario, operation of the DMC and California Aqueduct would not be impacted by the proposed project. No new infrastructure or modifications of existing facilities at the C.W. Bill Jones Pumping Plant would be required. CVP and SWP facilities would not be impacted. There would be no increase in diversions from the Delta by Reclamation (or DWR) as a result of the proposed project and the proposed project would not interfere with Reclamation's obligations to deliver water to other contractors, wetland habitat areas, or for other environmental purposes. The proposed project operations would be subject to the Coordinated Operation Agreement and would not affect existing CVP Delta pumping operations."*

The potential for Reclamation to participate in the project to store water for wildlife refuges is not inconsistent with the project objectives. The first objective is to increase South of Delta water storage capacity, and the objectives include improving the ability to manage regional surface water and groundwater resources. While providing water storage for wildlife refuges is consistent with both of these objectives, the Project Partners did not develop the project specifically to serve refuges. The proposed project has been developed to improve water supply reliability for the partners by increasing the availability of water during irrigation season, when supplies are often constrained. The Partners do not yet have an agreement with Reclamation regarding provision of storage for refuges, but this does not mean that the project description is inaccurate. The project as currently envisioned has been fully described, including the possibility that the reservoir could store water for refuges. Page 1-3 of the Draft EIR states that "Reclamation would have an opportunity to participate in the project for South of Delta benefits of up to 20,000 AF of storage, which could be used to store water for wildlife refuges." For modeling purposes, the operations analysis in Appendix F of the Draft EIR assumed 11,000 AF of storage is allocated to refuges.

### **9.12.2 Response to Comment 12-2**

*Comment Summary: The comment questions the accuracy of the projection that DPWD is expected to receive no more than an average of 45 percent of its contract allocation. The comment also claims that the description of the availability of water is "vague".*

The fact that DPWD has received far less than its contract allocation of CVP water over the last several years has been previously documented in the North Valley Regional Recycling Program Environmental Impact Report (NVRWP EIR) (City of Modesto 2015). At that time, based on historic CVP allocations the NVRWP EIR estimated that "While future contract deliveries to DPWD are uncertain it is anticipated that restrictions on CVP operations will result in the District receiving no more than an average of 35 percent of its contract allocation (i.e. 49,000 AFY) on an annual basis under normal hydrologic conditions (i.e. non-drought conditions)." Since completion of the NVRWP EIR, data for additional water years is available (see **Figure 9-10**), and average allocation from 2007 to 2019 was 37 percent. Based on the *Addendum to the Agreement between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project*, which was executed in December 2018, it is estimated that up to about 200,000 AF of additional water would be available to CVP contractors on the west side of the San Joaquin Valley, which represents about a 10 percent increase in allocation. The Project Partners have thus increased their estimate of future allocations to 45 percent.

While the comment quotes a small section of the description of operations and claims that it is "vague", the complete text on page 2-11 of the EIR provides considerably more detail. The relevant excerpt from Chapter 2 of the EIR, containing the referenced quote, is shown below.

#### **"2.3.1 Operations**

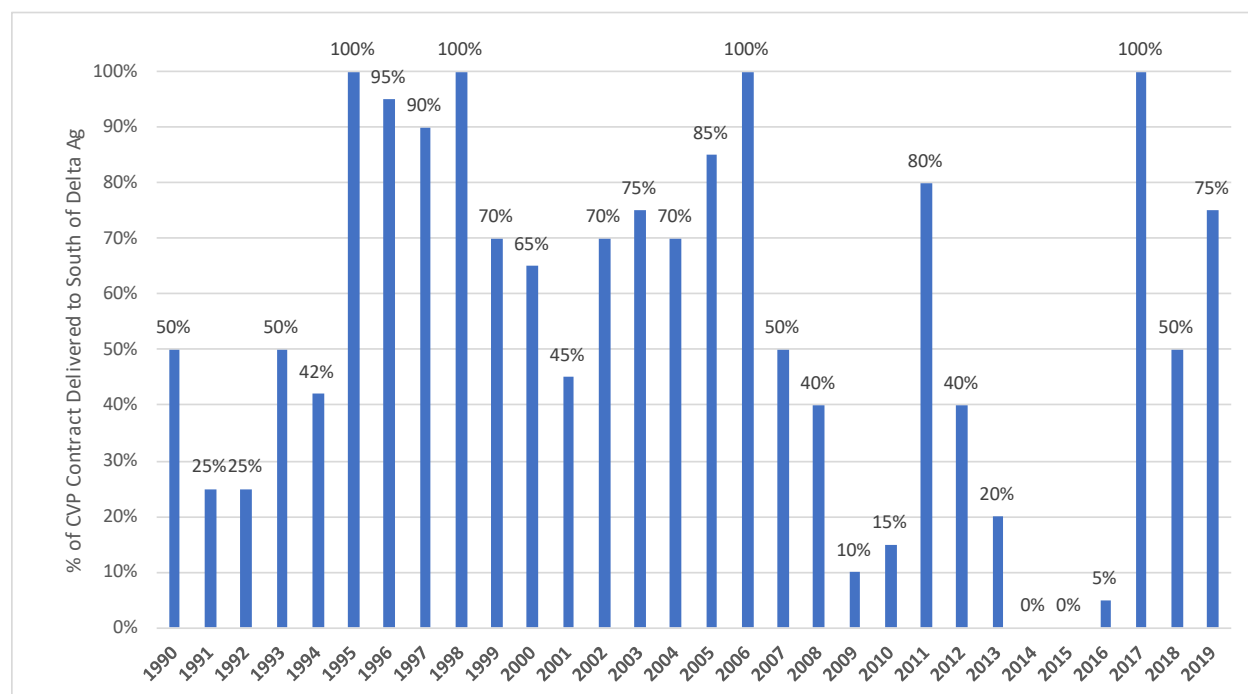
*The proposed project operations would be subject to the Coordinated Operation Agreement and would not affect existing CVP Delta pumping operations. However, certain federal benefits may be achieved should Reclamation choose to pump additional water that could be stored in capacity*

*made available in San Luis Reservoir by the Project Partners storing water in DPCR, or by shifting pumping to provide additional Delta pumping capacity during periods of peak delivery by pumping water for delivery to the Project Partners during non-peak delivery periods and delivering that water to the Project Partners for storage in DPCR. Any such modification of Delta pumping by Reclamation would be evaluated by Reclamation in a separate NEPA document if such pumping is determined to be outside existing certified environmental documentation and/or operating agreements.*

*The reservoir would be operated and maintained by local staff, and it is estimated that three to five employees would be needed for operation and maintenance of the reservoir and conveyance facilities. The reservoir would fill primarily by pumping water from the DMC through the conveyance pipeline into the reservoir. Availability of water from the DMC would be dependent on U.S. Bureau of Reclamation deliveries under each existing surface water entitlement available to the Project partners consistent with the Coordinated Operation Agreement between the Bureau of Reclamation and DWR. In addition to CVP supply, the reservoir would receive and store Del Puerto Creek native flows. Both CVP and Del Puerto Creek flows would enter the reservoir when the reservoir level is below the spillway crest, which is at an elevation of 450 feet above mean sea level. Losses from the reservoir would include evaporation and seepage. Releases from the reservoir would include water for delivery to the Project Partners through the DMC and environmental or regulatory releases to Del Puerto Creek. Operation of the DPCR would be coordinated with CVP and DMC operations.*

*At a 300-cfs maximum pumping rate, it would require 138 days of continuous operation of the pumping plant to fill an 82,000-AF reservoir from a 1,000 AF deadpool to full. A maximum release rate of 380 cfs capacity to the DMC would require 107 days to empty the full reservoir to a 1,000-AF deadpool level. Reservoir drawdown rates during maximum releases of 380 cfs capacity to the DMC would range between 1.0 and 8.6 feet/day.”*

The statement that “Availability of water from the DMC would be dependent on U.S. Bureau of Reclamation deliveries under each existing surface water entitlement available to the Project partners consistent with the Coordinated Operation Agreement between the Bureau of Reclamation and DWR” is not vague; it simply reflects the ongoing uncertainties regarding annual water deliveries and acknowledges that all deliveries are subject to the Coordinated Operation Agreement.

**Figure 9-10: Historical CVP Allocations Delivered to DPWD**

### 9.12.3 Response to Comment 12-3

*Comment Summary: The comment states that operations modeling should include the 2018 COA Addendum as part of the baseline modeling assumptions.*

The analysis included in the Draft EIR was based on the 2017 State Water Project Delivery Capability Report version of the CalSim 2 model, which was the most recent available CalSim based model documentation available at the time the studies were initiated. Subsequently, Reclamation has produced an updated version of the CalSim model, including the Revised No Action Alternative, which is dated September 30, 2019. This updated analysis by Reclamation includes the 2018 COA Addendum as well as other recent updates to CVP/SWP operations.

The primary difference in the models utilized in the 2017 State Water Project Delivery Capability Report and Reclamation's Revised No Action Report is a small increase in the average annual south of Delta agricultural water deliveries. In the case of the Del Puerto Water District, the projected average annual deliveries increase from approximately 50 percent to approximately 53 percent, a net annual increase in approximately 4,000 AFY of delivery to the Del Puerto Water District. There is no change in projected annual deliveries for the Exchange Contractors.

The operations model for the project has been revised using the latest CalSim data, reflecting the 2019 COA Addendum, which became available in late 2019. This small difference in projected annual deliveries does not materially affect the results of the operations analysis for the project nor the need for the project. The primary project objectives include increasing south of Delta storage capacity and providing local storage in proximity to the DMC and users, and the small change in projected annual deliveries does not address either of these two primary project objectives. Appendix F of the Draft EIR has been revised to reflect the updated operations analysis.



#### 9.12.4 Response to Comment 12-4

*Comment Summary: The comment states that the proposed project could result in additional exports from the Delta, as a possible follow-up to the proposed Del Puerto Canyon Reservoir project.*

As noted in Section 2.3.1, the proposed project operations are subject to the Coordinated Operation Agreement and annual allocations and entitlements, and therefore would have no material effect on existing CVP or SWP Delta pumping operations. Therefore, additional exports will not occur unless the project is changed in the future. Any future change in project operations would be subject to additional CEQA review.

#### 9.12.5 Response to Comment 12-5

*Comment Summary: The comment states that operations modeling should include the 2018 COA Addendum as part of the baseline modeling assumptions.*

See Response to Comment 12-3. The CalSim study used for the analysis has been revised to reflect Reclamation's Revised No Action Alternative (dated September 30, 2019), which includes the 2018 COA Addendum as well as other recent updates to CVP/SWP operations. This updated analysis does not change the conclusions presented in the Draft EIR.

#### 9.12.6 Response to Comment 12-6

*Comment Summary: The comment states that the details of how CVP water would be released from storage in CVP reservoirs for delivery to the Project Partners should be provided.*

As noted in Section 2.3.1, the proposed project operations are subject to the Coordinated Operation Agreement and annual allocations and entitlements, and therefore would have no material effect on existing CVP or SWP Delta pumping operations. Therefore, the operations of CVP project reservoirs would not change. Further, the operations analysis is based on diversions from the DMC being made only for water that has been previously stored and subsequently released, consistent with the COA and the 2018 COA Addendum.

#### 9.12.7 Response to Comment 12-7

*Comment Summary: The comment states that the Draft EIR fails to identify a preferred alternative for water supply to fill the reservoir and that the project should be analyzed in coordination with the San Luis Low Point Improvement Project.*

The Draft EIR clearly identifies the fact that the Del Puerto Canyon Reservoir would be filled with water from existing contract entitlements of the Project Partners, which would be pumped from the DMC.

Availability of additional storage in San Luis Reservoir is still speculative, and if additional storage eventually is developed would not meet project objectives because the Exchange Contractors do not have access to storage in San Luis Reservoir. The San Luis Low Point Improvement Project would therefore not provide local water storage, improve water supply reliability, increase irrigation season water supplies, or improve the Exchange Contractors ability to manage regional surface water and groundwater resources, and would thus would not improve regional self-reliance or provide economic benefit from agricultural production in the Exchange Contractors service area. Because it does not meet project objectives, the San Luis Low Point Improvement Project is not a viable alternative to the Del Puerto Canyon Reservoir Project.

Regarding cumulative impacts, as noted in Section 2.3.1, the proposed project operations are subject to existing USBR allocation methodologies and the Coordinated Operation Agreement and would have no material effect on existing CVP or SWP Delta pumping operations. Therefore, the proposed project would not combine with any changes that occur to CVP or SWP operations as a result of the San Luis Low Point

Improvement project to produce a cumulative impact on operations of the CVP or SWP, and as a result, it is not necessary to analyze the two projects in combination with each other.

#### **9.12.8 Response to Comment 12-8**

*Comment Summary: The comment states that the Draft EIR does not provide sufficient information about visibility of staging areas to allow the public to reach an informed conclusion about the impact.*

As noted on page 2-17 of the Draft EIR, all “Staging areas would be within the designated construction area and would be set up in close proximity to work areas, including the main dam, saddle dams, inlet/outlet structures, conveyance pipelines, pumping plant, new roadway location, and utility relocation corridors.” Staging for the dam and reservoir would be within the proposed footprint of the dam and reservoir, and additional staging areas are not expected to be required. Durations of construction for each component of the project are provided in the project description in Figure 2-9 on page 2-16 of the Draft EIR. Interstate 5 is the only public viewpoint from which staging areas are expected to be visible, which is why the Draft EIR does not state that the staging areas would be visible from other locations.

#### **9.12.9 Response to Comment 12-9**

*Comment Summary: The comment claims that the Draft EIR states that the reservoir will be closed to the public but does not state how the reservoir would be closed and whether those actions would affect the environment.*

Section 3.1-10 of the Draft EIR, which is cited in the comment, notes that when the project is completed and “Del Puerto Canyon Road between Diablo Grande Parkway and the reservoir is closed to public access”, the saddle dam would not be visible from public roadways. Page 3.1-11 of the Draft EIR specifically explains that “existing Del Puerto Canyon Road would be gated and would become a private road providing access to the reservoir”. The discussion referenced in the comment is thus specifically about closure of the portion of the Del Puerto Canyon Road that would no longer be connected to the upper portion of the roadway, and notes that this would be accomplished with a gate. The gate across the road is not expected to have substantial impacts on the environment.

The proposed reservoir would be constructed within private lands that are currently fenced and used for cattle grazing. The Project Partners would acquire the land needed for the reservoir from private landowners, and the land bordering the reservoir would continue to be used for cattle grazing. The grazing lands around the reservoir would continue to be fenced private lands with access controlled by the existing landowners. The gates described above would prevent private vehicle access on the portions of Del Puerto Canyon Road that would no longer be used as part of the public portion of the road, but because the reservoir would be surrounded by private grazing land a fence surrounding the reservoir is not proposed.

#### **9.12.10 Response to Comment 12-10**

*Comment Summary: The comment asserts that the Draft EIR does not provide sufficient information about the amount of water that would be used by the Project Partners, and how it would be used.*

The comment is incorrect in that the Draft EIR explains that the project would provide storage to serve the Exchange Contractors and Del Puerto Water District so that they can meet demands for agricultural users in their service areas. Page ES-2 of the Draft EIR clearly states that “Water would be stored in the reservoir when supply is available from the DMC and delivered to farms within service areas of DPWD and the Exchange Contractors in San Joaquin, Stanislaus, Merced, Fresno and Madera Counties. Both Project Partners only provide agricultural irrigation water and do not supply any urban users. The amounts of water to be taken by each partner would vary both annually and seasonally. Because details about project operations and the amounts of water used each year by each Project Partner are somewhat complex, they are explained in Section 3.2.2 of Appendix F of the Draft EIR. In summary, the Exchange Contractors have a 40,000 AF storage pool, and intend to withdraw 20,000 AF in Shasta Critical years,

and 40,000 AF in other years. DPWD would have a 20,000 AF storage pool and intends to take up to 20,000 AF and refill the reservoir with up to 20,000 AF in all years when water is available for storage. Actual storage would depend on available water supplies.

### 9.12.11 Response to Comment 12-11

*Comment Summary: The comment claims that the DEIR does not indicate the extent of impacts on riparian woodlands and wetlands and what would be done to mitigate the impacts.*

Impact BIO-TERR-2 Substantial Adverse Effect on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-63) identifies impacts on riparian woodland (16.5 acres) and riparian wetlands (19.2 acres) and notes that these impacts would be significant before mitigation. As noted in Appendix B3 of the Draft EIR, the riparian woodland in the study area corresponds with the Fremont cottonwood forest vegetation alliance. This community is tracked by the California Department of Fish and Wildlife as a sensitive natural community and has a global ranking of G4 (apparently secure) and a state ranking of S3 (Vulnerable) (California Department of Fish and Wildlife 2019). Though sensitive, this community does occur elsewhere in the state and is not unique to Del Puerto Canyon. The riparian wetlands in the study area are dominated by relatively common wetland species [cattails (*Typha domingensis*) and three-square bulrush (*Schoenoplectus americanus*, *S. pungens*)], which occur throughout most of the state.

Impact BIO-TERR-2 (page 3.4-62) quantifies impacts on riparian woodlands and wetlands and acknowledges that the loss of riparian habitat in the lower part of Del Puerto Canyon would be a significant biological impact. Mitigation Measure BIO-TERR-2 describes the mitigation that requires compensation for those impacts. The mitigation proposed in Mitigation Measure BIO-TERR-2 Compensate for Effects on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-63) is sufficient to mitigate the impact of the project to less than significant when considering the commitments outlined in the measure, the amount of habitat impacted, and the uniqueness of the communities in question.

### 9.12.12 Response to Comment 12-12

*Comment Summary: The comment states that the Draft EIR does not provide information regarding how Mitigation Measures BIO-TERR-1a and BIO-TERR-1d will be enforced and that without this information that there is no way to assess their effectiveness.*

All mitigation measures identified in the Final EIR will be in a Mitigation Monitoring and Reporting Program (MMRP) prepared for the project in accordance with Public Resources Code Section 21081.6 and Section 15097 of the CEQA Guidelines. In accordance with state law, the MMRP will identify the action being monitored, responsibility for implementation, the schedule for implementation, and the mechanism that verifies that monitoring is complete.

### 9.12.13 Response to Comment 12-13

*Comment Summary: The comment states that the Draft EIR, in regard to the mitigation measure for amphibians and reptiles, does not define what an “approved biologist” would be and nor does it describe the authority of this individual. The comment also raises questions on the use of rodenticides, specifically what will be used, what is meant by “limited use”, and who will monitor the use.*

The Draft EIR defines an approved biologist on page 3.4-43 in Mitigation Measure BIO-TERR-1e Avoid and Minimize Impacts on Special-Status Amphibians as:

“a USFWS and CDFW-approved biologist (approved biologist) that possess necessary handling permits (California tiger salamander only).”

The approved biologist is not granted any authority by the wildlife agencies but rather is an individual determined to be qualified to conduct surveys for and monitor construction for certain species, usually

species that are state and/or federally listed. The approved biologist is tasked to make observations and document them in survey reports and/or construction monitoring logs. A biological monitor can be given the authority to stop work when this authority is identified in a project specific permit, such as a Section 7 Biological Opinion or an Incidental Take Permit.

Regarding the comment on rodenticides, Mitigation Measure BIO-TERR-1e of the Draft EIR on page 3.4-43, says the following:

“Use of first- and second-generation rodenticides shall not be permitted except for the limited use of zinc phosphide, or a rodenticide allowed for use by the California Department of Pesticide Regulation”.

Limited use means it will only be used as needed and as authorized under California Department of Pesticide Regulations and County Use Permit. Any edible rodenticides would be placed in bait stations that prevent unintended access to bait by wildlife.

#### **9.12.14 Response to Comment 12-14**

*Comment Summary: The commenter states that the Draft EIR does not specify the extent of the project impact on gravel substrate for white sturgeon spawning in the lower San Joaquin River, or whether a take will result from the disturbance of spawning grounds.*

As described in the Draft EIR (page 3.5-14) in Impact BIO-FISH-1, Substantial Adverse Effect on Candidate, Sensitive, or Special Status Species, “Little is currently known about the sediment transport processes in Del Puerto Creek, or the extent to which the gravel found in the Lower San Joaquin River comes from upper Del Puerto Creek above the proposed dam site or lower Del Puerto Creek below the proposed dam site.” Consequently, the Draft EIR concludes that the proposed dam and reservoir could have a long-term impact on the supply of gravel to the San Joaquin River, resulting in a potentially significant impact on white sturgeon spawning habitat. In response, the Draft EIR proposes the implementation of a mitigation and monitoring plan that includes pre- and post-project monitoring to evaluate project effects on gravel inputs to the San Joaquin River, and a description of the actions that would be implemented to mitigate impacts if monitoring detects a significant reduction in the supply of gravel to the San Joaquin River (see Mitigation Measure BIO-FISH-1: Spawning Gravel Monitoring and Mitigation on page 3.5-15). Because white sturgeon is not listed under the federal or state Endangered Species Acts, consultation with NMFS or an assessment of “take” is not required.

#### **9.12.15 Response to Comment 12-15**

*Comment Summary: The comment states that the Draft EIR does not provide sufficient information about the use of temporary stream diversions (e.g., bypass pipes) to protect fish “during the dry season” (page 3.5-8) because Del Puerto Creek can have flows at any time of year.*

The dry season refers to summer to early fall (June through mid-October) when there is little or no rainfall and when flows are generally at minimum levels. The use of temporary stream diversions allows these flows to be bypassed around in-channel construction areas, thus preventing potential direct harm of fish in Del Puerto Creek due to dewatering and other in-channel construction activities.

#### **9.12.16 Response to Comment 12-16**

*Comment Summary: The comment states that the Draft EIR does not provide adequate information about the spawning gravel mitigation and monitoring plan (page 3.5-15) because the plan is not attached.*

Like other proposed mitigation and monitoring plans described in the Draft EIR, (e.g., Mitigation Measure BIO-TERR-2: Compensate for Effects on Riparian Habitat or Other Sensitive Natural Community), the spawning gravel mitigation and monitoring plan will be developed in consultation with the permitting agencies and be subject to agency approval prior to construction. The mitigation measure includes very specific performance standards that would be used to determine if gravel augmentation is

needed. CEQA Guidelines Section 15126.4 (a)(1)(B) specifically states that “The specific details of a mitigation measures, however, may be developed after project approval when it is impractical or infeasible to include those detailed during the project’s environmental review provided that the agency (1)\_commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identified the types(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed and potentially incorporated in the mitigation measure.” The Project Partners have committed to implement Mitigation Measure BIO-TERR-2, which includes specific performance standards and potential actions, and thus complies with the CEQA requirements for mitigation. Gravel augmentation plans have been successfully implemented throughout the Central Valley and can be successfully implemented if the monitoring program determines that the project has reduced gravel loads.

### 9.12.17 Response to Comment 12-17

*Comment Summary: The comment claims that the circumstances or criteria for environmental releases are not stated and are not part of the project description.*

The comment is incorrect in stating that criteria for environmental releases are not described in the Draft EIR. Environmental releases are part of the project description and Chapter 2, Description of Proposed Project on page 2-13 describes the criteria under which the releases would occur, as follows:

“Reservoir releases include releases to meet Project Partner demand and releases to meet environmental or regulatory commitments made during development and permitting of the project. For the purposes of analysis, modeling of the proposed environmental releases was based on a set of general operations rules for releasing flows during peak flow events. For every flow event of 500 cfs or greater, environmental releases would be made in a pattern that mimics the unimpeded flow in Del Puerto Creek based on a new stream gage that would be installed upstream of the proposed impoundment area. If the stream gauge measurement exceeds 500 cfs then releases would increase on for the first day of the environmental release program mimicking the measured natural flow, with flows up to 600 cfs, or the peak natural flow (whichever is less). After the first day there would be up to six additional days of releases with a decreasing flow rate in each subsequent day, eventually returning to at or near zero releases after no more than 7 days.”

### 9.12.18 Response to Comment 12-18

*Comment Summary: The comment states that the Draft EIR does not tie the proposed "recession flows" for reservoir releases to the needs of the fish or other stream-dependent species that are present in Del Puerto Creek. The commenter also cites the loss of isolated stream segments and pools potentially supporting native fish through the summer in Del Puerto Creek, and states that the Draft EIR does not explicitly consider reservoir releases necessary to maintain equivalent stream segments and pools downstream of Del Puerto reservoir. In addition to the fish species listed in the Draft EIR as being present or potentially present, the commenter lists several other species that are recorded in the Pisces database (UC Davis California Fish Website) as currently or historically being present in lower and upper Del Puerto Creek.*

As described in Impact BIO-FISH-1, Substantial Adverse Effect on Candidate, Sensitive, or Special Status Species, (page 3.5-8):

“Under proposed project operations, major flow events in Del Puerto Creek would continue to be released downstream of the proposed dam as part of the environmental commitments of the project. These environmental flow requirements include operation of the dam to bypass major flow events in a pattern that preserves key components of the peak flow events (Section 2.3.1, Reservoir Operations). This is consistent with the “functional flow” approach of managing flows

in regulated rivers to mimic the natural patterns of flow variability that drive the geomorphic and ecological processes supporting native aquatic species (Yarnell et al. 2015).”

In the next paragraph, the Draft EIR notes that “Under the proposed rules, the reservoir would be operated to release peak daily flows of 500 cfs or more (reservoir inflows from Del Puerto Creek) and then reduce flows over a period of up to six days at a rate reflecting the natural recession rate. These proposed rules are intended to preserve the flow events that transport gravel to the San Joaquin River and maintain Del Puerto Creek’s contribution to potential white sturgeon spawning habitat in the San Joaquin River. Other important functions of these flows in Del Puerto Creek may include reducing sediment accumulations of pesticides and other contaminants, maintaining flow and sediment dynamics supporting native aquatic and riparian species, and eliminating introduced species that are not adapted to the natural flow regime (Kiernan et al. 2012).”

As described in the Draft EIR in Section 3.5.1, Environmental Setting, subsection Study Area (page 3.5-1):

“Lower Del Puerto Creek (downstream of proposed dam and inundation area) has been highly altered from historical conditions by road infrastructure (e.g., highway and canal crossings), losses of riparian and wetland vegetation, agricultural return flows, and water quality degradation. Historical and ongoing physical disturbances have resulted in a simple conveyance channel with little cover (Figure 3.5-1). Intensive agricultural activities have altered water and sediment quality in lower Del Puerto Creek, with pesticide concentrations sometimes reaching levels acutely toxic to sensitive invertebrates (Weston et al. 2008, Ensminger et al. 2009, Hall and Anderson 2018). Although agricultural return flows during the summer irrigation season generally provide more stable flow conditions than historically existed within lower Del Puerto Creek, these conditions do not likely support native fish species because of their sensitivity to water quality degradation and presence of introduced species that typically characterize low elevation tributary and mainstem reaches of the San Joaquin River (Brown 2000).”

The restoration potential of lower Del Puerto Creek for native fish species is low given existing conditions and current land uses. Although reservoir releases would be managed to maintain the important ecological functions of peak flow events, the degraded habitat conditions resulting from historical and current land uses in lower Del Puerto Creek would likely persist and act as a major impediment to habitat restoration, as these conditions currently do under baseline.

In addition to field observations, several literature and database sources (including the UC Davis PISCES database) were used to determine the fish species that may be present in Del Puerto Creek and the lower San Joaquin River. For example, based on the general distribution patterns and known tolerances of native and non-native Central Valley fishes, lower Del Puerto Creek most likely supports only:

“small introduced species that can tolerate the harsh environmental conditions associated with agricultural return flows and poor water quality during the summer irrigation season. These species include fathead minnow, green sunfish, and red shiner, although other species that require permanent bodies of water (e.g., catfish, common carp) may periodically enter Del Puerto Creek from the San Joaquin River or local irrigation channels (Brown 2000).” (Section 3.5.1, Environmental Setting, subsection Study Area in Draft EIR, page 3.5-1).

Although some of the native species listed in the Pisces database may have occurred historically in lower Del Puerto Creek, one species has been extirpated (per CDFW [2010] Sacramento perch is extinct in its native range) and several others are unlikely to use lower Del Puerto Creek based on the absence of suitable spawning and rearing habitat (e.g., green and white sturgeon). The Draft EIR acknowledges that Del Puerto Creek may have historically provided suitable habitat for steelhead (sea-run rainbow trout) based on general watershed characteristics, but concludes that they are not likely to be present under current conditions because of their requirement for permanent cool streams, and the presence of likely

migration barriers in lower Del Puerto Creek (culverts underneath the California Aqueduct and Interstate 5) (Section 3.5.1, Environmental Setting, subsection Study Area, page 3.5-1). The Draft EIR thus documents that populations of fish in lower Del Puerto Creek are extremely limited, which supports structuring the environmental releases to preserve flows that transport gravel to the San Joaquin River.

### Reference

California Department of Fish and Wildlife. 2010. Sacramento Perch - *Archoplites interruptus* (Girard). Available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=104369&inline>. Accessed April 3, 2020.

### 9.12.19 Response to Comment 12-19

*Comment Summary: The comment considers the Draft EIR inadequate and incomplete because it does not present the follow-up communications with Chair Katherine Erolinda Perez of the North Valley Yokuts Tribe or Chair William Leonard of the Southern Sierra Miwuk Nation, who expressed interest in learning more about the project, as described on page 3.6-3 of the Draft EIR in the Cultural Resources section.*

The Draft EIR on page 3.6-3 notes that “William Leonard stated that the project is outside of the Southern Miwuk Nation’s tribal territory, and he would defer to the Tuolumne or Chicken Ranch Tribes. Shana Powers, the Cultural Department Director of the Tachi-Yokut Tribe of the Santa Rosa Rancheria, and Katherine Perez of Northern Valley Yokuts contacted the Del Puerto Water District on November 11 and 12, 2019, respectively. Both expressed interest in learning more about the proposed project.” The Draft EIR notes that “The Project Partners are currently in communications with these two Tribes.” As the Draft EIR was published in December, no additional details regarding further coordination with those tribes was available to include in Draft EIR. A field visit was conducted on December 11 with representatives of the Santa Rosa Rancheria (Tachi Yokuts), Nototomne Cultural Preservation (North Valley Yokuts), representatives of the Del Puerto Water District, Woodard and Curran (environmental consultant), the Bureau of Reclamation, and the cultural resources consultant. Resources were identified, and communication is ongoing. As identified in Section 3.6, Cultural Resources, and 3.14, Tribal Cultural Resources, the Bureau of Reclamation is undertaking a federal Section 106 cultural resources consultation process with interested Tribes and the State Historic Preservation Office because Reclamation may issue federal funding for the proposed project. Reclamation will prepare a NEPA document analyzing the potentially significant environmental effects of the proposed project and prepare a Section 106 consultation report.

The tribal communication process remains ongoing through the environmental analysis phase. Results of the field visit and communications subsequent to the Draft EIR will be reported in the Final Environmental Impact Report.

The text at the end of the first paragraph on page 3.6-3 of the Draft EIR has been updated as follows:

Both expressed interest in learning more about the proposed project. A field visit was conducted on December 11, 2019 with representatives of the Santa Rosa Rancheria (Tachi Yokuts) and Nototomne Cultural Preservation (North Valley Yokuts). The Project Partners are currently in communications with these two Tribes.

This update does not substantially alter a mitigation measure or result in a change to an impact determination.

### 9.12.20 Response to Comment 12-20

*Comment Summary: The comment suggests that the Draft EIR does not adequately address the risk of landslides and that geotechnical analysis is necessary to support the conclusion that landslides would not create seiche conditions that could result in dam failure, citing a slope failure at a reservoir in Italy.*

Please refer to Master Response 7 regarding risk of landslides. The Draft EIR has fully evaluated the potential for landslides and provides mitigation that would address that impact.

### 9.12.21 Response to Comment 12-21

*Comment Summary: The comment contends that the Draft EIR does not adequately consider potential alternatives and contends that 20 pages is insufficient for a meaningful evaluation of alternatives.*

As stated in CEQA Guidelines Section 15126.6(b), the purpose of the evaluation of alternatives is to “avoid the significant effects that a project may have on the environment”. The discussion of alternatives thus does not need to be as lengthy as the evaluation of the project because the analysis is focused on those areas with significant impacts. Chapter 4 of the Draft EIR specifically identifies those areas where the proposed project would have significant unavoidable impacts (see page 4-2 of the Draft EIR) and focuses the evaluation of alternatives accordingly. CEQA Guidelines Section 15126.6(d) specifically states that “the significant effect of the alternative shall be discussed but in less detail than the significant effects of the project as proposed.” The comment merely makes mention of the length of the analysis and does not identify any specific deficiencies in the evaluation of alternatives, so a more specific response is not possible. Any specific comments about alternatives are addressed below.

### 9.12.22 Response to Comment 12-22

*Comment Summary: The comment states that the Draft EIR does not substantiate the reasons that additional conservation is not feasible and claims that the Draft EIR does not consider the 2018 COA Addendum.*

The comment appears to suggest that the Project Partners do not support the West San Joaquin Integrated Regional Water Management Plan, which include objectives to enhance water conservation. The comment is not accurate in this regard. As noted in the Draft EIR on page 4-3 “DPWD supports conservation efforts by providing low interest loan funding for the installation of high efficiency irrigation systems, including both micro-sprinkler and drip emission systems. Similarly, the Exchange Contractors are dedicated to conservation and sustainable use of water. The members of the Exchange Contractors invest in conservation programs, assist farmers undertaking conservation projects with low interest loans and grants, work to improve on-farm irrigation practices, and invest in new canal delivery technology to conserve water.” However, conservation clearly cannot meet demands for irrigation water in years when the CVP allocation is 0 AF, which occurred in both 2014 and 2015. Conservation is a tool to manage water supplies, but water must be available to be managed and conserved. Conservation simply does not meet the primary project objectives to increase South of Delta storage, provide local storage in proximity to the DMC, and increase peak irrigation season water supplies.

The 2018 COA Addendum is described on page 3.11-13 of the Draft EIR. However, the CalSim data for Reclamation’s Revised No Action Alternative, which includes the 2018 COA Addendum, was not available until late 2019. As noted in Response to Comment 12-3, the operations model presented in Appendix F of this EIR has been updated using the latest CalSim data, but the small changes in annual deliveries do not affect the evaluation of impacts to hydrology and water quality. Please refer to Response to Comment 12-2 for a description of how the Addendum was considered in estimating the percentage of its CVP allocation that DPWD can expect to receive.

The comment suggests that other water supply sources should have been considered in the Draft EIR, but it is apparent that the commenter is confused about the purpose and objectives of the project. The central purpose of the project is to provide additional water storage so that existing water supplies available to the Project Partners can be better managed. Storage would allow the Project Partners to capture CVP supplies that would otherwise be available to them when water is abundant and use them when water is scarce. Alternative water supplies do not serve the same purpose.



**9.12.23 Response to Comment 12-23**

*Comment Summary: The comment requests additional information about the groundwater storage capacity of the Orestimba Creek and Los Banos Creek projects and says that the Draft EIR needs to analyze the combined storage from both the reservoir and the two groundwater storage projects.*

Please refer to Master Response 5, which provides additional information about the two groundwater storage projects. The groundwater storage projects would not reduce the need to store water in the proposed reservoir. As noted there, the Project Partners have identified the need for both groundwater and surface storage projects.

**9.12.24 Response to Comment 12-24**

*Comment Summary: The comment claims that Del Puerto Canyon is not typical because it has “unique geology” and that the Draft EIR fails to discuss the unique qualities of the canyon.*

Please refer to Master Response 16, which provides additional information about the geology of Del Puerto Canyon. As noted there, the canyon is not unique and similar cross-sections of geology can be found in other locations and would be provided by the relocated road.

**9.12.25 Response to Comment 12-25**

*Comment Summary: The comment states that that the lower part of Del Puerto Canyon supports a rare riparian habitat, the loss of which cannot be mitigated.*

Please see Response to Comment 12-11 regarding impacts to riparian habitat and mitigation proposed to reduce those impacts. As noted there, the riparian woodland in the study area is characterized as Fremont cottonwood forest vegetation alliance, which although sensitive, does occur elsewhere in the state and is not unique to Del Puerto Canyon.

**9.12.26 Response to Comment 12-26**

*Comment Summary: The comment claims that the slope above the inundation zone is the site where the first dinosaur bones were found in California and the canyon includes areas occupied by Native Americans.*

Please refer to Master Response 17 regarding paleontological resources in Del Puerto Canyon, and to Master Response 18 regarding Native American sites.

**9.12.27 Response to Comment 12-27**

*Comment Summary: The comment contends that the Draft EIR must be recirculated to address alleged flaws and specifically cites the geology of the canyon, effects on riparian habitat, diversity of bird habitat, and archaeological sites.*

As noted in Responses to Comments 12-24 through 12-26, the Draft EIR has fully evaluated the geology, biological resources, paleontology and cultural resources of Del Puerto Canyon. As explained in Section 8.5 of this Final EIR, the Draft EIR only need to be recirculated if significant new information is added to an EIR after public review (CEQA Guidelines Section 15088.5). No new impacts or substantial increase in the severity of impacts has been identified as a result of information brought forward in the comments. Recirculation of the Draft EIR is thus not deemed to be necessary.

**9.12.28 Response to Comment 12-28**

*Comment Summary: The comment suggests that the Ingram Canyon Alternative was rejected due to its size.*

The comment is incorrect in that the Ingram Canyon Alternative was not rejected from consideration due to size. The size of the reservoir was one of many factors considered in the evaluation, and although the

Ingram Canyon Reservoir is slightly smaller than the proposed project, and thus does not fully meet all of the project objectives, it was still considered in the Draft EIR, and was not “rejected”. The list of reservoir sites that were considered is provided on page 4-4 of the Draft EIR, and of these locations, the options that were rejected are: Deep Gulch, Lone Tree Creek, Hospital Creek, Kern Canyon, Little Salado/Crow Creek, Salado Creek, Oso Creek, Orestimba Creek, Garzas Creek, Quinto Creek Mustang Creek and Romero Creek. Although not the top-ranked option during alternatives screening, the Ingram Canyon site was included in the Draft EIR because commenters requested consideration of this site during scoping. The validity of the evaluation of the Ingram Canyon alternative cannot be solely judge by the number of pages it occupies in the Draft EIR.

The comment cites case law that is totally irrelevant to the Draft EIR analysis of alternatives. In *Habitat and Watershed Caretakers v. City of Santa Cruz*, the City rejected alternatives from further consideration because they did not fully meet project objectives and only considered one project alternative and the no-project alternative. The courts found that the City did not provide supporting evidence for rejection of the alternative. The Draft EIR evaluates the Ingram Canyon Alternative, which is addressed in Chapter 4. Please refer to Master Response 4 for additional information about the consideration of alternative locations.

### 9.12.29 Response to Comment 12-29

*Comment Summary: The comment claims that the Ingram Canyon Alternative was rejected because of cost.*

As stated above, the Ingram Canyon alternative was not “rejected”. The Draft EIR does, however, identify the fact that the Ingram Canyon Alternative is not considered to be as cost effective as the proposed project. Page 4-16 of the Draft EIR is cited, but no text on that page that rejects the Ingram Canyon Alternative can be found. Please refer to Master Response 4 for additional information about the consideration of alternative locations.

### 9.12.30 Response to Comment 12-30

*Comment Summary: The comment states that the Ingram Canyon Alternative is not evaluated at the same level of detail as the proposed project and does not include mitigation measures for the impacts of the Ingram Creek Alternative.*

As noted in Master Response 4, CEQA Guidelines Section 15126.6(d) states that “the significant effect of the alternative shall be discussed but in less detail than the significant effects of the project as proposed. CEQA does not require that alternatives be evaluated at the same level of detail as the proposed project. Analysis of the Ingram Canyon Alternatives assumed implementation of the same mitigation measures that would apply to the proposed project. The comparison of impacts presented in the Draft EIR in Table 4-11: Impact Comparison of Alternatives to the Proposed Project (Impacts after Mitigation) beginning on page 4-19 indicates that many of the potential impacts associate with the Ingram Canyon Alternative are less than significant with mitigation, or “LSM”.

To clarify that mitigation is assumed to be implemented for the Ingram Canyon Alternative, the text at the end of the first paragraph of Section 4.9, on page 4-13 of the Draft EIR has been updated as follows:

... The extent of construction is thus expected to be similar or greater than that required for construction of the proposed project. Analysis of impacts associated with the Ingram Canyon Reservoir site assumes implementation of the same or similar mitigation measures as would be applicable to the proposed project, including measures to protect biological, cultural and paleontological resources and to address construction period impacts on air quality and traffic.

### 9.12.31 Response to Comment 12-31

*Comment Summary: The comment claims that impacts on the Draft EIR does not discuss terrestrial biological resources in Ingram Canyon and that biological resource impacts of a reservoir in Ingram Canyon could not be similar to the impacts of a project in Del Puerto Canyon.*

The comment is not correct that the Draft EIR does not address impacts of the Ingram Canyon Alternatives on terrestrial biological resources. Page 4-14 of the Draft EIR states that “Because the inundation area would be smaller than with the proposed project, it could be assumed that there would be less potential for habitat loss including reduced impacts on oak woodlands, and habitat for sensitive amphibians, birds and mammals, however a previous study (DWR 1996) ranked Ingram Canyon as having an environmental sensitivity similar to Del Puerto Canyon.” Please refer to Master Response 4, which provides an expanded analysis of terrestrial biological resources in Ingram Canyon. Master Response 4 also provides additional information about fisheries resources and explains that Ingram Creek is expected to have fisheries resources similar to Del Puerto Creek, with similar native fish species in both watersheds.

### 9.12.32 Response to Comment 12-32

*Comment Summary: The comment asserts that the Draft EIR fails to discuss earthquake faults in the footprint of Ingram Canyon and does not compare the risk of landslides.*

Neither the proposed project nor the Ingram Canyon Alternative would have an earthquake fault within the footprint of the dam or reservoir. Please refer to Master Response 6, which explains that the location of the closest fault is east of the proposed site for the main Del Puerto Canyon Reservoir dam. Please refer to Master Response 4 for additional discussion of landslide potential at both sites; impacts associated with landslide potential are not considered to be a major distinguishing feature between the two locations.

### 9.12.33 Response to Comment 12-33

*Comment Summary: The comment claims that the Draft EIR fails to identify the City of Patterson as a responsible agency.*

Please refer to Master Response 12, which explains that the City of Patterson is not a responsible agency. The comment cites *Riverwatch v Olivenhain Municipal Water District*, which defines a responsible agency as having permitting authority or approval power over some aspect of a project. This case is irrelevant to the proposed project as the City of Patterson does not have any approval authority. The Project Partners do not require approval from the City for the project and would not need to submit a “request for conversion” to construct facilities on agricultural land.

### 9.12.34 Response to Comment 12-34

*Comment Summary: The comment contends that the Draft EIR defers mitigation of impacts to the City’s water supply because it fails to specify meaningful standards for minimum flows and does not provide sufficient releases for Patterson.*

Mitigation Measure HYD-2: Develop Operation Requirements to Deliver Recharge Water to Lower Del Puerto Creek, is correctly quoted in the comment and is repeated below:

*The Project Partners shall develop an operations manual that describes water delivery to the lower reach of Del Puerto Creek below the proposed dam to make up for lost natural seepage due to the proposed project. The manual shall provide releases, for the City of Patterson’s benefit depending on water year type and Del Puerto Creek inflows, of up to 1,700 AFY. Such releases will augment existing/no-project in-stream recharge conditions.*

The mitigation was developed in cooperation with the City of Patterson and would actually provide more reliable flows from Del Puerto Creek than are available under existing conditions. The Project Partners

have been in close coordination with the City regarding the City's future water supply in the event that the Del Puerto Canyon Reservoir project is implemented. Mitigation Measure HYD-2 provides sufficient benchmarks to allow a conclusion that reductions in recharge in lower Del Puerto Creek would be less than significant. The comment provides no basis for claiming that the proposed schedule of releases would not be "sufficient". As explained in the Draft EIR on page 3.11-21 where the proposed project's impacts on the City's water supplies are evaluated, recharge in the lower portion of Del Puerto Creek could "produce a yield of up to 1,700 AFY from pumping recharged water under wet, above normal and below normal water year conditions.

### 9.12.35 Response to Comment 12-35

*Comment Summary: The comment claims that the Draft EIR has substantial flaws, fails to disclose significant impacts and fails to consider reasonable mitigation measures and must thus be recirculated.*

As explained in Section 8.5 of this Final EIR, the Draft EIR only need to be recirculated if significant new information is added to an EIR after public review (CEQA Guidelines Section 15088.5). Responses to Comments 12-1 through 12-34 document that the Draft EIR has fully evaluated impacts of the proposed project; no new significant or substantially more severe impacts have been identified in this or other comment letters. The comment letter does not suggest any "reasonable mitigation measures" that should be implemented to address impacts of the proposed project, so there are no new feasible mitigation measures that the Project Partners have declined to adopt. Recirculation of the Draft EIR is thus not deemed to be necessary.

## 9.13 Comment Letter 13 - East Bay Regional Park District, Douglas A. Bell, Wildlife Program Manager

### 9.13.1 Response to Comment 13-1

*Comment Summary: The comment notes that bald eagles in the northern Diablo Range, which includes the study area, largely nest in trees and that the Draft EIR fails to take this into consideration. The comment also requests consultation with David Wiens from the USGS to determine whether nests or territories they track are within the study area. The comment also states that elimination of golden eagle nests and breeding territories meets the definition of take under the Bald and Golden Eagle Protection Act.*

As noted in Response to Comment 1-1, the discussion of golden eagle in Section 3.4.1 *Environmental Setting, Special-Status Species* of the Draft EIR has been refined.

Text in the first paragraph on page 3.4-16 of the Draft EIR is revised as follows:

There are no CNDDDB occurrences within 5 miles of the study area. The closest CNDDDB occurrence is approximately 10.5 miles south of the study area (California Department of Fish and Wildlife 2019b). Studies by others indicate that there are golden eagle nesting territories within 5 miles of the study area (Wiens et al. 2015, Hunt et al. 2017 and Dunk et. al. 2019). Potential foraging habitat for golden eagle is present in the study area and the species was observed in flight during the wildlife surveys. Potential nesting habitat occurs to the west of the study area where there are cliffs and escarpments as well as trees within the study area.

This refinement does not substantially alter a mitigation measure or result in a change to an impact determination.

Impact BIO-TERR-1k, *Impacts on Special-Status Birds and Nesting Migratory Birds*, in the Draft EIR is modified to include impacts on potential nesting habitat and the discussion of significance after mitigation.

The third paragraph under *Construction Impacts* on page 3.4-53 of the Draft EIR is revised as follows:

... For tricolored blackbird and golden eagle, the project would result in the permanent loss of 105 acres and temporary impacts on 529 acres of foraging habitat. Construction would result in the permanent loss of 0.4 acre and temporary impacts on 2 acres of potential nesting habitat for golden eagle.

The third paragraph under *Operation Impacts* on page 3.4-53 of the Draft EIR is revised as follows:

For tricolored blackbird and golden eagle, the project would result in the permanent loss of 748 acres of foraging habitat. The filling of the reservoir would also result in the loss of 56 acres of potential nesting habitat (16 acres of riparian woodland, 39 acres of blue oak woodland, and 0.4 acre of ornamental trees).

The paragraph under **Significance after Mitigation** on page 3.4-54 of the Draft EIR is revised as follows:

Implementation of Mitigation Measures BIO-TERR-1a and BIO-TERR-1k would avoid and minimize effects on special-status birds and nesting migratory birds. These measures, together with the implementation of Mitigation Measures BIO-TERR-1l, which would help mitigate for the loss of foraging habitat and Mitigation Measures BIO-TERR-2 and BIO-TERR-5, which would mitigate for the loss of riparian habitat and blue oak woodland habitat that could be used for nesting, and Mitigation Measures ~~AES-4~~ AES-2 and ~~AES-5~~ AES-3, which minimize potential effects from construction and operational lighting, would reduce the impacts on special-status and nesting migratory birds to less than significant because the potential for disrupting nesting and the potential injury and/or mortality would be avoided and minimized, potential nesting habitat would be replaced, and suitable foraging habitat would be mitigated.

As discussed in Section 3.4.2 Regulatory Framework, *The Bald and Golden Eagle Protection Act*, the Project Partners will comply with the Bald and Golden Eagle Protection Act. The USGS was contacted by email on March 9, 2020 to determine if any of their documented golden eagle nests and nesting territories overlap with the study area. USGS staff requested information on the project footprint and GIS files for the project were sent to the USGS on March 18, 2020. A follow-up email was sent to the USGS on March 27, 2020 (USGS has requested contact by email only during the COVID-19 outbreak) and a second follow-up email was sent on June 10, 2020, at which time USGS responded that they were still working on approval for data release. However, this information was not obtained in time for the Final EIR. This information will be used for compliance with the Bald and Golden Eagle Protection Act.

### 9.13.2 Response to Comment 13-2

*Comment Summary: The comment states that the loss of potential breeding territories associated with the project may have population-wide consequences through cumulative impacts on golden eagles in the Diablo Range.*

Impacts on golden eagle are addressed in the Draft EIR on page 3.4-53 in Impact BIO-TERR-1k, *Impacts on Special-Status Birds and Nesting Migratory Birds*. Please see Response to Comment 13-1 for changes to this discussion and analysis.

At the time of the preparation of the Final EIR, the previously identified golden eagle nest and territory locations within and in the vicinity of the project study area were not available. In Wiens et al. 2015, the authors studied golden eagles in the Diablo Range of west-central California in a study area of approximately 5,169 km<sup>2</sup> (1.28 million acres). The proposed project would result in a permanent loss of 909 acres of foraging and nesting habitat in this region, which represents 0.07% of the area studied by Wiens et al. (2015). In their study, Wiens et al. (2015) used an annual core use area of 3,422 acres (1,385 hectares) for a golden eagle pair. Using this territory size and assuming the proposed reservoir lies within at least one territory, it would result in the loss of up to approximately 27 percent of a single territory. This would undoubtedly result in an impact on at least one pair of golden eagles, if their territory overlaps with the study area, but the proposed project alone would not likely result in a population wide impact,

though it would contribute to cumulative impacts on the species. Cumulative impacts on terrestrial resources are addressed starting on page 3.4-67 of the Draft EIR.

### 9.13.3 Response to Comment 13-3

*Comment Summary: Comment states the Draft EIR does not include prairie falcon and that the proposed project would impact potential foraging and nesting habitat for this species.*

The Draft EIR on page 3.4-6, Section 3.4.1 Environmental Setting, Special-Status Wildlife, identifies criteria for defining the special status species evaluated:

- “Species listed or proposed for listing as threatened or endangered under ESA (50 CFR 17.11 [listed animals], 50 CFR 17.12 [listed plants], and various notices in the Federal Register [FR] [proposed species]).
- Species that are candidates for possible future listing as threatened or endangered under ESA (81 FR 87246, December 2, 2016).
- Species listed or proposed for listing by the State of California as threatened or endangered under CESA (14 CCR 670.5).
- Plants listed as rare under the California Native Plant Protection Act (CFGC 1900 et seq.).
- Plants with a California Rare Plant Rank (CRPR) of 1 or 2 (California Department of Fish and Wildlife 2019c).
- Animal species of special concern to California Department of Fish and Wildlife, Special Animals List (California Department of Fish and Wildlife 2019d).
- Animals fully protected in California (CFGC Section 3511 [birds], 4700 [mammals], 5050 [amphibians and reptiles], and 5515 [fish])”

The prairie falcon does not meet the criteria used to define special-status species and is considered to be globally Secure (G5) with a state ranking of Apparently Secure (S4). The implementation of Mitigation Measures BIO-TERR-1a Avoid and Minimize Impacts on Biological Resources (Draft EIR page 3.4-37) and BIO-TERR-1k Impacts on Special-Status Birds and Nesting Migratory Birds (Draft EIR page 3.4-54) would avoid and minimize effects on special-status birds and nesting migratory birds. Implementation of Mitigation Measures BIO-TERR-1f, Compensate for the Loss of California Tiger Salamander Habitat (which includes upland habitat) (Draft EIR page 3.4-45), BIO-TERR-1g Compensate for the Loss of California Red-legged Frog Habitat (which includes upland habitat) (Draft EIR page 3.4-46), BIO-TERR-1m Compensate for the Loss of Swainson’s Hawk Foraging Habitat (Draft EIR page 3.4-56) would also benefit other birds that forage in grasslands, including prairie falcon, if present in these areas.

## 9.14 Comment Letter 14 - Valley Land Alliance, submitted through Marsha A. Burch, Attorney at Law

### 9.14.1 Response to Comment 14-1

*Comment Summary: The comment contends that the Draft EIR inadequately analyzes impacts, omits feasible mitigation, and fails to evaluate a reasonable range of alternatives, asserting that the analysis of risk to public safety, water supply and ecosystem health are inadequate.*

The comment does not reference specific reasons why analyses or mitigation are inadequate, so a detailed response is not possible. Responses to specific comments are provided below in Responses to Comments 14-3 through 14-15.

### 9.14.2 Response to Comment 14-2

*Comment Summary: The comment summarizes the alleged inadequacies of the Draft EIR that are the focus of the comment letter.*

The comment does not identify any specific issues regarding the contents or conclusions of the Draft EIR, other than to express concern about the breadth and significance of the project's impacts, thus a detailed response is not possible. Please refer to page 5-1 of the Draft EIR, which identifies a number of significant unavoidable adverse impacts associated with the project. Responses to specific comments are provided below in Responses to Comments 14-3 through 14-15.

### 9.14.3 Response to Comment 14-3

*Comment Summary: The comment expresses concern “regarding the private control of water storage” while the residents of Patterson are subject to risks and increased costs; the comment asserts that there is no evacuation plan.*

Please refer to Master Response 1, which explains that the Project Partners are public agencies, not private entities. As documented in Master Response 10 regarding flood insurance, there will be no increased flood insurance cost for the residents of Patterson, and thus there is no expectation that property values would be affected. (Note: Property values are not an environmental impact.) Please refer to Master Response 6 regarding seismic risk and dam safety and to Master Response 9 regarding the Emergency Action Plan that would be developed for the project.

### 9.14.4 Response to Comment 14-4

*Comment Summary: The comment cites the required analyses to be included in an EIR.*

The Draft EIR does include an evaluation of the significant environmental effects of the proposed project (see Chapter 3 of the Draft EIR), the significant effects that cannot be avoided (listed in Section 5.1 of the Draft EIR), the significant irreversible environmental changes that would be involved in implementing the project (discussed in Section 5.2 of the Draft EIR), the growth-inducing impacts of the project (evaluated in Section 5.3 of the Draft EIR), mitigation measures proposed to minimize significant effects (detailed throughout Chapter 3 of the Draft EIR) and alternatives to the proposed project (evaluated in Chapter 4 of the Draft EIR).

### 9.14.5 Response to Comment 14-5

*Comment Summary: The comment claims that mitigation strategies for impacts fail to meet the need for specific performance criteria and ignore the potential inundation of the City of Patterson.*

The comment does not specify any specific concerns regarding mitigation strategies; any specific concerns about mitigation are discussed below. The Draft EIR does not ignore the potential for inundation in the event of dam failure. Potential impacts of a dam breach are discussed in detail on page 3.11-23 of the Draft EIR, where it is noted that “The proposed project would be designed with multiple safety factors, which would result in an extremely low probability of dam breach. ... The threat of project inundation is thus considered a less than significant impact.” Please refer to Master Response 8 for additional details regarding the potential for inundation in the event of a dam failure.

### 9.14.6 Response to Comment 14-6

*Comment Summary: The comment asserts that the analysis of risk to life and property is inadequate.*

Please refer to Master Response 6 regarding seismic risk and dam safety, Master Response 7 regarding the risk of landslides and to Master Response 8 regarding the potential for inundation in the event of a dam failure.

#### **9.14.7 Response to Comment 14-7**

*Comment Summary: The comment contends that the project is inconsistent with County General Plan policies because it does not ensure that development does not occur in areas subject to natural disasters and fails to include mitigation to reduce impacts.*

The Project Partners have no land use authority to limit development, but the project would reduce the existing risk of flooding along Del Puerto Creek. Please refer to Master Response 10 regarding risk of flooding, to Master Response 6 regarding dam safety and to Master Response 7 regarding the risk of landslides. DPWD submitted a request to the Stanislaus County Planning Department for a report on the conformity of the project with the County's adopted General Plan. Stanislaus County informed DPWD that they did not consider a conformity determination to be necessary and stated that "the Planning Department does consider the project to be consistent with the County General Plan; specifically, the goals and policies of the Land Use and Agricultural Elements." (email from Angela Freitas, Director, Stanislaus County Planning & Community Development Department to Anthea G. Hansen, General Manager, Del Puerto Water District, dated April 17, 2020).

#### **9.14.8 Response to Comment 14-8**

*Comment Summary: The comment expresses concern about impacts on archaeological, historical and paleontological resources and claims that the "handling of these resources" in the Draft EIR does not comply with County policies.*

Impacts on cultural resources are fully addressed in Section 3.6 of the Draft EIR and impacts on paleontological resources are addressed in Section 3.8 of the Draft EIR. The comment fails to express any specific concerns about the evaluation of impacts in the Draft EIR, so a more specific response is not possible.

#### **9.14.9 Response to Comment 14-9**

*Comment Summary: The comment suggests that the Draft EIR should develop mitigation for a potential dam breach even if the risk is low.*

As noted on page 3.11-14 of the Draft EIR the proposed project would include preparation of "an emergency action plan as required by California Water Code Sections 6160 through 6162." Please refer to Master Response 6, which details the measures that would be included to ensure that the design and construction of the Del Puerto Canyon Reservoir Project is performed to provide a very high level of safety for seismic and other risks. Please refer to Master Response 9 regarding Emergency Action Plans and see Master Response 8 for a detailed explanation of the potential for inundation in the event of a dam failure. The Draft EIR also explains that "The reservoir would have facilities allowing rapid emergency drawdown (or evacuation) of water in the event of an unsafe dam condition." Both drawdown and emergency action plans are mitigation for emergency conditions, and both are a standard part of design and operation of the project, and of all dam projects.

#### **9.14.10 Response to Comment 14-10**

*Comment Summary: The comment contends that the Draft EIR does not include a performance standard for Mitigation Measure GEO-1.*

As stated on page 3.8-14 of the Draft EIR, within the text of Mitigation Measure GEO-1, "The performance standard to be used in the geotechnical evaluations will be minimization of the hazards associated with seismic ground shaking, landslides, and subsidence." The mitigation also specifically states that "Design of the project shall comply with all measures required by DSOD". The role of the Division of Safety of Dams (DSOD) in reviewing and approving design of dams is explained earlier in the Geology and Soils Chapter of the Draft EIR, beginning on page 3.8-9. As noted in that discussion "DSOD requires a deterministic seismic hazard analysis, which yields estimates of the level of ground



shaking due to an earthquake occurring on identified faults. The dam would be designed to withstand groundshaking as determined by the seismic hazard analysis.’ Design requirements of DSOD are also detailed in the Draft EIR in Section 2.4.4 of the Project Description, beginning on page 2-17.

#### **9.14.11 Response to Comment 14-11**

*Comment Summary: The comment states that if there is any level of risk of dam failure, then mitigation measures designed to reduce loss of life and property must be provided.*

Please refer to Response to Comment 14-9 and to Master Response 9 regarding Emergency Action Plans. Also refer to Master Response 10 regarding flood insurance, which is not required.

#### **9.14.12 Response to Comment 14-12**

*Comment Summary: The comment asks if the risk of landslides reduced to zero with Mitigation Measure GEO-1 and asserts that there are no performance criteria.*

As noted in Response to Comment 14-10, Mitigation Measure GEO-1 specifies that “The performance standard to be used in the geotechnical evaluations will be minimization of the hazards associated with seismic ground shaking, landslides, and subsidence.” Please refer to Master Response 7 regarding the risk of landslides. As noted on page 3.8-14 of the Draft EIR, Mitigation Measure GEO-1 includes a requirement that “Monitoring of the hazardous features including performance of any mitigation option will be included as part of the long-term operation and maintenance of the proposed project”. This monitoring will ensure that mitigation is performing appropriately to address landslide risk and would allow implementation of additional mitigation as needed. The Mitigation Measure includes a variety of options for landslide mitigation.

#### **9.14.13 Response to Comment 14-13**

*Comment Summary: The comment contends that mitigation for expansive soil is inadequate and claims that specific measures are not identified.*

Mitigation Measure GEO-3 on page 3.8-17 of the Draft EIR identifies a performance standard: “ensure that structures are not damaged by expanding and contracting soils”. The measure also includes specific actions that could be implemented, which “include removal and replacement of soil, deep foundations, or deep mixing of compressible or expansive soils with stabilizing agents.” The discussion of expansive soils on page 3.8-16 of the Draft EIR also notes that “There is limited potential for expansive soils in the project area, and expansive soils are not expected to adversely affect the proposed project. Despite the low risk “Expansive soils would be considered during the design of the proposed project”.

#### **9.14.14 Response to Comment 14-14**

*Comment Summary: The comment states that the Draft EIR does not identify an environmentally superior alternative and asserts that the alternatives analysis must include feasible alternatives that would reduce or eliminate some of the environmental impacts.*

The analysis of alternatives presented in Chapter 4 of the Draft EIR does evaluate alternatives that would reduce or eliminate some of the project’s significant unavoidable impacts. Please refer to the Table 4-10 on page 4-17 of the Draft EIR, “Comparison of Significant Impacts by Alternative”, which shows that the 40-TAF Reservoir Alternative would reduce significant impacts on greenhouse gas emissions and construction traffic, and that the Ingram Canyon Reservoir Alternative would reduce significant impacts on aesthetics and construction traffic and avoid impacts associated with relocation of major utilities. Review of Table 4-10 shows that the 40-TAF Reservoir Alternative has less impact than the Ingram Canyon Reservoir Alternative in the areas of air quality and greenhouse gas emissions (both the level of emissions and conflicts with an applicable plan). The Ingram Canyon Reservoir Alternative has less impact than the 40-TAF Alternative in the areas of aesthetics, construction traffic and utility relocation. Potential impacts on cultural resources are deemed to be equally significant for both alternatives. Even

with a simple numerical accounting of the number of significant impacts, it is clear that neither project has fewer impacts than the other and thus the Draft EIR accurately concluded that there was no clearly environmentally superior alternative.

CEQA Guidelines Section 15126.6(e)(2) states that “If the environmentally superior alternative is the ‘no project’ alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.” However, the Draft EIR clearly notes on page 4-17 that because it does not provide environmental benefits associated with management of groundwater and would result in changes in visual character, loss of orchards and degradation of air quality from dust “The No Project Alternative is thus not considered to be environmentally superior.” Because the No Project Alternative is not considered to be environmentally superior the EIR is not required to identify an environmentally superior alternative among the other alternatives. When none of the alternatives is environmentally superior to the project, it is sufficient to compare the significant effects of each alternative with those of the project. That comparison is provided in Chapter 4 and summarized in Table 4-10 on page 4-17.

#### **9.14.15 Response to Comment 14-15**

*Comment Summary: The comment suggests that the Draft EIR fails to meet the requirements of CEQA and that the project should not be approved.*

As noted in the Responses to Comments 14-1 through 14-14, the Draft EIR has fully evaluated impacts of the proposed project. As explained in Section 8.5 of this Final EIR, the Draft EIR only need to be revised and recirculated if significant new information is added to an EIR after public review (CEQA Guidelines Section 15088.5). No new impacts or substantial increase in the severity of impacts has been identified as a result of information brought forward in the comments. Recirculation of the Draft EIR is thus not deemed to be necessary. Please refer to Master Response 2 regarding opposition to the proposed project.

### **9.15 Comment Letter 15 - Save Mount Diablo, Juan Pablo Galván, Senior Land Use Manager**

#### **9.15.1 Response to Comment 15-1**

*Comment Summary: The comment summarizes concerns that are presented in detail in subsequent comments within the comment letter.*

Each of the main issues enumerated in the comment letter is addressed below. Please refer to Responses to Comments 15-2 through 15-9.

#### **9.15.2 Response to Comment 15-2**

*Comment Summary: The comment states that Mitigation Measures BIO-TERR-1f and 1g do not include key details on how the mitigation will be done, and states that determining the absence of a species is difficult in “any one survey” because they may be missed and that if the referenced protocol level surveys state that several surveys are to be conducted that the Draft EIR should state that.*

Mitigation Measure BIO-TERR-1f: Compensation for the loss of California Tiger Salamander Habitat (Draft EIR page 3.4-45) and Mitigation Measure BIO-TERR-1g: Compensation for the loss of California Red-legged Frog Habitat (Draft EIR page 3.4-46) both lay out commitments to mitigate at a minimum of 1:1 and provide two options for achieving this mitigation, through the purchase of credits at a mitigation bank approved by the USFWS and CDFW or through the establishment of a conservation easement and an associated endowment, which will also be approved by the agencies. Furthermore, the measures note the conservation areas will be occupied and will be managed in perpetuity for the benefit of the species, and notes that further details will be developed in consultation with the agencies. The commitments and level of detail are sufficient for impact evaluation under CEQA because the project has not yet been approved and permitted and thus any specific detail for the mitigation (e.g., specific location, specific

acreage, specific management plan) would be premature at this time. CEQA Guidelines Section 15126.4 (a)(1)(B) states the following:

The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.

The Project Partners will follow all applicable CEQA Guidelines, including those identified above.

The protocols for California red-legged frog and California tiger salamander surveys listed under Mitigation Measure BIO-TERR-1e: Avoid and Minimize Impacts on Special-Status Amphibians (Draft EIR page 3.4-43) do involve multiple surveys. These are protocols developed by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife for the purpose of determining the presence or absence of a species and both protocols require submitting results for agency approval.

### 9.15.3 Response to Comment 15-3

*Comment Summary: The comment recommends preservation ratios of 2:1 for riparian woodland, 3:1 for seasonal wetlands, and 2:1 for perennial streams, and restoration ratios of 1:1 for riparian woodland, 2:1 for seasonal wetlands, and 1:1 for perennial streams.*

The Draft EIR specifies a minimum of 1:1 compensation for impacts on riparian habitat and wetlands (page 3.4-63). Compensation may occur at higher ratios, but this will be determined through coordination with state and federal agencies.

### 9.15.4 Response to Comment 15-4

*Comment Summary: The comment states that specific mitigation ratios should be provided for different riparian and wetland habitat types and that these ratios should be higher than 1:1.*

Please see Response to Comment 15-3 regarding mitigation measures and compensation ratios for riparian and wetland habitat types. Please refer to Response to Comment 15-3 regarding adequacy of mitigation.

### 9.15.5 Response to Comment 15-5

*Comment Summary: The comment notes that the proposed project would cut off part of a wildlife corridor identified in Penrod et al. 2013 as being important to American badger, San Joaquin kit fox, northern harrier, white-tailed kite, burrowing owl, loggerhead shrike, San Joaquin coachwhip, coast horned lizard, California red-legged frog, and western spadefoot toad. The comment requests that the remaining wildlife corridor and remaining habitat in Del Puerto Canyon be protected as mitigation for the proposed project.*

Page 3.4-23 of the Draft EIR acknowledges that the study area overlaps with both a linkage and a landscape block identified in the Bay Area and Beyond Critical Linkages (Penrod et al. 2013). Impacts on wildlife corridors are addressed in Impact BIO-TERR-4 Interference with the Movement of Native Resident or Migratory Wildlife Species or Established Native Resident or Migratory Wildlife Corridors or Use of Native Wildlife Nursery Sites (Draft EIR page 3.4-64). Impacts specifically addressing the movement of American badger are addressed in Impact BIO-TERR-1o Impact on American Badger (Draft EIR page 3.4-61) and impacts on the movement of San Joaquin kit fox are addressed in Impact BIO-TERR-1n Impact on San Joaquin Kit Fox (Draft EIR page 3.4-59). The Draft EIR includes

mitigation to address impacts on wildlife corridors in Mitigation Measures BIO-TERR-4a, -4b, and -4c on page 3.4-65 and includes a measure to specifically address San Joaquin kit fox dispersal habitat in Mitigation Measure BIO-TERR-1p Compensate for the Loss of San Joaquin Kit Fox Dispersal Habitat on page 3.4-61. These measures are intended to mitigate the effects on the north-south movement of wildlife. The Draft EIR also includes Mitigation Measure BIO-TERR-2 Compensate for Effects on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-62), which includes an option for acquiring land upstream of the reservoir and Mitigation Measure BIO-TERR-5 Develop a Management Plan for the Protection and Enhancement of Oak Woodlands (Draft EIR page 3.4-66), which includes the protection, management, and enhancement of oak woodlands on lands acquired for the reservoir, specifically those lands that are directly adjacent to the reservoir.

### 9.15.6 Response to Comment 15-6

*Comment Summary: The comment states that the Draft EIR does not provide sufficient information about the potential to provide water to wildlife refuges, including an identification of which refuges would receive water, which species would benefit and assurances of the certainty that water would be delivered to refuges.*

The Project Partners are working with Reclamation, and page 1-3 of the Draft EIR states that “Reclamation would have an opportunity to participate in the project for South of Delta benefits of up to 20,000 AF of storage, which could be used to store water for wildlife refuges.” For modeling purposes, the operations analysis in Appendix F of the Draft EIR assumed 11,000 AF of storage is allocated to refuges. However, the Project Partners do not yet have an agreement with Reclamation to provide storage for water for refuges. It is thus not possible to identify which refuges could receive water that could be stored in the Del Puerto Canyon Reservoir, or which species might benefit from that water. Potential beneficiaries could include the San Luis National Wildlife Complex; Kern National Wildlife Refuge; Volta, Mendota, Los Banos and North Grassland Wildlife Areas; and refuges managed by the Grassland Water Resources Conservation District. The Draft EIR does not rely on any specific assumed benefits to offset impacts, and the lack of certainty about the details of the agreement with Reclamation thus does not affect any of the conclusions in the Draft EIR regarding the significance of impacts.

### 9.15.7 Response to Comment 15-7

*Comment Summary: The comment notes that golden eagles in the Diablo Range nest in trees and not primarily on cliffs and that the Draft EIR should analyze impacts on nesting habitat and propose mitigation for these impacts.*

The discussion of golden eagle in Section 3.4.1 Environmental Setting, Special-Status Species of the Draft EIR has been revised to reflect information that has been obtained from the U.S. Geological Survey regarding golden eagles in the project area. Please refer to Response to Comment 13-1, which describes text changes to the Draft EIR.

The Draft EIR does not currently propose specific mitigation for the loss of golden eagle nesting habitat because at this time there has been no documented nesting or observed golden eagle nest structures in the study area. The loss of potential nesting habitat would be mitigated through Mitigation Measure BIO-TERR-2 Compensate for Effects on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-62), which includes mitigating for the loss of riparian habitat at a minimum of 1:1 and Mitigation Measure BIO-TERR-5 Develop a Management Plan for the Protection and Enhancement of Oak Woodlands (Draft EIR page 3.4-66), which includes the protection, management, and enhancement of oak woodlands on lands acquired for the reservoir, specifically those lands that are directly adjacent to the reservoir.

### 9.15.8 Response to Comment 15-8

*Comment Summary: The comment asserts the importance of the western most portion of Del Puerto Canyon as a San Joaquin kit fox movement corridor. The comment states that the Draft EIR “acknowledges the potential of orchards to be used by” San Joaquin kit fox and that it also discounts the possibility of the orchards that would be impacted by the project as being likely used by the species. The comment also states that Mitigation Measure BIO-TERR-1p is inadequate because it is too vague, does not include specific locations, and does not include an acreage of protected habitat. The comment requests that the loss of habitat be mitigated at 3:1. The comment requests that any new road built include under-crossings to facilitate wildlife movement. The comment also requests that Impact BIO-TERR-1n include the potential for road mortality from the proposed project, as well as for American badger. The comment claims that there is a discrepancy between the San Joaquin kit fox impacts and the American badger impacts and that this discrepancy be corrected.*

The Draft EIR describes the optimal habitat for San Joaquin kit fox, which includes arid shrublands and grasslands with sparse ground cover and short vegetative structure (Draft EIR page 3.4-16). Literature is cited regarding the use of orchards by kit fox, which notes that although kit fox has been observed to forage in orchards, use of these areas for foraging would depend on an open understory to allow for predator detection (Draft EIR page 3.4-17). The abandoned orchards in the study area do not have an open understory and would thus not be suitable as denning sites or for foraging, an example of which is depicted in Appendix B6, Photos 21 and 22. The Draft EIR identifies potentially suitable habitat for San Joaquin kit fox in the study area as being annual grasslands with less than 15 percent slopes and classifies the habitat as low quality, which is supported by the literature on the species (Cypher et al. 2007, Cypher et al. 2013, U.S. Fish and Wildlife Service 2010).

Impact BIO-TERR-1n Impacts on San Joaquin Kit Fox on the page 3.4-59 of Draft EIR concludes that based on the size of contiguous habitat and considering the quality of the habitat (page 3.4-17), the study area is unlikely to provide a large enough home range to support occupancy of San Joaquin kit fox. However, the study area does represent potential dispersal habitat. Therefore, Mitigation Measure BIO-TERR-1p: Compensate for the Loss of San Joaquin Kit Fox Dispersal Habitat (Draft EIR page 3.4-61) proposes to compensate for the loss of dispersal habitat by establishing a conservation easement on properties along the I-5/California Aqueduct corridors from Sperry Avenue/Diablo Grande Parkway (at I-5) north to the area around Del Puerto Creek. Because the purpose of the mitigation is maintaining and improving dispersal habitat the emphasis is on establishing an effective corridor for movement and not mitigating for occupied habitat. Regarding the level of detail presented in this mitigation measure please see Response to Comment 15-2.

Regarding the comment’s request for under-crossings to facilitate wildlife movement, Mitigation Measure BIO-TERR-4a: Implement Wildlife Crossings does include considerations for establishing under-crossings as well as fencing when the final road design is complete.

Regarding the comment’s request that Impact BIO-TERR-1n include kit fox road mortality, the construction impacts discussed on page 3.4-59 of the Draft EIR note that San Joaquin kit fox could be injured or killed by construction related vehicles. The operational impacts do not include road mortality because the proposed project would not result in an increase in vehicle traffic on the realigned Del Puerto Canyon Road once the project is operational (see Draft EIR Impact TR-1 starting on page 3.13-11) so any mortality on roads would be the same as with existing conditions. Also, the realigned roadway would be in steeper terrain, which is not suitable for San Joaquin kit fox. Impact BIO-TERR-1o Impact on American Badger, on page 3.4-61 of the Draft EIR similarly notes the potential for vehicle strikes during construction but does not address operational related road mortality for the same reasons (i.e., no substantial increase in vehicle traffic).

There is no discrepancy between the impact acreages when comparing the San Joaquin kit fox impacts to the American badger impacts. The American badger is not limited to annual grasslands and is not limited

by topography because the American badger is known for use of a wider variety of habitats at different elevations (Zeiner et al. 1990; Williams 1986). The Draft EIR uses a model for San Joaquin kit fox that limits potentially suitable habitat to areas with less than 15 percent slopes within annual grasslands (Draft EIR page 3.4-17), which is based on cited literature. The American badger habitat considered in the Draft EIR included annual grasslands, coastal scrub, and oak woodlands throughout the study area (Draft EIR, Appendix B5).

### **9.15.9 Response to Comment 15-9**

*Comment Summary: The comment states that the Draft EIR does not provide financial data in appendices that details energy costs for the Ingram Canyon Alternative to justify why this option is infeasible.*

The Draft EIR does not cite the cost of energy as the reason for not considering the Ingram Canyon Alternative Site to be superior to the proposed project. As noted on page 4-18 of the Draft EIR, “The greatest substantive change in impacts is associated with the substantially higher energy requirement to operate the Ingram Canyon Alternative; energy use and associated GHG emissions are expected to double. This would conflict with statewide energy objectives and GHG reduction goals. Thus, while this alternative reduces some impacts as compared to the project, the long-term GHG emissions associated with operation would outweigh the reductions in construction impacts and reduction in potential visual impacts.” It is the consumption of energy and the resultant GHG emissions that are cited in the Draft EIR as the primary reasons for not considering the Ingram Canyon Alternative to be superior to the proposed project. The Ingram Canyon site has not been determined to be infeasible for financial reasons, though the Draft EIR does note that the Ingram Canyon Alternative is not considered to be cost effective because it would require a large embankment for a smaller reservoir and a more expensive conveyance facility because of the greater distance to the DMC. Please refer to Master Response 4 for additional information regarding the Ingram Canyon location.

## **9.16 Comment Letter 16 - Isabel Garcia**

### **9.16.1 Response to Comment 16-1**

*Comment Summary: The comment asks if Frank Raines Park would still exist after the project.*

The proposed project would not affect Frank Raines Park, which is about 11 miles away from the upper end of the proposed reservoir. As noted on page 3.12-11 of the Draft EIR, “Access to the existing Frank Raines Regional Park would be maintained and would not be affected by the project.”

## **9.17 Comment Letter 17 - Adriane Sabori-Lopez**

### **9.17.1 Response to Comment 17-1**

*Comment Summary: The comment expresses concern that the dam would take away access to recreation in Del Puerto Canyon.*

Please refer to Master Response 15 regarding continued access to recreational opportunities in the canyon.

### **9.17.2 Response to Comment 17-2**

*Comment Summary: The comment asserts that residents are being forced to pay for flood insurance that they cannot afford.*

Please refer to Master Response 10, which explains that flood insurance would not be required.

**9.17.3 Response to Comment 17-3**

*Comment Summary: The comment asserts that the project is jeopardizing safety.*

Please refer to Master Response 6 regarding dam safety and to Master Response 8 regarding the potential for inundation.

**9.17.4 Response to Comment 17-4**

*Comment Summary: The comment expresses opposition to the project because of impacts to wildlife and history.*

Please refer to Master Response 2 regarding opposition to the project.

**9.18 Comment Letter 18 - Adriane Sabori-Lopez (second comment submittal)****9.18.1 Response to Comment 18-1**

*Comment Summary: The comment expresses concern that the dam would take away access to recreation in Del Puerto Canyon and require homeowner's insurance.*

Please refer to Master Response 15 regarding continued access to recreational opportunities in the canyon, and to Master Response 10, which explains that flood insurance would not be required.

**9.18.2 Response to Comment 18-2**

*Comment Summary: The comment asserts that the project is jeopardizing safety.*

Please refer to Master Response 6 regarding dam safety and to Master Response 8 regarding the potential for inundation.

**9.18.3 Response to Comment 18-3**

*Comment Summary: The comment expresses concern about air quality impacts during construction.*

Please refer to Master Response 14 regarding air quality impacts and health effects.

**9.18.4 Response to Comment 18-4**

*Comment Summary: The comment expresses opposition to the project and expresses concern about adequate notification about the project.*

Please refer to Master Response 2 regarding opposition to the project and to Master Response 20 regarding notification and information that has been provided to the public.

**9.18.5 Response to Comment 18-5**

*Comment Summary: The comment further expresses opposition to the project.*

Please refer to Master Response 2 regarding opposition to the project.

**9.18.6 Response to Comment 18-6**

*Comment Summary: The comment expresses concern about impacts on fossils, Native American sites and endangered species present in the canyon.*

Please refer to Master Response 17 regarding paleontology, Master Response 18 regarding Native American sites, and to Master Response 18 regarding mitigation for biological resources.

## 9.19 Comment Letter 19 - Erlinda Torres (Perez)

### 9.19.1 Response to Comment 19-1

*Comment Summary: The comment expresses concern about the timing for the public meeting to receive comment on the Draft EIR.*

Please refer to Master Response 20 regarding notification and timing of meetings. Note: It was not necessary to attend the public meeting to provide comments on the Draft EIR.

## 9.20 Comment Letter 20 - Jane Fawke

### 9.20.1 Response to Comment 20-1

*Comment Summary: The comment protests construction of the project.*

Please refer to Master Response 2 regarding opposition to the project, and to Master Response 15 regarding continued access to Del Puerto Canyon.

## 9.21 Comment Letter 21 - Jacinto Cantu

### 9.21.1 Response to Comment 21-1

*Comment Summary: The comment expresses concern about risk of dam failure and inundation and requests consideration of an alternate location.*

Please refer to Master Response 6 regarding seismic risk and dam safety and to Master Response 9 regarding the potential for inundation. The Draft EIR did consider alternative locations; please refer to Master Response 4 for additional information about alternative locations.

## 9.22 Comment Letter 22 - Donald Hess

### 9.22.1 Response to Comment 22-1

*Comment Summary: The comment expresses concern about the potential for dam failure and cites examples of other dams that have failed.*

Please refer to Master Response 6 regarding seismic risk and dam safety.

### 9.22.2 Response to Comment 22-2

*Comment Summary: The comment expresses approval of a dam to protect the city from a flood, but voices concern about a dam with “fluctuating usage” because of potential erosion and risk of flooding.*

Please refer to Master Response 10, which provides information about the flood control benefits of the proposed project. Because the dam would be designed as a water storage facility that is specifically intended to have fluctuating water levels it would be structured to withstand erosion. As noted on page 2-4 of the Draft EIR, “The upstream slope of the dam would be protected against erosion by a 3-foot thick layer of riprap ... overlying a 1 ½ -foot thick layer of riprap bedding.”

### 9.22.3 Response to Comment 22-3

*Comment Summary: The comment asks about impacts on the economy of California if the dam breaks and wipes out Interstate 5.*

Please refer to Master Response 6 regarding dam safety and to Master Response 8 regarding potential inundation in the event of dam failure.



#### **9.22.4 Response to Comment 22-4**

*Comment Summary: The comment says citizens of Patterson should not be forced to buy flood insurance.*

Please refer to Master Response 10 regarding flood insurance. It does not appear that the FEMA representative understood the question that was posed, likely because FEMA does not get involved with mapping of dam inundation zones. The citizens of Patterson would not be required to purchase flood insurance.

### **9.23 Comment Letter 23 - M. Cross**

#### **9.23.1 Response to Comment 23-1**

*Comment Summary: The comment asks for more information about flood insurance requirements.*

Please refer to Master Response 10 regarding flood insurance.

#### **9.23.2 Response to Comment 23-2**

*Comment Summary: The comment requests graphics that describe areas impacted and expected insurance costs.*

Please refer to Master Response 9 regarding potential inundation in the event of a dam failure and to Master Response 6 regarding dam safety. As explained in Master Response 10, insurance costs would not increase as a result of the dam and could decrease.

### **9.24 Comment Letter 24 - Nicole Angeles**

#### **9.24.1 Response to Comment 24-1**

*Comment Summary: The comment expresses opposition to the project and voices concern for wildlife impacts.*

Please refer to Master Response 2 regarding project opposition, and Master Response 19 regarding biological resources.

#### **9.24.2 Response to Comment 24-2**

*Comment Summary: The comment says that there is a probability that there are fossils of significance near the 3-mile marker.*

Please refer to Master Response 17 regarding paleontological resources.

#### **9.24.3 Response to Comment 24-3**

*Comment Summary: The comment states that there are Native American burial caves near the 4- and 5-mile markers.*

Please refer to Master Response 18 regarding Native American cultural sites in Del Puerto Canyon.

#### **9.24.4 Response to Comment 24-4**

*Comment Summary: Comment identifies concerns regarding “.... the loss of history when the old Hammon Homestead and other early settled properties would be lost to flooding”*

Section 3.6, Cultural Resources, Section 3.6.1 through 3.6.2 of the Draft EIR (pages 3.6-1 to 3.6-8) provides information on the methods for identifying and assessing existing cultural resources in the region and study area. Background research included consulting local, State, and National Register lists, Historical Resource Inventories, as well as local historical societies and information centers. Additionally, archival and internet research was undertaken to identify historic resources within the project footprint that would be affected by construction of the proposed project. The Hammon Homestead is not within the

proposed reservoir area and intact homesites with integrity dating to the early settler period of Del Puerto Canyon were not discovered within the project footprint, so it is not expected that any historic properties would be inundated when the reservoir is filled. As noted on page 3.11-23 of the Draft EIR “The proposed project would be designed with multiple safety factors, which would result in an extremely low probability of dam breach”. Adverse effects on early settled properties in Patterson are thus not expected. Please refer to Master Response 6 for additional information on dam safety.

#### **9.24.5 Response to Comment 24-5**

*Comment Summary: The comment expresses concern about existing faults and evidence of landslides.*

Please refer to Master Response 6 regarding seismic risk and dam safety and to Master Response 7 regarding the risk of landslides.

#### **9.24.6 Response to Comment 24-6**

*Comment Summary: The comment asks about the need for flood insurance for the residents of Patterson.*

Please refer to Master Response 10 regarding flood insurance; the residents of Patterson would not be required to purchase flood insurance.

#### **9.24.7 Response to Comment 24-7**

*Comment Summary: The comment states that the City of Patterson intended to make lower Del Puerto Creek a recreation area.*

Please refer to Master Response 15 regarding impacts on recreation in Del Puerto Canyon.

#### **9.24.8 Response to Comment 24-8**

*Comment Summary: The comment expresses opposition to the proposed project.*

Please refer to Master Response 2 regarding opposition to the project.

### **9.25 Comment Letter 25 - Jeremy and Nicole Angeles**

#### **9.25.1 Response to Comment 25-1**

*Comment Summary: The comment asks about the threat of wildfire to dam infrastructure, including loss of power and risk of mudslides along the shoreline that could affect the integrity of the dam.*

The risk of wildfire was evaluated in the Initial Study for the proposed project, which is included in Appendix A of the Draft EIR. As noted on page 23 of the Initial Study, “Operation of a reservoir would not exacerbate wildfire risk and would provide a source of water for firefighting. ... Because the project would not increase wildfire risk, it would not pose a risk from downstream flooding or landslides related to post-fire instability or drainage changes.” The Initial Study also recognized the fact that portions of the reservoir site burned in a June 2019 grass fire. CalFire has not determined the cause of that fire, which is known as the Rock Fire. While the CalFire website lists the cause as “under investigation” (<https://www.fire.ca.gov/incidents/2019/6/26/rock-fire/>; accessed 2/19/20), given the weather conditions on that date (clear with no thunderstorm activity) it is certainly possible that the fire was caused by human activity. Surveys of the canyon undertaken during the preparation of the EIR found remains of a number of campfires, even though the entire reservoir site, outside of the public right-of-way, is privately owned. It is not, therefore, unreasonable to assume that the risk of fire would be less in an area where access is controlled, and a large source of water is nearby. In addition, most of the reservoir shoreline is in grassland areas where vegetation can be quickly reestablished after a fire, as evidenced by the rapid regrowth of grasses after the first rainfall following the Rock Fire.

Please refer to Master Response 7 regarding the risk of landslides and measures that would be implemented to ensure that the reservoir is not adversely affected by landslides.

## 9.26 Comment Letter 26 - Susan Clark

### 9.26.1 Response to Comment 26-1

*Comment Summary: The comment expresses opposition to the project and expresses concern about wildlife impacts.*

Please refer to Master Response 2 regarding project opposition, and Master Response 19 regarding biological resources.

### 9.26.2 Response to Comment 26-2

*Comment Summary: The comment says that there is a probability that there are fossils of significance near the 3-mile marker.*

Please refer to Master Response 17 regarding paleontological resources.

### 9.26.3 Response to Comment 26-3

*Comment Summary: The comment states that there are Native American burial caves near the 4- and 5-mile markers.*

Please refer to Master Response 18 regarding Native American cultural sites in Del Puerto Canyon.

### 9.26.4 Response to Comment 26-4

*Comment Summary: The comment identifies concerns regarding “.... the loss of history when the old Hammon Homestead and other early settled properties would be lost to flooding”*

As identified in Response to Comment 24-4, the Hammon Homestead is not within the project footprint. In addition, intact homesites with integrity dating to the early settler period of Del Puerto Canyon were not discovered.

### 9.26.5 Response to Comment 26-5

*Comment Summary: The comment expresses concern about existing faults and evidence of landslides.*

Please refer to Master Response 6 regarding seismic risk and dam safety and to Master Response 7 regarding the risk of landslides.

### 9.26.6 Response to Comment 26-6

*Comment Summary: The comment asks about the need for flood insurance for the residents of Patterson.*

Please refer to Master Response 10 regarding flood insurance; the residents of Patterson would not be required to purchase flood insurance.

### 9.26.7 Response to Comment 26-7

*Comment Summary: The comment states that the City of Patterson intended to make lower Del Puerto Creek a recreation area.*

Please refer to Master Response 15 regarding impacts on recreation in Del Puerto Canyon.

### 9.26.8 Response to Comment 26-8

*Comment Summary: The comment reiterates opposition to the proposed project.*

Please refer to Master Response 2 regarding opposition to the project.

## 9.27 Comment Letter 27 - Eric Mello

### 9.27.1 Response to Comment 27-1

*Comment Summary: The comment asks for identification of the source of water for the project.*

As explained on page 1-3 of the Draft EIR, “Water to fill the Del Puerto Canyon Reservoir would come from the existing contracts that DPWD and the Exchange Contractors have for water supply delivered through the Delta-Mendota Canal (DMC), which would be diverted and pumped from the DMC to the reservoir.” The reservoir would also intercept some flows from Del Puerto Creek.

## 9.28 Comment Letter 28 - Genevieve

### 9.28.1 Response to Comment 28-1

*Comment Summary: The comment voices concern about flood insurance costs.*

Please refer to Master Response 10 regarding flood insurance; the residents of Patterson would not be required to purchase flood insurance.

### 9.28.2 Response to Comment 28-2

*Comment Summary: The comment expresses opposition to the project and says that Highway 5 provides plenty of land that wouldn't put citizens in danger and would prevent loss of environmental resources.*

Please refer to Master Response 2 regarding opposition to the project. The Draft EIR considers locations for the reservoir, but it is not clear what land on Highway 5 is being suggested as an alternate location for the reservoir, so a more specific response is not possible.

## 9.29 Comment Letter 29 - Bernardino and Rita Gill

### 9.29.1 Response to Comment 29-1

*Comment Summary: The comment letter is similar to Letter 28.*

Please refer to Response to Comments 28-1 and 28-2.

## 9.30 Comment Letter 30 - Kandace Kiser

### 9.30.1 Response to Comment 30-1

*Comment Summary: The comment asks if DPWD will set aside funding to provide maintenance over the next 80 years.*

The proposed project will be jointly constructed and operated by DPWD and the Exchange Contractors. As noted in Master Response 1, both agencies would dedicate annual operating budget to ongoing operation and maintenance of all project facilities. The Project Partners are committed to constructing, operating, and maintaining a safe facility.

### 9.30.2 Response to Comment 30-2

*Comment Summary: The comment asks for details of the Emergency Action Plan and expresses concern about being able to take advantage of the FEMA program for lower flood insurance rates.*

As noted in Master Response 10, the project would not result in a requirement for flood insurance. Please refer to Master Response 8 regarding potential inundation. As noted on page 3.11-22 of the Draft EIR: “An Emergency Action Plan would be developed and implemented for construction and operation in accordance with California Water Code Section 6160 *et seq.* and other applicable requirements. The plan would include emergency notification flowcharts, notification procedures, inundation maps and important

emergency response protocols for notifying downstream entities if an emergency release is expected.” Preparation of the plan would be the responsibility of the Project Partners, though the plan would be prepared in coordination with the City of Patterson. Also refer to Master Response 9 regarding the preparation of the Emergency Action Plan.

## **9.31 Comment Letter 31 - John Chamorro**

### **9.31.1 Response to Comment 31-1**

*Comment Summary: The comment contends that the road realignment would be inconvenient and unsafe for those living in Del Puerto Canyon.*

As noted on page 3.13-14 of the Draft EIR, “The total distance of trips currently using Del Puerto Canyon Road to the east of the study area would increase by 0.44 miles with the realigned roadway.” Currently the distance from Interstate 5 to the intersection of Del Puerto Canyon Road with Mines Road/San Antonio Valley Road is 26.4 miles. An increase of 0.44 miles is not expected to result in a major inconvenience to canyon residents or a substantial increase in the amount of time it takes to travel from the western end of the canyon into Patterson. The existing portion of Del Puerto Canyon Road that would be inundated by the reservoir is narrow with a number of sharp curves where speeds must be reduced to as little as 20 miles per hour. With the relocated roadway, there would be a relatively minor increase in the miles traveled. However, the new roadway would be constructed to County standards with a 12-foot wide travel lane and paved 4-foot shoulder, and an improved pavement surface. It is thus expected that it would be possible to maintain higher average speeds along the roadway, so that travel times would not increase. It is thus not expected that it will take longer for children to get to school, or that there would be an impairment to emergency access.

### **9.31.2 Response to Comment 31-2**

*Comment Summary: The comment says that the project would increase time for first responders to get to the upper portion of Del Puerto Canyon Road.*

As noted above, in Response to Comment 31-1, the increase in travel distance is only 0.44 miles and travel times would not be expected to increase.

## **9.32 Comment Letter 32 - Jazmin Ortega**

### **9.32.1 Response to Comment 32-1**

*Comment Summary: The comment expresses opposition to the project and concerns about inundation in the event of a dam failure.*

Please refer to Master Response 2 regarding project opposition and to Master Response 9 regarding the potential for inundation in the event of a dam failure.

## **9.33 Comment Letter 33 - Benjamin Sierra**

### **9.33.1 Response to Comment 33-1**

*Comment Summary: The comment expresses concern about the potential presence of fossils near the 3-mile marker.*

Please refer to Master Response 17 regarding paleontological resources.

### **9.33.2 Response to Comment 33-2**

*Comment Summary: The comment expresses concern about Native American sites.*

Please refer to Master Response 18 regarding Native American sites.

### 9.33.3 Response to Comment 33-3

*Comment Summary: The comment expresses concern about landslides and damage from earthquakes.*

Please refer to Master Response 6 regarding seismic risk and dam safety and to Master Response 7 regarding the risk of landslides.

### 9.33.4 Response to Comment 33-4

*Comment Summary: The comment expresses concern about the use of pest control that could be deadly to animals.*

Mitigation Measures BIO-TERR-1e on page 3.4-43 of the Draft EIR specifies that “Use of first- and second-generation rodenticides shall not be permitted except for the limited use of zinc phosphide, or a rodenticide allowed for use by the California Department of Pesticide Regulation.” This would ensure that non-target animals would not be adversely affected if rodenticides must be employed. For example, the U.S. Department of Agriculture (USDA) has found that “The release of zinc phosphide into the environment is expected to have minimal or low impacts to nontarget species, the public, and the environment” (USDA 2017). Additionally, any edible rodenticides would be placed in bait stations that prevent unintended access to bait by wildlife.

#### Reference

USDA 2017. *Human Health and Ecological Risk Assessment for the Use of Wildlife Damage Management Methods by USDA-APHIS-Wildlife Services*. Chapter X: The Use of Zinc Phosphide in Wildlife Damage Management. July 2017

### 9.33.5 Response to Comment 33-5

*Comment Summary: The comment expresses concern about air quality during construction and its effects on humans and animals.*

Please refer to Master Response 14 regarding the human health effects of emissions during construction. As noted there, air quality standards are designed to be protective of human health and can be presumed to be protective of animal health in general, though specific data on animal health effects are not available.

### 9.33.6 Response to Comment 33-6

*Comment Summary: The comment expresses concern about algal blooms and their potential odor impacts and effects on animals that drink the water.*

While it correct that reservoirs are subject to algal blooms, the Draft EIR has considered potential odor impacts and has determined that because of the distance between the reservoir and the nearest receptors in the city of Patterson, potential impacts would be less than significant. Please refer to the discussions of odor impacts beginning on page 3.3-27 of the Draft EIR. It is unclear whether the comment is referring to risks to wildlife or to domestic animals that might drink the water. Water quality impacts of algal blooms are discussed beginning on page 3.11-18 of the Draft EIR, which acknowledges that under certain conditions algal blooms could temporarily affect water quality. Access to the reservoir would be controlled such that pets and other domestic animals would not come in contact with the reservoir. As described beginning on page 2-13 of the Draft EIR, “The Project Partners would develop a reservoir management plan to protect water quality of the reservoir and to minimize the potential that conditions in the reservoir would allow harmful algal blooms to occur.”

### **9.33.7 Response to Comment 33-7**

*Comment Summary: The comment states opposition to paying for flood insurance and suggests an alternative location or use of water conservation.*

Please refer to Master Response 10, which explains that residents of Patterson would not have to purchase flood insurance. Chapter 4 of the Draft EIR includes evaluation of alternate locations. Chapter 4 also explains why additional conservation could not feasibly meet project objectives (see Section 4.5.1 on page 4-3 of the Draft EIR). Please refer to Master Response 2 regarding opposition to the proposed project.

## **9.34 Comment Letter 34 - Nikki Barstow**

### **9.34.1 Response to Comment 34-1**

*Comment Summary: The comment asserts that the town of Patterson was not properly informed about the proposed project.*

Please refer to Master Response 20 regarding notification.

### **9.34.2 Response to Comment 34-2**

*Comment Summary: The comment expresses concern that “your company” is proposing a dam and asserts that it would pose a risk to all of the citizens of Patterson.*

Please refer to Master Response 1, which explains that the Project Partners are public agencies, not a private company. Please refer to Master Response 6 regarding seismic risk and dam safety, Master Response 7 regarding the risk of landslides, and Master Response 8 which provides information on the potential risk of inundation in the event of a dam breach.

### **9.34.3 Response to Comment 34-3**

*Comment Summary: The comment expresses opposition to the proposed project and cites signatures on a petition.*

Please refer to Master Response 2 regarding opposition to the proposed project, and to Master Response 3 regarding petitions.

## **9.35 Comment Letter 35 - Samuel Lewis**

### **9.35.1 Response to Comment 35-1**

*Comment Summary: The comment expresses concern about the consequences of a dam breach.*

Please refer to Master Response 6 regarding seismic risk and dam safety, to Master Response 8 regarding the potential for inundation, and to Master Response 9 regarding the development of an Emergency Action Plan.

### **9.35.2 Response to Comment 35-2**

*Comment Summary: The comment suggests that there is an area 6 miles to the north that would remove tens or thousands of people from a flood zone.*

Please refer to Master Response 4 regarding the evaluation of an alternate location for the reservoir. As noted in Master Response 10, the proposed project would remove a number of residents in Patterson from an existing FEMA flood hazard zone along Del Puerto Creek. The inundation area from a dam breach, which is an extremely unlikely event, is not considered to be a flood zone.

### 9.35.3 Response to Comment 35-3

*Comment Summary: The comment expresses concern that the dam will be privately owned and asks if it would be subject to state inspections and if owners would be responsible in the event of a failure.*

Please refer to Master Response 1, which explains that the Project Partners are public agencies, and thus the project facilities, if built, would not be privately owned. The project facilities would be under the jurisdiction of the Division of Safety of Dams and would be monitored and inspected regularly. As noted in Master Response 8, the Project Partners would carry liability insurance which would cover third parties.

## 9.36 Comment Letter 36 - Sharon Miceli

### 9.36.1 Response to Comment 36-1

*Comment Summary: The comment asks if DPWD will set aside funding to provide maintenance over the next 80 years.*

The proposed project will be jointly constructed and operated by DPWD and the Exchange Contractors. As noted in Master Response 1, both agencies would dedicate annual operating budget to ongoing operation and maintenance of all project facilities, as they are committed to constructing and operating a safe facility.

### 9.36.2 Response to Comment 36-2

*Comment Summary: The comment asks for details of the Emergency Action Plan and expresses concern about being able to take advantage of the FEMA program for lower flood insurance rates.*

As noted in Master Response 10, the project would not result in a requirement for flood insurance. Please refer to Master Response 8 regarding potential inundation. As noted on page 3.11-22 of the Draft EIR: “An Emergency Action Plan would be developed and implemented for construction and operation in accordance with California Water Code Section 6160 *et seq.* and other applicable requirements. The plan would include emergency notification flowcharts, notification procedures, inundation maps and important emergency response protocols for notifying downstream entities if an emergency release is expected.” Preparation of the plan would be the responsibility of the Project Partners, though the plan would be prepared in coordination with the City of Patterson. Also refer to Master Response 9 regarding the preparation of the Emergency Action Plan.

### 9.36.3 Response to Comment 36-3

*Comment Summary: The comment asks if Patterson demographics are part of the decision and suggests that the reservoir be used to picnic and fish and bring in revenue.*

The comment is not clear in its question about the demographics of Patterson, so no specific response is possible. As noted on page 2-15 of the Draft EIR, “the Project Partners are open to Stanislaus County developing recreation near the reservoir in the future. The reservoir site could provide upland recreation such as camping, hiking and picnicking, but the reservoir is not expected to be suitable for water-based recreation and fish stocking would not be allowed.”

## 9.37 Comment Letter 37 - Mary Brummel

### 9.37.1 Response to Comment 37-1

*Comment Summary: The comment expresses concern due to proximity to a fault line and potential flooding if the dam should fail.*

Please refer to Master Response 6 regarding seismic risk and dam safety and to Master Response 8 regarding potential inundation in the event of a dam failure.



### **9.37.2 Response to Comment 37-2**

*Comment Summary: The comment asserts that the proposed project would result in a requirement for flood insurance.*

Please refer to Master Response 10, which explains that flood insurance would not be required.

### **9.37.3 Response to Comment 37-3**

*Comment Summary: The comment declares support for an alternative site above Howard Road.*

Please refer to Master Response 4 regarding the evaluation of an alternate location for the reservoir, and to Master Response 2 regarding opposition to the project.

## **9.38 Comment Letter 38 - Emma Keller**

### **9.38.1 Response to Comment 38-1**

*Comment Summary: The comment states that the proposed project would erase Native American Culture and history.*

Please refer to Master Response 18 regarding impacts on Native American sites.

### **9.38.2 Response to Comment 38-2**

*Comment Summary: The comment expresses concern about air quality impacts associated with construction.*

Please refer to Master Response 14 regarding air quality impacts and health effects.

## **9.39 Comment Letter 39 - David Keller**

### **9.39.1 Response to Comment 39-1**

*Comment Summary: The comment claims that the City is a responsible agency and no comments have been solicited from the City of Patterson.*

Please refer to Master Response 12 which explains why the City of Patterson is not a responsible agency, although comments have been solicited from the City.

### **9.39.2 Response to Comment 39-2**

*Comment Summary: The comment again maintains that the City of Patterson is a responsible agency because the project would require permits from the City.*

As noted in Master Response 12, no permits would be required from the City. The Project Partners have, however, coordinated with the City and made an extensive presentation to the City Council on February 25, 2020 to provide information about the project.

### **9.39.3 Response to Comment 39-3**

*Comment Summary: The comment asserts that the Draft EIR does not analyze the risks, liabilities and property value effects associated with exposing citizens of Patterson to a flood inundation zone and mentions requirements of the California Natural Hazards Disclosure Act.*

The Draft EIR does specifically contain a discussion of the potential for a dam breach, which is presented on page 3.11-22. Additional information is presented in Master Response 8. Though real estate disclosures are not an environmental impact, Master Response 10 provides information about requirements for hazard disclosure. Please also refer to Master Response 9 regarding preparation of an Emergency Action Plan to mitigate risks of inundation. Master Response 6 regarding dam safety explains that the Project Partners will design and operate the proposed project to mitigate risk using established

procedures, policies and oversight. Although property values are not an environmental impact, and are thus not addressed in the Draft EIR, the comment does not present any documentation supporting the claim that the proposed project would affect property values.

#### **9.39.4 Response to Comment 39-4**

*Comment Summary: The comment alleges that the Draft EIR does not address the impacts of the project on the minority population of the citizens of Patterson and specifically cites air quality impacts.*

Please refer to Master Response 14, which documents that the project does not result in significant air quality impacts or associated health risks for any of the citizens of Patterson. The comment cites two census tracts within the City of Patterson, but all of the project facilities are located outside those census tracts and the closest project facility, which is the pump station on the DMC, is over 2 miles from the closest residential receptor within Census Tract 32.02 and almost 3 miles from the closest residence in Census Tract 32.01. The project would thus not have disproportionate impacts on a minority community. The comment cites several sections of the CEQA statutes and Guidelines, and presumably is referencing requirements to identify significant impacts of projects. The Draft EIR does identify mitigation measures to reduce project impacts and also identifies those impacts that were determined to be significant and unavoidable (see page 5-1 of the Draft EIR).

#### **9.39.5 Response to Comment 39-5**

*Comment Summary: The comment asserts that there is no fiscal analysis to substantiate that the Ingram Reservoir alternative is not viable.*

The Draft EIR does not state that the Ingram Canyon Reservoir is not viable. The Draft EIR evaluates environmental impacts and does not include a fiscal analysis for either the proposed project or the Ingram Canyon Alternative. Table 4-9 on page 4-16 of the Draft EIR identifies the fact that the Ingram Canyon Alternative does meet a number of project objectives. As explained on page 4-15 of the Draft EIR, the Ingram Canyon Alternative “is not considered cost effective, because a large embankment would need to be constructed for a smaller capacity reservoir and the distance from the DMC would require a more expensive conveyance facility.” As shown in Table 4-3, the embankment volume for Ingram Canyon is about 7.2 million cubic yards, which is about a million cubic yards more than the Del Puerto Canyon embankment and at 3.2 miles from the DMC the Ingram Canyon site would require a conveyance facility more than three times longer than the proposed project, which is less a mile from the DMC. The proposed project is considered better than the Ingram Canyon alternative because operation would generate substantially fewer emissions of GHG’s than would the Ingram Canyon alternative.

#### **9.39.6 Response to Comment 39-6**

*Comment Summary: The comment references information contained in Section 3.6-5 (page 232) of the Draft EIR regarding Site P-50-344. The commenter also mentions that “the destruction of this site also conflicts with Stanislaus County General Plan Policy Twenty-Four, Page 235 which states that the County will support the preservation of Stanislaus County’s cultural legacy of historical and archaeological resources for future generations. The inundation of this important California archaeological site cannot be replaced or mitigated; therefore, it’s a fatal flaw of the project.”*

Page 3.6-8 of the Draft EIR includes relevant implementation measures listed in the Stanislaus County General Policy Twenty-Four, including:

3. “The County shall work with the County Historical Society, and other organizations and interested individuals to study, identify and inventory archeological resources and historical sites, structures, buildings and objects.

4. The County will cooperate with the State Historical Preservation Officer to identify and nominate historical structures, objects, buildings and sites for inclusion under the Historical Preservation Act.
5. The County shall utilize the California Environmental Quality Act (CEQA) process to protect archaeological or historic resources. Most discretionary projects require review for compliance with CEQA. As part of this review, potential impacts must be identified and mitigated.
6. The County shall make referrals to the State Office of Historic Preservation and the Central California Information Center as required to meet CEQA requirements.”

General Policy implementation measure #5 above states that the County shall utilize CEQA. Through the cultural resources investigations for the proposed project, the CEQA evaluation of eligibility criteria has been applied to P-50-344. Specifically, the site satisfies Criterion 4 - Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation of the CRHR. Satisfying Criterion 4 makes site potentially eligible for the CRHR. The information Site P-50-344 has already yielded as part of the CEQA evaluation and may yield in the future, will be mitigated as a result of Mitigation Measure CULT-1, *Treatment Plan for Site P-50-0344*, identified in page 3.6-10 of the Draft EIR and quoted below:

“Prior to construction, a Cultural Resources Treatment Plan shall be implemented for site P-50-0344. The treatment plan will establish the procedures and documentation needed to carry out data recovery for the resource. The treatment plan will include field methods required for data recovery excavations, requirements and procedures for recordation, analysis, curation, reporting, and any other documentation or methods used for adequately mitigating the site.

Collectively, the treatment plan shall characterize the nature of the assemblage and data potential at the site as well as synthesize and capture data that may be lost, caused by the construction and operations impacts of the project.”

The Cultural Resources Treatment Plan will appropriately collect and recover all information about this site prior to full implementation of the proposed project. Therefore, the proposed project is consistent with the County of Stanislaus General Plan Policies regarding cultural resources.

### **9.39.7 Response to Comment 39-7**

*Comment Summary: The commenter observes that Section 3.14, Tribal Cultural Resources, states that tribal cultural resources have not been identified and incorrectly makes a determination of “no impact” because Site 50-P-344 is identified as an archaeological resource in Section 3.6 on page 232.*

Impacts to CEQA Tribal Cultural Resources are determined differently than impacts to CEQA Cultural Resources or federal Section 106 cultural resources evaluations. As described in Section 3.14, Tribal Cultural Resources, Assembly Bill (AB) 52 (chapter 532, statutes of 2014) was the implementing legislation for CEQA Tribal Cultural Resources analysis. Unlike CEQA Cultural Resources or federal Section 106 processes, AB 52 established specific procedures with timelines for both lead agencies and Tribes. Specifically, under AB 52, Tribes were to first submit written requests to lead agencies to be informed of projects the lead agency proposes within the Tribe’s geography of interest. Within 14 days of when a lead agency issues a notice of preparation or otherwise initiates a project proposal, the agency must send letters announcing the proposed project to the Tribes who requested notification, with an invitation to consult *under AB 52*. The Tribes must then respond in writing with 30 days of receipt to request or decline consultation. The lead agency must initiate consultation under AB 52 within 30 days of receiving the Tribe’s request.

While CEQA Cultural Resources (and federal Section 106) analysis focuses on buried and built resources of interest to academics, historians, and the wider community, AB 52 expands the definition of tribal cultural resources to also include natural settings, features, and landscapes, often outside reservation or tribal property boundaries, that remain important to Tribes today. An impact on such resources could be considered an impact on a Tribal Cultural Resource. To be formally considered a Tribal Cultural Resource under CEQA/AB 52, however, the resource must be identified by a Tribe as an AB 52 resource, be geographically defined, and be on, or eligible for listing on, the California Register of Historical Resources (CRHR) or a local register. Or, the lead agency may determine that a resource that is not already listed on the CRHR or a local register is a significant Tribal Cultural Resource if supported by substantial evidence.

At the time the Draft EIR was prepared, the CEQA lead agency, the Del Puerto Water District and their partner, the Exchange Contractors, had not received any formal requests from any Tribes to be notified of proposed projects under AB 52. Accordingly, no correspondence specified under the AB 52 regulations took place. However, the Native American Heritage Commission had identified three Tribes as having potential to be interested in the project area. As described in Section 3.6, Cultural Resources, as part of the CEQA Cultural Resources evaluation process, the District sent informational outreach letters to the listed Tribes: Southern Sierra Miwok Nation, North Valley Yokuts Tribe, and the Tule River Indian Tribe. As a result of follow-up phone calls, the Southern Sierra Miwok responded that the project is outside their geography of interest. The North Valley Yokuts contacted the District in November 2019, as described in Section 3.6. The Tule River Nation did not respond to the letter or follow-up phone calls.

Site 50-P-344 was identified as an archaeological resource in Draft EIR Section 3.6, Cultural Resources. Such resources *may* also be Tribal Cultural Resources but must be identified as such under the AB 52 process, which is separate from other CEQA Cultural Resources (and federal Section 106) processes. Draft EIR Section 3.6, Impact CULT-2, identified this site as potentially eligible for the CRHR and determined that the proposed project's impact on Site 50-P-344 would be significant because it would "cause a substantial adverse change in the significance of a unique archaeological resource." Mitigation Measure CULT-1, *Treatment Plan for Site P-50-0344*, is proposed to carry out data recovery for the resource. However, mitigation would not fully mitigate the significant impact because it would not prevent destruction of the site. The impact therefore would be significant and unavoidable under CEQA. As identified in both Sections 3.6 and 3.14, the Bureau of Reclamation is undertaking a federal Section 106 cultural resources consultation process with interested Tribes and the State Historic Preservation Office. Reclamation will prepare a NEPA document analyzing the potentially significant environmental effects of the proposed project and prepare a Section 106 consultation report.

Although Site 50-P-344 was not identified as a Tribal Cultural Resource, it was identified as a significant cultural resource under other regulations and will be treated accordingly under the law. However, because no consultation occurred under AB 52, there is no impact under AB 52/CEQA Tribal Cultural Resources. No change is needed in the Draft EIR.

### **9.39.8 Response to Comment 39-8**

*Comment Summary: The comment states that there are no assurances that there will be sufficient funding for proper maintenance of the project to ensure that the dam is safe.*

As noted in Master Response 1, the Project Partners would dedicate annual operating budget to ongoing operation, maintenance, and repair of all project facilities.

### 9.39.9 Response to Comment 39-9

*Comment Summary: The comment asserts that the Draft EIR conflicts with the City of Patterson General Plan Final EIR and suggests that a fiscal study should be performed to assess loss of property and sales tax base.*

The purpose of the Draft EIR is to evaluate environmental impacts of the project, not to address the fiscal effects on the City of Patterson. As noted in Section 15131(a) of the CEQA Guidelines, “Economic or social effects of a project shall not be treated as significant effects on the environment.” Economic or social effects needs only be addressed if there are “physical changes caused in turn by the economic or social changes.” The Draft EIR identifies the fact that the dam and a portion of the area inundated by the reservoir would be in an area outside the City of Patterson, but within the City’s sphere of influence, that has been identified for potential future “mixed use”, but it is unclear how the Draft EIR for the proposed project supposedly conflicts with the City of Patterson General Plan EIR. A more specific response is thus not possible. Consistency with the City of Patterson General Plan is evaluated starting on page 3.12-8 of the Draft EIR. Please also refer to Master Response 13, which discusses consistency with the General Plan. As noted there, DPWD has submitted a request to the City of Patterson Community Development Department for a report on the conformity of the project with the city’s adopted General Plan and pursuant to Government Code Section 65402(c), the proposed project has been deemed to be in conformity with the adopted General Plan.

### 9.39.10 Response to Comment 39-10

*Comment Summary: The comment claims that the Draft EIR “omits the visual blight to the residents of Patterson.”*

The Draft EIR clearly identifies visual impacts of the proposed project as a significant unavoidable adverse effect of the project. However, the proposed dam would be visible from Interstate 5, but not from locations within the City of Patterson. As explained on page 5-1 of the Draft EIR, because the project has significant impacts, the Project Partners “would be required to adopt Findings and prepare a Statement of Overriding Considerations for the project’s unavoidable adverse impacts as part of the approval of the project.” Projects that have significant impacts on the environment can be approved, if there are project benefits that outweigh those impacts.

### 9.39.11 Response to Comment 39-11

*Comment Summary: The comment expresses concern over the cumulative loss of special-status species habitat and feels that any mitigation efforts would be insufficient.*

Impact BIO-TERR-1, Substantial Adverse Effect on Listed, Candidate, Sensitive, or Special-Status Species, on pages 3.4-37 to 3.4-62 of the Draft EIR, addresses impacts on special-status species and includes avoidance, minimization, and compensatory mitigation measures that provide a sufficient level of detail under CEQA (see Response to Comment 15-2 for additional information regarding the level of detail of mitigation and CEQA). It is important to note that Fremont cottonwood riparian forest would not be extirpated from the project area, as that habitat would remain intact in areas above the western end of the proposed reservoir, and the California Native Plant Society characterizes Fremont cottonwood forest as occurring along “the San Joaquin River and its major tributaries”. Cumulative impacts are discussed starting on page 3.4-67 of the Draft EIR, which notes that the cumulative impacts on biological resources resulting from the project would be significant but determined that following the implementation of the mitigation measures proposed in Section 3.4 that the impact would be less than significant. Mitigation for big tarplant is identified in Mitigation Measure BIO-TERR-1b, which requires provision of compensation habitat. Mitigation Measures BIO-TERR-2 requires compensation for effects on riparian habitat, which includes creation, acquisition and protection of riparian habitat. Compensation could include acquisition of land upstream of the reservoir along Del Puerto Creek. Mitigation for sensitive species listed in the comment includes:

- **Mitigation Measure BIO-TERR-1c:** Compensate for the Loss of Habitat Occupied by Vernal Pool Fairy Shrimp and/or Vernal Pool Tadpole Shrimp
- **Mitigation Measure BIO-TERR-1d:** Avoid, Minimize, and Compensate for Impacts of Valley Elderberry Longhorn beetle:
- **Mitigation Measure BIO-TERR-1e:** Avoid and Minimize Impacts on Special-Status Amphibians
- **Mitigation Measure BIO-TERR-g:** Compensate for the Loss of California Red-legged Frog Habitat
- **Mitigation Measure BIO-TERR-1i:** Avoid and Minimize Impacts on Special-Status Reptiles
- **Mitigation Measure BIO-TERR-1o:** Avoid and Minimize Impacts on San Joaquin Kit Fox
- **Mitigation Measure BIO-TERR-1p:** Compensate for the Loss of San Joaquin Kit Dispersal Habitat
- **Mitigation Measure BIO-TERR-1q:** Avoid and Minimize Impacts on American Badger

## 9.40 Comment Letter 40 - Patterson Resident

### 9.40.1 Response to Comment 40-1

*Comment Summary: The comment expresses opposition to the project.*

Please refer to Master Response 2 regarding project opposition.

### 9.40.2 Response to Comment 40-2

*Comment Summary: The comment expresses concern about fault lines and risk of landslides.*

Please refer to Master Response 6 regarding seismic risk and dam safety and to Master Response 7 regarding the risk of landslides.

### 9.40.3 Response to Comment 40-3

*Comment Summary: The comment expresses opposition to the project location.*

Please refer to Master Response 2 regarding opposition to the project location, and to Master Response 4 for a discussion of alternate location.

### 9.40.4 Response to Comment 40-4

*Comment Summary: The comment reiterates opposition to the project based on its effects on Del Puerto Canyon.*

Please refer to Master Response 2 regarding project opposition.

### 9.40.5 Response to Comment 40-5

*Comment Summary: The comment asserts that the project will destroy opportunities for bicycling, bird watching, ATV and Frank Raines Park usage and driving through the canyon.*

Please refer to Master Response 15 for a discussion of impacts on recreation in Del Puerto Canyon. As noted there, Frank Raines Park would be unaffected and recreational opportunities will remain.

**9.40.6 Response to Comment 40-6**

*Comment Summary: The comment expresses concern about the impacts on biological resources and odor impacts that are identified in the Draft EIR.*

The impacts cited in the comment are addressed in the Draft EIR, and mitigation is included to address potential impacts on biological resources. Odor impacts were determined to be less than significant.

**9.40.7 Response to Comment 40-7**

*Comment Summary: The comment expresses concern about dam failure*

Please refer to Master Response 6 regarding seismic risk and dam safety.

**9.40.8 Response to Comment 40-8**

*Comment Summary: The comment states that the project is privately funded and expresses concerns about safety.*

As explained in Master Response 1 the Project Partners are public agencies. Please refer to Master Response 6 regarding dam safety.

**9.40.9 Response to Comment 40-9**

*Comment Summary: The comment once again expresses opposition to the project.*

Please refer to Master Response 2 regarding project opposition.

**9.41 Comment Letter 41 - Julie Angeles****9.41.1 Response to Comment 41-1**

*Comment Summary: The comment expresses opposition to the project based on impacts on history, geology and other natural resources.*

Please refer to Master Response 2 regarding project opposition, Master Response 18 regarding impacts on historical resources, Master Response 16 regarding the geology of Del Puerto Canyon, and Master Response 19 for discussion of mitigation of impacts on biological resources.

**9.41.2 Response to Comment 41-2**

*Comment Summary: The comment voices interest in aquifer recharge and suggests there is a more suitable place for the reservoir.*

Please refer to Master Response 5 for a discussion of the need for both surface water and groundwater storage projects, and to Master Response 4 regarding evaluation of alternative locations.

**9.42 Comment Letter 42 - Tyler Claxton****9.42.1 Response to Comment 42-1**

*Comment Summary: The comment requests maps or GIS data depicting the potential dam failure inundation scenario.*

Master Response 8 provides preliminary mapping of the inundation area in the event of a dam failure. As explained in Master Response 10, this mapping has not been approved by the Department of Water Resources, Division of Safety of Dams and is thus not a final approved inundation map. The preliminary map is not considered an official map as defined in Section 8589.5 of the California Code.

## 9.43 Comment Letter 43 - Doug Murdock

### 9.43.1 Response to Comment 43-1

*Comment Summary: The comment explains that Del Puerto Creek recharges aquifers east of the hills and states that several canyons other than Del Puerto Canyon could be used for storage.*

Page 3.11-21 of the Draft EIR identifies the fact that capturing Del Puerto Creek flows in the reservoir “could decrease the volume of water that percolates from the creek into the groundwater basin from 1,900 AFY to 200 AFY”. However, the Draft EIR also notes that “storage of water in the reservoir is estimated to contribute approximately 900 AFY to groundwater storage”. Because groundwater impacts of the project were determined to be significant, the project includes mitigation to make up for the loss of natural seepage from the creek. Please refer to Mitigation Measure HYD-2: Develop Operation Requirements to Deliver Recharge Water to Lower Del Puerto Creek, which is presented on page 3.11-21 of the Draft EIR. Chapter 4 of the Draft EIR also evaluates alternate reservoir locations.

### 9.43.2 Response to Comment 43-2

*Comment Summary: The comment states that an artesian well at the Diehl ranch that is used for watering cattle would be eliminated by the reservoir, which would impair cattle production.*

The project’s impact on cattle/beef production is an economic, rather than an environmental effect, and is outside the scope of the Draft EIR.

### 9.43.3 Response to Comment 43-3

*Comment Summary: The comment expresses concern about the loss of geological sites.*

Please refer to Master Response 16 regarding the geology of Del Puerto Canyon.

### 9.43.4 Response to Comment 43-4

*Comment Summary: The comment expresses concern about the project’s potential impacts to wildlife nesting and reproduction and asserts that other alternative sites would have fewer impacts on biological resources.*

Impacts on special-status bird species and migratory birds are addressed in Impact BIO-TERR-1j Impact on Western Burrowing Owl (Draft EIR page 3.4-51), Impact BIO-TERR-1k Impacts on Special-Status Birds and Nesting Migratory Birds (Draft EIR page 3.4-53), and Impact BIO-TERR-1l Impact on Swainson’s Hawk (Draft EIR page 3.4-55).

Implementation of the following mitigation measures would avoid and minimize impacts on special-status birds and nesting migratory birds:

- Mitigation Measures BIO-TERR-1a Avoid and Minimize Impacts on Biological Resources (Draft EIR page 3.4-37)
- BIO-TERR-1j Avoid and Minimize Impacts on Western Burrowing Owl (Draft EIR page 3.4-52)
- BIO-TERR-1k Avoid and Minimize Impacts on Nesting Birds (Draft EIR page 3.4-54)
- Mitigation Measure BIO-TERR-1l Avoid and Minimize Impacts on Swainson’s Hawk (Draft EIR page 3.4-55)

Furthermore, Mitigation Measure BIO-TERR-2 Compensate for Effects on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-63) and Mitigation Measure BIO-TERR-5 Develop a Management Plan for the Protection and Enhancement of Oak Woodlands (Draft EIR page 3.4-66) would mitigate for the loss of foraging and nesting habitat. Mitigation Measures AES-2 Nighttime Construction Lighting and AES-3 Directional Lighting for Dam Control Building, Inlet/Outlet Works Control Building



and Bifurcation Structure in the Unincorporated Stanislaus County (page 3.1-13) would minimize potential effects from construction and operational lighting on special-status and nesting migratory birds. Please refer to Master Response 4, which contains a discussion of the biological resources in Ingram Canyon. As noted there, Ingram Canyon generally has similar special-status wildlife species habitats as those identified in Del Puerto Canyon.

#### **9.43.5 Response to Comment 43-5**

*Comment Summary: The comment expresses opposition to the project and recommends an alternative site be selected.*

Please refer to Master Response 2 regarding opposition to the project.

### **9.44 Comment Letter 44 - Cheryl Santos**

#### **9.44.1 Response to Comment 44-1**

*Comment Summary: The comment expresses opposition to the project.*

Please refer to Master Response 2 regarding opposition to the project.

### **9.45 Comment Letter 45 - Thomas E. Gill**

#### **9.45.1 Response to Comment 45-1**

*Comment Summary: The comment expresses opposition to the project.*

Please refer to Master Response 2 regarding opposition to the project. Please refer to Responses to Comments 45-2 through 45-5, which address geological and natural resources comments.

#### **9.45.2 Response to Comment 45-2**

*Comment Summary: The comment states that the canyon has slopes of questionable stability and active or potentially reactivated landslides and suggests that other locations would have less risk of sliding.*

Please refer to Master Response 7 regarding the risk of landslides.

#### **9.45.3 Response to Comment 45-3**

*Comment Summary: The comment states that lower Del Puerto Canyon is an extremely valuable scientific and cultural resource and possesses unique ecological values.*

Impact BIO-TERR-2 Adverse Effect on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-63) identifies impacts on riparian woodland (16.5 acres) and riparian wetlands (19.2 acres) and notes that these impacts would be significant before mitigation. As noted in Appendix B3 of the Draft EIR, the riparian woodland in the study area corresponds with the Fremont cottonwood forest vegetation alliance. This community is tracked by the California Department of Fish and Wildlife as a sensitive natural community and has a global ranking of G4 (apparently secure) and a state ranking of S3 (Vulnerable) (California Department of Fish and Wildlife 2019). Though sensitive, this community does occur elsewhere in the state and is not unique to Del Puerto Canyon. The riparian wetlands in the study area are dominated by relatively common wetland species [cattails (*Typha domingensis*) and three-square bulrush (*Schoenoplectus americanus*, *S. pungens*)], which occur throughout most of the state. Because there are many drainages along the east flank of the Diablo Range that drain the higher elevations of the range, there is no reason to assume that the chemistry of Del Puerto Creek is unusual. Corral Hollow Creek, Ingram Creek, Panoche Creek, and Little Panoche Creek all would be expected to have water chemistry similar to that of Del Puerto Creek. The mitigation proposed in Mitigation Measure BIO-TERR-2 Compensate for Effects on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-63) is sufficient to mitigate the impact of the project to less than significant when considering

the commitments outlined in the measure, the amount of habitat impacted, and the uniqueness of the communities in question.

Please see Response to Comment 39-11. As noted in that response, the Draft EIR addresses impacts on special-status species that have a potential to occur in the portion of Del Puerto Canyon in the project footprint and included avoidance, minimization, and compensatory mitigation measures to reduce these impacts to less than significant. Furthermore, as described in Draft EIR Appendix B-4, Table B4-2, the special-status species addressed have geographical ranges that extend far beyond Del Puerto Canyon and thus are not unique to this area.

Please refer to Master Response 16 regarding the geology of Del Puerto Canyon.

#### **9.45.4 Response to Comment 45-4**

*Comment Summary: The comment asserts that Del Puerto Canyon is a resource that would be lost if access from Interstate 5 to Mount Hamilton or San Antonio Valley Road is not provided, cites the geologic and biological significance to users and asserts that Del Puerto Canyon Road is a legal portion of State Route 130 and thus must be relocated with care.*

Access from Interstate 5 to the upper portions of Del Puerto Canyon Road would not be interrupted, though it is important to note that Del Puerto Canyon Road is a county road and is not maintained by Caltrans. Legislatively, State Route 130 extends east from Santa Clara County to Stanislaus County, but the traversable route heading east from Mount Hamilton follows San Antonio Valley Road and Del Puerto Canyon Road, both of which are county roads. Caltrans would thus not be involved in the relocation of Del Puerto Canyon Road. Relocation of the road is being coordinated with Stanislaus County and the road would be constructed to County standards. As noted on page 2-16 of the Draft EIR, “the existing Del Puerto Canyon Road would not be closed until the new road is ready for operation”. Access to the portions of the canyon above and below the reservoir would be maintained. Please refer to Master Response 15 regarding impacts to recreation in Del Puerto Canyon. As described on page 2-9 of the Draft EIR, “The roadway alignment has been developed at a conceptual level and is subject to refinement during design.”

#### **9.45.5 Response to Comment 45-5**

*Comment Summary: The comment suggests that a reservoir at a different site would require a road with less engineering standards that would not need to be constructed to the same requirements as Del Puerto Canyon Road and that recreational and natural history facilities should be included.*

Please refer to Master Response 15 regarding recreational opportunities. Please refer to Master Response 1 regarding opposition to the project location and to Master Response 4 regarding alternative locations.

### **9.46 Comment Letter 46 - David Piecyk**

#### **9.46.1 Response to Comment 46-1**

*Comment Summary: The comment suggests that the alignment for relocating Del Puerto Canyon Road should not go down Diablo Grande Parkway into Salado Creek Canyon but should instead be routed along the south shoreline of the reservoir.*

Please refer to Figure 2-6 on page 2-9 of the Draft EIR, which shows the currently proposed alignment for the roadway. As noted on page 2-8 of the Draft EIR, “The roadway alignment has been developed at a conceptual level and is subject to refinement during design. Any alignment revision would be evaluated to determine if supplemental environmental documentation is required.” The road would be designed to maintain county standards for grades and speeds and to avoid curves with an unacceptable radius. The

elevation of the road would not be designed specifically to provide views, but the relocated road would definitely provide new viewpoints.

#### **9.46.2 Response to Comment 46-2**

*Comment Summary: The comment provides a drawing of a suggested road alignment, which follows Del Puerto Canyon Road to the area just below the proposed saddle dam then curves south around the southern arm of the reservoir.*

The road alignment evaluated in the Draft EIR was developed using information regarding the slope and geology of the area and the location of the reservoir. The comment suggests the route be approximately 100 feet above the reservoir surface. The route analyzed in the Draft EIR varies in height above the reservoir (between 40 feet above and over 100 feet above maximum capacity) to follow a safe driving path. On the easterly side, the comment suggested cutting back to Del Puerto Canyon Road. The route selected for analysis in the EIR follows more gentle terrain that would provide a safer route due to flatter slopes.

### **9.47 Comment Letter 47 - Stuart Presley**

#### **9.47.1 Response to Comment 47-1**

*Comment Summary: The comment expresses concern about the amount of pollution that would be created by the project.*

Please refer to Master Response 14 regarding air quality and greenhouse gas emissions. Also, the Draft EIR Section 3.3, Air Quality fully analyzes anticipated emissions of air pollutants during construction and long-term operation of the project. The proposed project includes mitigation to ensure that air quality impacts are less than significant.

#### **9.47.2 Response to Comment 47-2**

*Comment Summary: The comment expresses concern about the meat industry's environmental impact on greenhouse gas emissions.*

Please refer to the Draft EIR Section 3.9 Greenhouse Gas Emissions, which fully analyzes greenhouse gas emissions related to construction and operation of the reservoir project. The reservoir would provide storage of water from the DMC and represents a reliable source of supply to existing agriculture operations. The project would have no effect on greenhouse gas emissions associated with the meat industry.

#### **9.47.3 Response to Comment 47-3**

*Comment Summary: The comment expresses concern about traffic impacts at the highway exit.*

Please refer to Draft EIR Section 3.13, Traffic and Transportation which fully analyzes project-related construction and operational impacts on local intersections including highway ramps. The Draft EIR acknowledges that the intersection of Sperry Avenue/Diablo Grande Parkway/I-5 Southbound Ramps would continue to operate at an unacceptable Level of Service (LOS) in the PM peak hour, with or without construction traffic. The addition of construction traffic results in a temporary significant impact to intersection operations by contributing further delay to the deficient intersection during project construction. During construction the project would add delay to the Sperry Avenue/Diablo Grande Parkway/I-5 Northbound Ramps intersection, but these impacts are not significant. Project operation would not add measurable traffic to the intersection of the Sperry Avenue/Diablo Grande Parkway/I-5 Southbound Ramps, and therefore the project would have a less-than-significant impact at the intersection.

#### **9.47.4 Response to Comment 47-4**

*Comment Summary: The comment expresses concern about loss of habitat.*

Please refer to Draft EIR Section 3.4, Biological Resources-Terrestrial and Section 3.5, Biological Resources-Fish, which fully evaluate potential project impacts on terrestrial resources comprised of vegetation, wildlife, natural communities, and wetlands and other waters, as well as aquatic biological resources including fish species and aquatic habitat. A number of mitigation measures are specified in the Draft EIR to avoid, minimize, and compensate for effects on species and habitats. With implementation of the mitigation measures, impacts on terrestrial and aquatic resources and habitats were found to be less than significant. Also please refer to Master Response 19 regarding mitigation for biological resources impacts.

#### **9.47.5 Response to Comment 47-5**

*Comment Summary: The comment expresses concern about the proximity of an earthquake fault.*

Please refer to Master Response 6 which discusses seismic risk and the proximity of the closest fault.

#### **9.47.6 Response to Comment 47-6**

*Comment Summary: The comment expresses concern about historical artifacts being buried under water.*

Please refer to Draft EIR Section 3.6, Cultural Resources, which fully analyzes project-related impacts on cultural resources. The Draft EIR acknowledges that inundation of the reservoir would cause significant damage to P-50-0344, a prehistoric occupation site, eligible for listing on the National Register of Historic Places and the California Register of Historic Resources. This archaeological resource is located completely within the proposed inundation area and submerging it would result in significant modification to its defining archaeological qualities. Furthermore, the Draft EIR acknowledges that if previously unknown archaeological resources are inundated and experience fluctuating water levels, they could be adversely affected. Mitigation measures are proposed in the Draft EIR to help minimize impacts, but impacts could not be reduced to less than significant. As explained on page 5-1 of the Draft EIR, because the project has significant impacts, the Project Partners “would be required to adopt Findings and prepare a Statement of Overriding Considerations for the project’s unavoidable adverse impacts as part of the approval of the project.” As explained in Master Response 2, projects that have significant impacts on the environment can be approved if there are project benefits that outweigh those impacts. One of the purposes of the EIR is to disclose those impacts to the public and to decisionmakers so that the environmental effects of the project are considered when making decisions about whether to proceed with the project.

#### **9.47.7 Response to Comment 47-7**

*Comment Summary: The comment expresses concern about the reservoir blocking views of the hills.*

Please refer to Draft EIR Section 3.1 Aesthetics, which fully analyzes the project’s impacts to views of the foothills of the Diablo Range. The Draft EIR acknowledges that the main dam would permanently impede views west along Interstate 5 into Del Puerto Canyon and operation of the dam would create permanent changes in the visual character of the inundation area in Del Puerto Canyon that could not be reasonably mitigated. As such, the Draft EIR concludes that impacts to scenic resources would be significant and unavoidable. As explained on page 5-1 of the Draft EIR, because the project has significant impacts, the Project Partners “would be required to adopt Findings and prepare a Statement of Overriding Considerations for the project’s unavoidable adverse impacts as part of the approval of the project.” As explained in Master Response 2, projects that have significant impacts on the environment can be approved, if there are project benefits that outweigh those impacts. One of the purposes of the EIR is to disclose those impacts to the public and to decisionmakers so that the environmental effects of the project area considered when making decisions about whether to proceed with the project.

**9.47.8 Response to Comment 47-8**

*Comment Summary: The comment expresses concern about loss of access to parks, such as Frank Raines.*

Please refer to Master Response 15 regarding impacts on recreation in Del Puerto Canyon including no loss of access to Frank Raines Park.

**9.47.9 Response to Comment 47-9**

*Comment Summary: The comment voices concern about dangers of moving/relocating the oil pipeline.*

Please refer to Section 3.10 Hazards and Hazardous Materials which fully evaluates the project's potential to "create a hazard through reasonably foreseeable upset and accident conditions to the public and the environment involving release of hazardous materials into the environment." As discussed in the Draft EIR, the existing Shell petroleum pipeline currently located within the reservoir footprint would not be relocated per se, but rather a new pipeline would be constructed, and once completed, the existing pipeline would be removed in accordance with federal, state and local standards. This would include proper sampling and clean-up of any potentially contaminated soil that may be encountered during excavation of the existing pipeline. With implementation of mitigation measures to manage hazardous materials and wastes, no significant upset or accident conditions to the public or the environment involving a release of hazardous materials to the environment would be expected.

**9.47.10 Response to Comment 47-10**

*Comment Summary: The comment expresses concern about the potential loss of wildlife.*

Please refer to Sections 3.4 and 3.5 of the Draft EIR which fully evaluate potential project impacts on terrestrial resources comprised of vegetation, wildlife, natural communities, and wetlands and other waters, as well as aquatic biological resources including fish species and aquatic habitat. A number of mitigation measures are specified in the Draft EIR to avoid, minimize, and compensate for effects on species and habitats. With implementation of mitigation measures in the Draft EIR, impacts on terrestrial and aquatic resources were found to be less than significant. Also please refer to Master Response 19 regarding mitigation for biological resources impacts.

**9.47.11 Response to Comment 47-11**

*Comment Summary: The comment voices concern about flood insurance and the need to disclose inundation zones.*

Please refer to Master Response 10 which explains that flood insurance would not be required and provides information about hazard disclosure.

**9.47.12 Response to Comment 47-12**

*Comment Summary: The comment asserts that the project is not consistent with the City of Patterson 2010 General Plan and expresses concern that residents do not have a chance to vote on the project.*

Please refer to Master Response 13 regarding consistency with the City of Patterson General Plan. As noted there, DPWD has submitted a request to the City of Patterson Community Development Department for a report on the conformity of the project with the city's adopted General Plan and pursuant to Government Code Section 65402(c), the proposed project has been deemed to be in conformity with the adopted General Plan. The comment is correct that Patterson residents would not have an opportunity to vote on the project; project approval falls within the jurisdiction of the Boards of Directors of the Project Partners.

### 9.47.13 Response to Comment 47-13

*Comment Summary: The comment expresses opposition to the project and suggests replenishment of the aquifer.*

Please refer to Master Response 2 regarding project opposition, and to Master Response 5 regarding the use of groundwater storage to achieve project objectives.

## 9.48 Comment Letter 48 - Wayne Armbrust

### 9.48.1 Response to Comment 48-1

*Comment Summary: The comment asserts that the Draft EIR has determined impacts associated with the project to be less than significant (LTS) with no justification for the determination and says that inundating a canyon cannot be considered less than significant.*

The Draft EIR has evaluated each of the impacts in the CEQA checklist, as delineated in Appendix G of the CEQA guidelines, and while some impacts were determined to be less than significant, the Draft EIR identified 22 impacts that were considered potentially significant, requiring mitigation, and 5 impacts that were determined to be significant unavoidable effects of the project. Significance determinations are summarized in the Executive Summary of the Draft EIR, in Table ES-1 which starts on page ES-4. The reasons for each determination are described in detail in each resource section of Chapter 3 of the Draft EIR. Significant unavoidable impacts are also summarized in Chapter 5, on page 5-1 of the Draft EIR.

### 9.48.2 Response to Comment 48-2

*Comment Summary: The comment asserts the Draft EIR fails to consider impacts up- and downstream of the proposed reservoir, and that only the area of the dam was evaluated.*

The Draft EIR, page 3.3-26, notes that “there are three rural residential homes scattered within 1 mile of the proposed project (see Figure 3.3-1). However, none of these residences are within the area of the proposed project”. Therefore, no direct impacts are expected to any residents who may be living along Del Puerto Canyon Road upstream of the reservoir. The Draft EIR identifies a variety of impacts, some of which are specific to areas upstream or downstream of the reservoir and some of which are either specific to the actual footprint of the project facilities or regional in their extent and context. The primary effect to residents and others who live or recreate upstream of the reservoir would be use of the relocated/realigned Del Puerto Canyon Road. As discussed in Draft EIR Section 3.13, Traffic and Transportation, the realigned roadway would connect to Diablo Grande Parkway at a location about 8,400 feet west of the current Sperry Avenue/Diablo Grande Parkway intersection. The total distance for trips currently using Del Puerto Canyon Road between the Diablo Grande Parkway intersection and points to the east of the study area would increase by 0.44 miles. Currently the distance from Interstate 5 to the intersection of Del Puerto Canyon Road with Mines Road/San Antonio Valley Road is 26.4 miles. Construction and long-term traffic impacts are fully evaluated in the Draft EIR in Section 3.13.

With regard to downstream effects, please refer to Draft EIR Sections 3.4, 3.5, 3.11 and 3.12, which fully analyze effects of the reservoir on downstream areas including land uses, biological resources, and hydrology/water quality. Potential impacts of a dam breach are discussed in detail on page 3.11-22 of the Draft EIR, where it is noted that “The proposed project would be designed with multiple safety factors, which would result in an extremely low probability of dam breach. ... The threat of project inundation is thus considered a less than significant impact. Please also see Master Response 8 which addresses potential downstream flooding issues in the unlikely event of dam failure, and Master Responses 9 and 10 which addresses Emergency Action Plans in the unlikely event of a dam failure and the need for flood insurance and hazard disclosure, respectively. As discussed in Master Response 10, residents of Patterson will not be required to purchase increased flood insurance and the cost of flood insurance for residents will not increase and could potentially decrease.

Impacts of a more regional nature, which are evaluated in that context, include air quality, greenhouse gas and energy impacts, and visual impacts. Impacts that are localized to the project footprint include impacts on cultural and paleontological resources, loss of agricultural land and terrestrial and aquatic habitat within the reservoir, and effects of relocating utilities that are currently present within the reservoir area.

### 9.48.3 Response to Comment 48-3

*Comment Summary: The comment asks for evaluation of increased humidity caused by the reservoir which is suggested could affect mosquito and tick populations in Del Puerto Canyon.*

The reservoir operations model, which is included in Appendix F of the Draft EIR, does assess the extent of annual evaporation from the reservoir, which is estimated to be about 1,300 acre-feet annually. This amount of evaporation could increase humidity in the immediate vicinity of the reservoir, especially in the summer months when the most evaporation would occur. However, the comment does not provide any information that supports the claim that increased humidity would increase populations of mosquitos and ticks. Mosquitos are dependent on standing water for breeding, and research has shown that tick populations are most strongly influenced by population density fluctuations in the density of wildlife host and not by climate factors (Paul et al. 2016).

#### Reference

Paul, Richard E.L., Martine Cote, Evelyne Le Naour and Sarah I. Bonnet. 2016. Environmental factors influencing tick densities over seven years in a French suburban forest. *Parasites & Vectors* 9:309

### 9.48.4 Response to Comment 48-4

*Comment Summary: The comment states that the botanical surveys conducted for the project were inadequate.*

A total of 11 biologists were in the field at different times over the period from May to October 2019 for a total of 180 person-days in the field. Botanical survey of the grasslands was done in October 2019 for fall-blooming species. In addition, a spring botanical survey of the entire project area was done in March 26–April 8, 2020 for a total of over 200 person-days in the field. Mitigation measure BIO-TERR-1b (page 3.4-38) specifies that protocol-level botanical surveys of grassland portions of the project site will be conducted before the start of any proposed project activities, to identify locations where avoidance and minimization measures would be implemented during project construction and to identify and quantify impacts on other special-status plants that would require compensation for permanent impacts resulting from inundation.

The Draft EIR is modified to remove language regarding the limitations on survey results, since spring botany surveys have been conducted. Page 3.4-2 of the Draft EIR is revised as follows:

#### **Limitations that May Influence Results**

~~A fall botanical field survey was performed for the study area. However, because spring botanical field surveys were not conducted, special-status plants were assumed to be present if potentially suitable habitat is present. The vegetation mapping has not been field verified, and sensitive plant communities may be present that could not be identified by the vegetation mapping~~

Page 3.4-7, of the Draft EIR in the first paragraph under “Special-Status Plants”, is modified to include the results of the March 26–April 8, 2020 botanical survey as follows:

~~No Fall and spring botanical field surveys for special-status plant species have been conducted~~ done within the study area; therefore, all species present in the study area vicinity were evaluated for their potential to occur in the study area, based on the known range of each species and their habitat associations (Appendix B3, *Memorandum regarding Special-Status Plant Assessment–Del Puerto Canyon Reservoir Project*). ~~Four~~ Eighteen of the species are not known to occur in the

study area, and no potential habitat for these species is present in the study area. These species are not addressed further. The following discussion focuses on the 45 species that occur in the study area or have been reported from the study area. The other 127 species that have the potential to occur in the study area are discussed in Appendix B3.

These modifications do not substantially alter the mitigation measure or result in a change to the impact determination.

Furthermore, inclusion of the results of the spring botany surveys in Appendix B3 and Section 3.4 does not result in the addition of substantial new information, as the results confirmed the presence or absence of most sensitive plants assumed present where suitable habitat was present. The results of the spring botany surveys do not change the impact determinations in Section 3.4, Biological Resources-Terrestrial.

#### **9.48.5 Response to Comment 48-5**

*Comment Summary: The comment states that no early spring/summer surveys were done for special-status plants.*

Please refer to Responses to Comment 48-4 regarding conducting spring/summer surveys.

#### **9.48.6 Response to Comment 48-6**

*Comment Summary: The comment asks for the “seismic design basis specification” and asserts “you have a number that you have designed to”.*

The proposed project is still in the early stages of feasibility determination and environmental review, and design of reservoir and dam facilities has only been completed to about a 10 percent level. Plans and specifications for the proposed project have not been developed and would not be completed until after completion of environmental review, subject to a feasibility determination. It is not clear what number the comment is requesting. However, as noted in Master Response 6 regarding seismic safety, the dams and appurtenant facilities would be designed to provide acceptable performance under the maximum credible earthquakes on nearby controlling seismic sources, including the Great Valley 07/Orestimba (San Joaquin) fault, located about 0.2 kilometer to the east of the main dam, with an estimated maximum magnitude earthquake of 6.6 to 6.7. The Preliminary Seismic Evaluation Technical Memorandum prepared for the project (Gannett Fleming 2020) has refined this analysis, indicating a 6.92 maximum credible earthquake magnitude event on this fault.

#### **9.48.7 Response to Comment 48-7**

*Comment Summary: The comment asks what measures will be taken to secure the site against homeless encampments and whether the reservoir would be fenced.*

California Water Districts have the legal right to restrict access to lands around reservoirs thus allowing the Project Partners to implement suitable measures to prevent access to project facilities. The proposed reservoir would be constructed within private lands that are currently fenced and used for cattle grazing. Land needed for the reservoir would be acquired from private landowners, and the land bordering the reservoir would continue to be used for cattle grazing. The grazing lands around the reservoir would continue to be fenced private lands with access controlled by the existing landowners. Because the reservoir would be surrounded by private grazing land a fence surrounding the reservoir is not proposed.

Within the description of each facility in the Project Description, security measures that would be installed are listed, such as the chain-link fence at the electrical substation (page 2-21 Section 2.3.3 Maintenance on page 2-15 of the Draft EIR describes maintenance activities that will be undertaken to ensure continued safe operation of the proposed project facilities. One of these measures in routine inspections of fencing, signs, and gates. Section 2.3.3 has been modified to provide clarification that routine maintenance would also include inspections of the reservoir via utility and access roads, and that



such inspections would note the presence of trespassers, which would be reported to local law enforcement as appropriate.

The second paragraph of Section 2.3.3 on page 2-15 of the Draft EIR is revised as follows:

Maintenance for proposed project facilities would include debris removal, dredging, vegetation control, rodent control, erosion control and protection, routine inspections (dams, tunnels, pipelines, pumping/generating plants, inlet/outlet works, fence, signs, gates), painting, cleaning, repairs, and other routine tasks to maintain facilities in accordance with design standards after construction and commissioning. Routine visual inspection of the facilities would be conducted to monitor performance and prevent mechanical and structural failures of proposed project elements. The reservoir area would be inspected via utility and access roads, and if any trespassers are present, they would be reported to local law enforcement as appropriate.

The proposed project would not result in relocation of residents or workers and would not result in worker layoffs. The proposed project thus would not contribute to or exacerbate homelessness because it would neither displace residents nor increase unemployment, both contributing factors to homelessness. The proposed project would not improve access to the project area because it would relocate an existing road and would not construct additional new roads into the reservoir area beyond minimal maintenance roads consistent with existing access. Because the proposed project would not increase homelessness in the area, nor would it increase access to Del Puerto Canyon, it would not be anticipated to increase the presence of homeless encampments.

#### **9.48.8 Response to Comment 48-8**

*Comment Summary: The comment asks why the Del Puerto Canyon site was chosen over other locations and why the process was kept from local residents.*

Chapter 4 of the Draft EIR provides information on the evaluation of potential reservoir sites that resulted in the selection of the Del Puerto Canyon Reservoir site and provides information on both the Ingram Canyon and Quinto Canyon sites. Please refer to Master Response 20 regarding notification about the project, which explains that the project was not sufficiently developed to warrant public involvement until mid-2019, when the Project Partners decided to begin environmental evaluation of the proposed project.

#### **9.48.9 Response to Comment 48-9**

*Comment Summary: The comment asks again why the Del Puerto Canyon Reservoir site was chosen and asserts that the Ingram Canyon site was graded better in several aspects in a “2011 report”.*

The comment does not identify the 2011 report to which it refers. The Project Partners are only aware of one 2011 report that considers potential reservoir sites: *the San Luis Low Point Improvement Project Plan Formulation Report* (hereinafter referred to as the San Luis Report), is a feasibility study prepared by the U.S. Department of the Interior, Bureau of Reclamation in cooperation with the Santa Clara Valley Water District and the San Luis & Delta-Mendota Water Authority. That report evaluated both Del Puerto Canyon and Ingram Canyon as reservoir sites and concluded that both were “not as efficient as the Pacheco Reservoir Alternative because the dam would be much larger (and more expensive)”.

The San Luis Report does provide several comparisons of the facilities at Del Puerto Canyon and Ingram Canyon but those comparisons are not directly applicable to the current project because the San Luis Report evaluated a different location for the Del Puerto Canyon Dam at a site about 1.3 miles further west in the canyon than the location for the proposed project, and considered a much larger reservoir size of 271 thousand acre feet (TAF) as compared to the proposed project, which would be 82 TAF. The dams for both the Ingram Canyon and Del Puerto Canyon sites that were considered in the San Luis Report were 540 feet and 505 feet tall, respectively. In the San Luis Report, the Ingram Canyon site was ranked just above the Del Puerto Canyon site in “Quantitative Measures”, but this ranking is primarily due to the fact that the Del Puerto Canyon dam site that was considered in the San Luis Report would have required

a very large dam (67.3 million cubic yards of material), which is an order of magnitude larger than embankment volume of the proposed project, which is estimated at about 6.2 million cubic yards. Most of the physical comparisons in the San Luis Report are thus not applicable because the analysis assumed a much larger reservoir, with a much larger dam at a different location in Del Puerto Canyon than is currently under consideration. The quantitative comparison of reservoir features that is presented in Chapter 4 of the Draft EIR provides an accurate comparison of a reservoir with dam characteristics that would achieve the Project Partners' objective to develop 80 TAF of storage.

The San Luis Report also provided a comparison of the geotechnical and geological conditions criteria of the Ingram Canyon and Del Puerto Canyon sites, which is somewhat more applicable because it pertains to the overall site and is thus not as dependent on the size of the reservoir and embankment. The two sites received identical ratings and were rated very low for liquefaction, very low for landslide potential, greater than one mile for distance to faults, moderate for foundation treatment, with available on-site material. Ratings for hydraulic conditions criteria and land development and social criteria were also similar for both sites. Thus, the primary reason that the Del Puerto Canyon site was ranked better than the Ingram Canyon site in the San Luis Report was the extremely large embankment, which is not necessary for the proposed project.

As noted in Chapter 4 of the Draft EIR, alternative screening primarily relied on the Department of Water Resources 1996 *Alternative South-of-the-Delta Offstream Reservoir Reconnaissance Study, Phase One*, which evaluated 96 dam sites, including a reservoir configuration at the Del Puerto Canyon site that is similar to the proposed project. The evaluation of physical impacts in the 1996 DWR report is summarized in Chapter 4 starting on page 4-4. The 1996 DWR report also compares environmental impacts of reservoir sites and rates the Del Puerto Canyon Reservoir with a 53 out of 100 for environmental sensitivity and lists the Ingram Canyon site as 48-50 (depending on configuration). A higher score for an alternative reservoir site translates to a lower environmental impact. The two sites are thus considered similar for environmental sensitivity with the Del Puerto Canyon site ranking slightly better.

#### **9.48.10 Response to Comment 48-10**

*Comment Summary: The comment asks about the cost of the proposed projects, whether bonds will be issued, how debt service will be funded, and how much will be paid by taxpayers. It notes that federal funding is taxpayer dollars.*

Master Response 21 addresses project funding, which is outside the scope CEQA. One of the goals of the proposed project is to "Develop a cost-effective project that provides water at an affordable cost to landowners" (see page ES-1). WIIN Act funding is being pursued for up to 25 percent of the total eligible costs commensurate with federal benefits. The remainder would be funded by the Project Partners, Del Puerto Water District and the San Joaquin River Exchange Contractors Water Authority, both of which are funded through customer revenues, not taxpayer dollars. Ultimately, this means that the proposed project would be paid for by the customers receiving the benefit of the additional water.

#### **9.48.11 Response to Comment 48-11**

*Comment Summary: The comment asks who would approve the project.*

The Project Partners, the Del Puerto Water District and San Joaquin River Exchange Contractors Water Authority will consider the findings of the Environmental Impact Report and the results of the feasibility study that is currently being prepared and will ultimately decide whether or not to proceed with the project. The project will also require approvals from at least a dozen other agencies, including the Division of Safety of Dams. Table 1-1 on page 1-6 of the Draft EIR identifies approvals that would be required for project implementation.

### 9.48.12 Response to Comment 48-12

*Comment Summary: The comment questions how the project will mitigate the many environmental impacts and states the opinion that mitigating something unique cannot be done by purchasing distant mitigation tracts.*

For biological resources, the mitigation banks and/or conservation easements used would contain the resources that need to be mitigated as required by all mitigation measures identified in the Draft EIR. The U.S. Fish and Wildlife Service and California Department of Fish and Wildlife approve these mitigation banks and associated service areas. These two agencies also have approval authority over any compensatory mitigation for state and federally listed species.

### 9.48.13 Response to Comment 48-13

*Comment Summary: The comment asks if the “outflow pump” would have generation capability or at least be gravity flow.*

Water would flow out of the reservoir and into the DMC by gravity. The pumping plant would be designed to accommodate the possibility of generating power in the future. The economic feasibility of a hydropower turbine at the site will be determined and supplemental environmental review would be conducted as needed to address addition of power generation at the pump station.

### 9.48.14 Response to Comment 48-14

*Comment Summary: The comment asks where the water will come from to fill the reservoir, given that the stated source (CVP) has not provided 100 percent of DPWD’s allocation in the last 20 years.*

The proposed project creates new, permanent water storage. As stated in Section 1.1.1 Need for Water Storage, on page 1-2 of the Draft EIR, “Reliable local water storage would allow the Project Partners to take delivery of water when it is available during wet periods and store it for use when there is demand for irrigation supply.” Without storage, water supply and water demand are inverse to one another - supplies are more readily available during the rainy season when demands are lower, and when demands are high during the dry season supplies are less available. Storage provides a bridge between the wet season and dry season. Increasing storage allows the Project Partners to accept water when excess is available that would otherwise be lost due to a lack of means to store the water. The size of the proposed reservoir was based on the identified storage needs for DPWD (20,000 AF), the Exchange Contractors (50,000 AF), and to allow Bureau of Reclamation to store up to 20,000 AF for South of Delta benefits, including wildlife refuges, as noted in Appendix F of the Draft EIR (Reservoir Operations Model), which models inputs, outputs, and reservoir levels. DPWD’s CVP allocation (140,210 AFY) ranges from 0 percent to 100 percent but averages 50 percent, and in four of the last twenty-four years has reached its 100 percent maximum. For modeling purposes, Appendix F assumes 11,000 AF is allocated to refuges. Modeling has shown sufficient supplies, water rights, and conveyance capacity exist to operate the reservoir as described in the Draft EIR.

### References

U.S. Bureau of Reclamation. 2017. “Reclamation Releases 100 Percent Water Supply Allocation for Central Valley Project Contractors South-of-Delta.” April 11. Available: <https://www.usbr.gov/newsroom/newsrelease/detail.cfm?RecordID=59000> Accessed 18 March 2020.

### 9.48.15 Response to Comment 48-15

*Comment Summary: The comment asks why the Project Partners have not invested in maintaining their allocation rights and asserts these allocations have been sent to Southern California.*

The comment is not related to the environmental analysis presented in the Draft EIR. However, it should be noted that the Project Partners have not lost water to Southern California, as suggested by the

comment, but rather that all CVP allocations have been reduced due to hydrologic and regulatory restrictions. This, combined with California's extreme weather variability, exacerbated by climate change, has driven the need to develop additional storage so that water can be captured when available for use in times of water shortage.

## References

DPWD. 2017. Water Management Plan. September 28. Available: [https://wuedata.water.ca.gov/public/awmp\\_attachments/6276700675/Del%20Puerto%20Water%20District%202016%20WMP\\_Final.pdf](https://wuedata.water.ca.gov/public/awmp_attachments/6276700675/Del%20Puerto%20Water%20District%202016%20WMP_Final.pdf)

### 9.48.16 Response to Comment 48-16

*Comment Summary: The comment asks for "whatever project plan you are working to".*

It is not clear what type of plan the comment is requesting. As noted in Response to Comment 48-6, engineering plans and specifications for the proposed project have not been fully developed and would not be completed until after completion of environmental review, subject to a feasibility determination. Environmental review of the project is based on the preliminary concepts that are shown in Chapter 2 of the Draft EIR, which contains the project description.

### 9.48.17 Response to Comment 48-17

*Comment Summary: The comment points out that there is an error in the heading of Appendix C.*

The error in the heading of Appendix C of the Draft EIR has been corrected and updated appendices are available on the project website at: [https://delpuertocanyonreservoir.com/assets/pdf/reports/Del-Puerto-Canyon-Reservoir-EIR-Appendices\\_Dec19.pdf](https://delpuertocanyonreservoir.com/assets/pdf/reports/Del-Puerto-Canyon-Reservoir-EIR-Appendices_Dec19.pdf). The EIR preparers regret the error, which was created in converting the Word document to portable document format (pdf) for posting on the project website. The technical content and readability of the appendix was not impaired by the error in the heading.

### 9.48.18 Response to Comment 48-18

*Comment Summary: The comment says Appendix C Page 202 of the Draft EIR calls for studying archaeological sites for several years before implementing a project that could inundate the sites.*

The comment cites a broad statement about California archaeological research in general that is cited in Appendix C. As described in Section 3.6, Cultural Resources, subsections 3.6-1 through 3.6-2 (pages 3.6-1 to 3.6-8) the preparation of the Draft EIR did entail archaeological work, analysis, recordation, and data gathering at ephemeral and peripheral sites away from larger habitation sites. As described in the *Methods for Assessing Existing Cultural Resources in Region and Study Area* subsection (page 3.6-8), the methods for archaeological work are as follows:

Background research and field studies were conducted in compliance with CEQA as amended (Pub. Resources Code § 21000 et seq.), pursuant to the Guidelines for Implementation of CEQA (Cal. Code Regs. Title 14 §15000 et seq.). The effort to identify cultural resources in the study area included records searches of previous cultural resources investigations and recorded sites; background research and a review of literature relevant to the prehistory, ethnography, and history of the project vicinity; consultation with the Native American Heritage Commission (NAHC), Native Americans, historical societies, site visits and pedestrian surveys of the study area.

Additionally, subsurface testing was conducted at five archaeological sites to identify the presence of buried archaeological material and to evaluate the sites under Criterion D (NRHP) and Criterion 4 (CRHR).

### 9.48.19 Response to Comment 48-19

*Comment Summary: The comment asks what the numbers in Appendix D are based on and suggests they are from a “project plan of some sort” and suggests that the Appendix is incomplete.*

The basis of the data, in Appendix D, CalEEMod Emissions Data, is explained in the Draft EIR in Section 3.3, Air Quality. Methodology is described in section 3.3.3, beginning on page 3.3-14 of the Draft EIR. As noted there, “Construction was modelled based on information in Section 2.4.” Section 2.4 of the Draft EIR contains eight tables, Table 2.1 through Table 2-8, which list the equipment expected to be used to construct the project. These estimates of construction equipment usage were used to model emissions. It is not clear why the commenter believes the emissions output is incomplete, but the data in Appendix D represent the complete emissions output for the modeling that was conducted to estimate construction emissions. It is recognized that the output data is fairly technical, which is the reason that the output is included in an appendix and not in the body of the Draft EIR. Technical data of this nature are included primarily for responsible agencies reviewing the Draft EIR. In the case of Appendix D, the CalEEMod output is included so that it is available to the San Joaquin Valley Air Pollution Control District, which is a responsible agency for the project. Page 12 out of 137 summarizes overall construction emissions without mitigation. As noted previously, engineering plans and specifications for the project have not been completed.

### 9.48.20 Response to Comment 48-20

*Comment Summary: The comment states that a smaller reservoir would have fewer impacts on environmental resources and would be less costly and less damaging in the event of a failure.*

A smaller reservoir alternative is evaluated in the Draft EIR, beginning on page 4-11, and would result in some reductions in impacts. The comparison of impacts of the proposed project and a smaller reservoir alternative is summarized in Table 4-11, beginning on page 4-19 of the Draft EIR.

### 9.48.21 Response to Comment 48-21

*Comment Summary: The comment asks why Impact c) under Agriculture and Forestry resources section of the Initial Study in Appendix A is identified as “No Impact” instead of “Less Than Significant” impact.*

The impact statement referred to by the commenter asks whether the proposed project would “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))”. As noted on page 22 of the appendices file (page 5 of the Initial Study provided as Attachment B to Appendix A), the project area does not include forest land, and would therefore not result in a loss of forest land or conflicts with zoning of forest land, as defined in the impact statement. Therefore, a finding of No Impact is appropriate for this impact statement.

### 9.48.22 Response to Comment 48-22

*Comment Summary: The comment asks how the Stanislaus County Department of Environmental Resources could have drawn the conclusion that the project would not have a significant effect on the environment in August 2019, before the Draft EIR was completed. It further asks if the County completed its own CEQA and whether it was in compliance with CEQA laws.*

The letter referenced by the commenter was provided by the Stanislaus County Department of Environmental Resources during the scoping period for the proposed project (see page 111 of the Appendices file of the Draft EIR). The letter states “The Department has reviewed the information available on the subject project and it is our position that the project will not have a significant effect on the environment.” The Stanislaus County Department of Environmental Resources is the department that handles environmental health, hazardous waste, and solid waste; their comments on the Notice of

Preparation address specifically those issues for which they are responsible: hazardous materials and permits for monitoring wells and borings. The available information reviewed by the Department of Environmental Resources at the time of the letter was the Initial Study provided in Appendix A of the Draft EIR. Prior to any discretionary approvals by Stanislaus County for the proposed project, the County would consider the CEQA document as a responsible agency. The Draft EIR has been provided to the County for review.

#### **9.48.23 Response to Comment 48-23**

*Comment Summary: The comment questions the conclusion of no impact made in the letter from the Stanislaus County Department of Environmental Resources dated August 6, 2019 and asks whether the County had advance information regarding the project and why such information was withheld from the public.*

The letter referenced by the commenter was received during the scoping period for the CEQA process. At that time, an Initial Study was publicly available, as described in Section 6 of the Draft EIR, and a copy of the Initial Study is provided in Appendix A of the Draft EIR. Master Response 20 provides information on the procedures for public notification about the project. As noted in Master Response 20, a Notice of Preparation was published in the Patterson Irrigator on June 27, 2019 and the Initial Study was available on the project website. The Initial Study is just that – an initial evaluation of potential impacts – and is used to determine which level of CEQA evaluation is appropriate for a given project. For the proposed project, the Initial Study found that there would be potential impacts warranting additional evaluation in a number of resource areas, including aesthetics, agriculture and forestry resources, air quality, biological resources, cultural resources, energy, geology/soils, greenhouse gas emissions, hazards and hazardous materials, hydrology/water quality, land use/planning, transportation, tribal cultural resources, utilities/service systems, and mandatory findings of significance. Under CEQA Guidelines section 15063(g), following determination that an Initial Study should be prepared, a “Lead Agency shall consult informally with all Responsible Agencies and all Trustee Agencies responsible for resources affected by the project to obtain the recommendation of those agencies as to whether an EIR or a Negative Declaration should be prepared.” One use of an Initial Study is to identify potential impacts and allow for changes to the proposed project to avoid or minimize potential environmental impacts (CEQA Guidelines sections 15063(c)(2) and 15063(c)(4)). Informal consultation with responsible agencies could result in changes to the proposed project prior to development of an EIR. Please refer to Response to Comment 48-23, which explains that the Department of Environmental Resources provided comments only for those topics for which they are responsible: hazardous materials and permits for monitoring wells and borings.

Based on the outcomes of the Initial Study, an EIR was completed. The Draft EIR found numerous potential impacts, some of which could be mitigated to less than significant, and six of which would be significant and unavoidable even with mitigation measures included. Table ES-1 starting on page ES-4 of Draft EIR summarizes the impacts, mitigation measures, and the level of significance of each impact.

The results of studies completed by DPWD in support of the environmental analysis for the proposed project have been included or otherwise summarized in the Draft EIR. The Draft EIR has been provided to the County for review.

#### **9.48.24 Response to Comment 48-24**

*Comment Summary: The comment asks about financial arrangements made with landowners and references agreements made to provide access to properties to conduct studies.*

The comment is not related to environmental impacts or the analysis in the CEQA document.

**9.48.25 Response to Comment 48-25**

*Comment Summary: The comment asks whether existing roads and fences would be removed from the inundation zone.*

Fencing and other structures within the inundation zone would be removed before the reservoir is filled, but it is not expected that the existing road would need to be removed.

**9.48.26 Response to Comment 48-26**

*Comment Summary: The commenter acknowledges that Del Puerto Water District reached out to the Native American Heritage Commission, but questions whether the District reached out to all existing San Joaquin Valley Tribes for their input. The commenter also points out that several pages of an appendix were inserted upside down.*

The *Native American Consultation* subsection of Section 3.6, Cultural Resources, of the Draft EIR describes the District's outreach efforts to Tribes. Contrary to the commenter's contention that "there are no local existing tribes in existence," the Native American Heritage Commission identified three Tribes as having potential to be interested in the project area, as identified in Sections 3.6 and 3.14, Tribal Cultural Resources. As part of the CEQA Cultural Resources evaluation process, Del Puerto Water District sent informational outreach letters to the Southern Sierra Miwok Nation, North Valley Yokuts Tribe, and the Tule River Indian Tribe. As a result of follow-up phone calls, the Southern Sierra Miwok responded that the project is outside their geography of interest. The North Valley Yokuts contacted Del Puerto Water District in November 2019, as described in Chapter 3.6. The Tule River Nation did not respond to the letter or follow-up calls. In addition, a representative of the Tachi-Yokut Tribe of the Santa Rosa Rancheria (Tachi Yokuts) contacted the District in December of 2019 to learn more about the project. A field visit was conducted on December 11 with representatives of the Santa Rosa Rancheria (Tachi Yokuts), Nototomne Cultural Preservation (North Valley Yokuts), representatives of the Del Puerto Water District, Woodard and Curran (environmental consultant), the Bureau of Reclamation, and the cultural resources consultant. Consultation between Reclamation and the Tribes is also ongoing under Section 106.

The upside-down appendix pages were a production error. Appendices have been corrected and are available on the project website: [https://delpuertocanyonreservoir.com/assets/pdf/reports/Del-Puerto-Canyon-Reservoir-EIR-Appendices\\_Dec19.pdf](https://delpuertocanyonreservoir.com/assets/pdf/reports/Del-Puerto-Canyon-Reservoir-EIR-Appendices_Dec19.pdf). This correction does not represent a significant modification to the document nor a change in a significance determination.

**9.48.27 Response to Comment 48-27**

*Comment Summary: The comment asks how much land is involved in the proposed project and states the Draft EIR says 800-1000 acres, but the appendix says 2,000 or more acres.*

The appendices do not contain any references to a project size or area of 2,000 or more acres. The proposed project was initially estimated to have an inundation surface area of 897 acres (Table 4-2, page 4-7 of the Draft EIR). As noted in Response to Comment 1-11, this estimate has been updated and the current estimate is that the footprint of the reservoir is 825 acres, the new road would require about 40 acres of land, and the pump station site would be a little over 2 acres.

**9.48.28 Response to Comment 48-28**

*Comment Summary: The comment once again suggests that a smaller reservoir should be constructed.*

As noted in Response to Comment 48-20, a smaller reservoir is considered in the Draft EIR, beginning on page 4-11. A smaller reservoir does result in some reductions in impacts. The comparison of impacts of the proposed project and a smaller reservoir alternative is summarized in Table 4-11, beginning on page 4-19 of the Draft EIR. As explained on page 1-2 of the Draft EIR, and further elaborated in Master

Response 5 the total identified demand for storage is over 80,000 AF. However, the Project Partners could decide to construct a smaller reservoir.

#### **9.48.29 Response to Comment 48-29**

*Comment Summary: The comment asks why the Project Partners want local storage and suggests that there are better locations.*

Local storage in proximity to users and to the DMC minimizes pumping costs. Please refer to Master Response 4 regarding alternate locations and Response to Comment 48-9, which explains that the “scoring systems used in past studies” cited by the commenter are not directly relevant to the current proposed project site and configuration.

#### **9.48.30 Response to Comment 48-30**

*Comment Summary: The comment asks why DPWD has not worked to prevent conversion of prime farmland into urban areas and industrial uses and asserts that preserving such areas should be a prime focus of DPWD.*

DPWD’s primary function is to supply water for agricultural users. DPWD is not a land use agency nor does it have jurisdiction over land uses. This comment is not related to CEQA or the environmental analysis in the Draft EIR.

#### **9.48.31 Response to Comment 48-31**

*Comment Summary: The comment expresses concern about use of taxpayer money and suggests funds should be used to develop better sources and contracts, noting that pumping costs money and asserting that water districts are the single largest users of power in the state.*

Please refer to Master Response 21 which explains that if federal construction funding is available, the source would be from funds awarded to projects under Section 4011 of the WIIN Act, which are not taxpayer dollars, but instead paid by CVP contractors, such as DPWD. The comment suggests “contracts for storage”, but there is a shortage of storage south of the Delta, which is one of the primary reasons that the project is being proposed. Please refer to page 4-3 of the Draft EIR which explains why water transfers would not meet project objectives. The Project Partners are aware that pumping is both expensive and consumes large amounts of energy, which is why a project site close to the DMC is highly preferred. For example, the Ingram Canyon Alternative would require twice the energy for pumping as compared to the proposed project.

#### **9.48.32 Response to Comment 48-32**

*Comment Summary: The comment claims that dam failure is a common occurrence resulting in a sizeable death toll every year and suggests that the project is flooding a state highway and increasing travel times for residents and emergency responders.*

Please refer to Master Response 6 regarding seismic risk and dam safety, which documents that the risk of failure for a modern dam constructed to current standards is extremely remote. It is important to note that statistics on dam failures include any event where there is any uncontrolled release of water from a reservoir through a dam as a result of any structural deficiencies in the dam. According to the National Performance of Dams Program (NPDP) (2018) 96 percent of dam failures do “not result in life-safety consequences or significant property damage.” The vast majority (90 percent) of major failures that resulted in fatalities occurred before 1960 (NPDP 2018). Impacts in biological resources are addressed in Section 3.4 of the Draft EIR; please refer to Master Response 16 regarding the geology of the canyon. As noted in Response to Comment 45-4, Del Puerto Canyon Road is a county road, and the portion of the road within the reservoir would be relocated. As noted on page 3.13-14 of the Draft EIR, “The total distance of trips currently using Del Puerto Canyon Road to the east of the study area would increase by 0.44 miles with the realigned roadway.” Currently the distance from Interstate 5 to the intersection of Del



Puerto Canyon Road with Mines Road/San Antonio Valley Road is 26.4 miles. An increase of 0.44 miles is not expected to result in a major inconvenience to canyon residents or a substantial increase in emergency services response time because the road new portion of the road is expected to allow higher average travel speeds.

### Reference

National Performance of Dams Program. 2018. *Dam Failures in the U.S.*, NPDP-01 V1. prepared by the Dept. of Civil & Environmental Engineering, Stanford University. September 2018

#### 9.48.33 Response to Comment 48-33

*Comment Summary: The comment states the portion of the existing Del Puerto Road that would be inundated is 25 percent of the existing road, and the proposed project would convert 25 percent of the commenter's main transportation route into a seasonal mud-hole.*

This comment is not related to the environmental analysis of the CEQA document. As described in Section 2.2.3 of the Project Description (page 2-8 of the Draft EIR), the existing Del Puerto Canyon Road would be relocated, allowing continued access between the portion of the existing roadway that is not located within the proposed inundation area and I-5. Roadway relocation would occur prior to inundation to ensure access for those residents and travelers who would have used the existing Del Puerto Canyon Road for their transportation route.

#### 9.48.34 Response to Comment 48-34

*Comment Summary: The comment expresses support for the No Project Alternative, asserting that fallowing is a good option.*

As shown in Table 4-9 on page 4-16 of the Draft EIR, the No Project Alternative does not meet any of the project objectives. Additionally, page 4-17 of the Draft EIR explains that fallowing would result in loss of trees in orchards, and potential degradation of air quality due to blowing dust from fallowed fields.

#### 9.48.35 Response to Comment 48-35

*Comment Summary: The comment expresses the opinion that a smaller reservoir at Ingram Canyon would be sufficient and could have smaller conveyance facilities and result in less disruption.*

Please refer to Master Response 4 regarding alternate locations for the project.

#### 9.48.36 Response to Comment 48-36

*Comment Summary: The comment asks why Impact AG-1 is less than significant when the proposed project would inundate existing farmland.*

The impact statement AG-1 says "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". The Draft EIR acknowledges that the proposed project would be constructed on agricultural land, and page 3.2-14 states that approximately 75 acres of the inundation and dam area is currently designated as prime or unique farmland, though this land is currently abandoned. However, 73 of these acres are designated as mixed use in the City of Patterson's General Plan and are therefore already a candidate to be converted from important farmland. The remaining 2 acres of important farmland is not in production, and its designation as important farmland could be removed if irrigated agricultural production does not resume before the next biennial updated of the important farmland mapping. For these reasons, coupled with the proposed project's overall benefit of improved supply reliability which would help slow or avoid conversion of other farmland to non-agricultural uses, the impact was found to be less than significant.

**9.48.37 Response to Comment 48-37**

*Comment Summary: The comment references Impact 3.2 AG-2 and asserts the project land will be removed from the tax rolls, either reducing tax revenues or increasing taxes.*

This comment is not related to the environmental analysis under CEQA. Impact AG-2, referenced in the comment found the proposed project would not conflict with existing zoning for agricultural use or a Williamson Act contract because the proposed project would support agricultural uses and construction of water facilities are compatible with Williamson Act lands under the Stanislaus County zoning code (see page 3.2-16 of the Draft EIR).

**9.48.38 Response to Comment 48-38**

*Comment Summary: The comment refers to Table ES-1 in the Executive Summary of the Draft EIR and states the belief that all of the impact determinations for biological resources should be significant and unavoidable. The comment also asserts that “most of the individual impacts cannot be mitigated as the areas is geologically and ecologically unique”.*

The comment does not specifically identify which mitigation measures are insufficient in mitigating the impacts to less than significant. Using the Thresholds of Significance listed on page 3.4-35 of the Draft EIR, impacts on special-status species, sensitive natural communities, wetlands, wildlife corridors, and local ordinances protecting biological resources, were determined, absent mitigation, to be significant (Draft EIR pages 3.4-27 through 3.4-67). Impacts are reduced to less than significant through mitigation measures provided for these resources throughout the section. Impacts related to conflicts with conservation plans and invasive plant species would be less than significant. Mitigation measures include avoidance, minimization, and where appropriate, compensatory mitigation.

Please see Master Response 16 regarding the geology of the study area.

**9.48.39 Response to Comment 48-39**

*Comment Summary: The comment states that Impact BIO-TERR-2 must be changed to significant and unavoidable and that mitigation efforts are insufficient to reduce the level of significance as the area is geographically and ecologically unique.*

Please see Response to Comment 12-11. As identified in that response, Impact BIO-TERR-2 Substantial Adverse Effect on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-63) identifies impacts on riparian woodland (16.5 acres) and riparian wetlands (19.2 acres) and notes that these impacts would be significant before mitigation. As noted in Appendix B3 of the Draft EIR, the riparian woodland in the study area corresponds with the Fremont cottonwood forest vegetation alliance. This community is tracked by the California Department of Fish and Wildlife as a sensitive natural community and has a global ranking of G4 (apparently secure) and a state ranking of S3 (Vulnerable) (California Department of Fish and Wildlife 2019). Though sensitive, this community does occur elsewhere in the state and is not unique to Del Puerto Canyon. The riparian wetlands in the study area are dominated by relatively common wetland species [cattails (*Typha domingensis*) and three-square bulrush (*Schoenoplectus americanus*, *S. pungens*)], which occur throughout most of the state.

The mitigation proposed in Mitigation Measure BIO-TERR-2 Compensate for Effects on Riparian Habitat or Other Sensitive Natural Community (Draft EIR page 3.4-63) is sufficient to mitigate the impact of the proposed project to less than significant when considering the commitments outlined in the measure, the amount of habitat impacted, and the uniqueness of the communities in question.

Please see Master Response 16 regarding the geology of the study area.

#### 9.48.40 Response to Comment 48-40

*Comment Summary: The comment states that Impact BIO-TERR-3 must be changed to significant and unavoidable and that mitigation efforts are insufficient to reduce the level of significance as the area is geographically and ecologically unique.*

Impact BIO-TERR-3 Substantial Adverse Effect on State or Federally Protected Wetlands on page 3.4-63 of the Draft EIR notes that the impact identified would be significant before mitigation. The commitment to mitigate as described in Mitigation Measure BIO-TERR-3 Compensate for Adverse Effects on State or Federally Protected Wetlands is sufficient to reduce these impacts to less than significant because it proposes several different actions the Project Partners could take, including compensation. The riparian wetlands in the study area are dominated by relatively common wetland species [cattails (*Typha domingensis*) and three-square bulrush (*Schoenoplectus americanus*, *S. pungens*)], which occur throughout most of the state. Therefore, these wetland types in the study area are not unique to Del Puerto Canyon and similar mitigation is conducted throughout the state for similar wetland communities.

Please see Master Response 16 regarding the geology of the study area.

#### 9.48.41 Response to Comment 48-41

*Comment Summary: The comment suggests that the significance determination listed in Table ES-1 for Impact BIO-TERR-4 be changed to “PS” and expresses the opinion that it is common knowledge that signage does “little to nothing to preserve wildlife survival by avoiding collisions”.*

The less-than-significant determination for Impact BIO-TER-4 Interference with the Movement of Native Resident or Migratory Wildlife Species or Established Native Resident or Migratory Wildlife Corridors or Use of Native Wildlife Nursery Sites (Draft EIR page 3.4-65) is appropriate. Because the roadway replaces an existing road, the risk of wildlife collisions would not increase with the proposed project. The mitigation measure provides additional elements to preventing collisions and is proportional to the potential impact. In addition to signage, developing wildlife crossing on the realigned road (Mitigation Measure BIO-TERR-4a: Implement Wildlife Crossings) and establishing a dispersal corridor (Mitigation Measure BIO-TERR-4b: Wildlife Corridor Preservation and Enhancement) is proposed.

#### 9.48.42 Response to Comment 48-42

*Comment Summary: The comment states that the Draft EIR ignores migratory fish despite the claim that residents of the canyon are held to a different standard to avoid disturbing migratory fish when minor work such as bridge repairs are conducted 10 miles further upstream.*

The Draft EIR acknowledges that the proposed dam would create a permanent barrier to fish migration (page 3.5-17). However, under existing conditions, Del Puerto Creek is generally inaccessible to native migratory fish species and unable to support these species because of the presence of fish migration barriers (culverts underneath the California Aqueduct and Interstate 5) and highly degraded habitat conditions in lower Del Puerto Creek. Although the proposed project would eliminate stream habitat within the proposed inundation area above the dam, existing conditions within this area and the upper watershed (e.g., intermittent flows) currently restrict the movements of the resident fish species (e.g., Sacramento pikeminnow and sucker). Consequently, these species would likely continue to persist in the remaining stream habitat above the inundation area.

**9.48.43 Response to Comment 48-43**

*Comment Summary: The comment recommends changing the conclusions for Impact CULT-3 in Table ES-1 DPCR Impact Summary, 3.6, Cultural Resources, from LSM (less than significant with mitigation) to SU (significant and unavoidable) in order to be in compliance with the CEQA laws as when the reservoir is filled some human remains will now be underwater.*

Chapter 3.6 determined that Impact CULT-3, *Disturb any human remains, including those interred outside of dedicated cemeteries*, is potentially significant (page 3.6-12), as shown in Table ES-1. Mitigation Measure CULT-2, *Implement Measures if Construction Activities Inadvertently Discover or Disturb Human Remains*, was considered to reduce the impact to less than significant with mitigation (LSM). Mitigation Measure CULT-2 is presented in detail in Draft EIR Section 3.6. Also, please refer to Master Response 18, for information regarding Native American burial sites.

**9.48.44 Response to Comment 48-44**

*Comment Summary: The comment asserts that impact GEO-1 should be considered to be potentially significant (PS) because it is not possible to mitigate the effects of a dam failure “with your current project design”.*

As noted in previous responses the project facilities have not yet been fully designed, so it would not be possible for the commenter to evaluate the efficacy of the project design to address seismic safety. Impact GEO-1: Substantial adverse effects due to strong seismic ground shaking, seismic-related ground failure, including liquefaction, and landslides includes mitigation to ensure that the project is designed to meet all requirements of the Division of Safety of Dams. Please refer to Master Response 6 regarding seismic risk and dam safety.

**9.48.45 Response to Comment 48-45**

*Comment Summary: The comment states that Impact GEO-5 should be changed from less than significant with mitigation to significant and unavoidable after mitigation.*

Impact Geo-5 evaluates whether the proposed project would “Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.” An analysis of the proposed project’s potential to destroy a unique paleontological resource or geologic feature is provided on page 3.8-17 to 3.8-18 of the Draft EIR. Due to the potential for paleontological resources in the proposed inundation area, Mitigation Measure GEO-4 is included in the Draft EIR. This mitigation measure, described starting on page 3.8-17 of the Draft EIR, requires development of a Paleontological Resources monitoring and protection plan, which would reduce impacts to less than significant. See Master Response 16 regarding the unique geological resources of Del Puerto Canyon.

**9.48.46 Response to Comment 48-46**

*Comment Summary: The comment claims that the project would permanently increase emergency response times with greatly increased response times during construction.*

As noted on page 3.13-14 of the Draft EIR, “The total distance of trips currently using Del Puerto Canyon Road to the east of the study area would increase by 0.44 miles with the realigned roadway.” Currently the distance from Interstate 5 to the intersection of Del Puerto Canyon Road with Mines Road/San Antonio Valley Road is 26.4 miles. An increase of 0.44 miles is not expected to result in a major inconvenience to canyon residents or a substantial increase in the amount of time it takes to travel from the western end of the canyon into Patterson. The existing portion of Del Puerto Canyon Road that would be inundated by the reservoir is narrow with a number of sharp curves where speeds must be reduced to as little as 20 miles per hour. With the relocated roadway, there would be a relatively minor increase in the miles traveled. However, the new roadway would be constructed to County standards with a 12-foot wide travel lane and paved 4-foot shoulder, and an improved pavement surface. It is thus expected that it

would be possible to maintain higher average speeds along the roadway, so that travel times and emergency response times are not expected to increase materially with the relocation of the road. The existing road would remain open until a new road is constructed.

#### **9.48.47 Response to Comment 48-47**

*Comment Summary: The commenter recommends changing the conclusions for Impact TRIB-1 in Table ES-1 DPCR Impact Summary, 3.14, Tribal Cultural Resources, from NI (no impact) to PS (potentially significant) because at least three known sites “will be placed underwater and permanently erased from history.”*

Please see Draft EIR Chapter 3.6, Cultural Resources, for a description of how Native American cultural resources were identified, and Response to Comment 39-7, concerning the differences between CEQA Tribal Cultural Resources and CEQA Cultural Resources evaluation and impact determination processes.

Table ES-1 and Section 3.6 show that the impact on Site 50-P-344 (identified as potentially eligible for CRHR) was determined to remain significant and unavoidable (SU) with Mitigation Measure CULT-1 because it would inundate the site. Although this site and other Native American resources were identified under other regulations, no cultural resources were identified as *Tribal Cultural Resources* under AB 52 guidelines because no consultation *under AB 52* was required or occurred. Because no consultation occurred under AB 52, there would be no impact under AB 52/CEQA Tribal Cultural Resources. No change is needed for TRIB-1 in Table ES-1.

#### **9.48.48 Response to Comment 48-48**

*Comment Summary: The commenter recommends changing the conclusions for Impact TRIB-2 in Table ES-1 DPCR Impact Summary, 3.14, Tribal Cultural Resources, from NI (no impact) to PS (potentially significant) because at least three known sites “will be placed underwater and permanently erased from history.”*

Please see Draft EIR Chapter 3.6, Cultural Resources, for a description of how Native American cultural resources were identified, and Response to Comment 39-7, concerning the differences between CEQA Tribal Cultural Resources and CEQA Cultural Resources evaluation and impact determination processes. Response to Comment 48-47 above also applies to the comment about the significance determination for Impact TRIB-2, *Project would cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria, the lead agency shall consider the significance of the resource to a California Native American tribe.*

Specifically, regarding potential Tribal Cultural Resources other than Site 50-P-344, Chapter 3.6 determined that Impact CULT-3, *Disturb any human remains, including those interred outside of dedicated cemeteries*, is potentially significant (PS), as shown in Table ES-1. Mitigation Measure CULT-2, *Implement Measures if Construction Activities Inadvertently Discover or Disturb Human Remains*, was considered to reduce the impact to less than significant with mitigation (LSM). Mitigation Measure CULT-2 is presented in detail in Draft EIR Section 3.6. No cultural resources were identified as *Tribal Cultural Resources* under AB 52 guidelines because no consultation *under AB 52* was required or occurred. Because no consultation occurred under AB 52, there would be no impact (NI) under AB 52/CEQA Tribal Cultural Resources. No change is needed for TRIB-2 in Table ES-1 or Chapter 3.14.

#### **9.48.49 Response to Comment 48-49**

*Comment Summary: The comment claims that it is a conflict of interest for DPWD to be the lead agency because DPWD is unaccountable to the general public, which does not have the opportunity to “vote and control the makeup of the Agency”.*

Section 15367 of the CEQA Guidelines defines Lead Agency as “the public agency which has the principal responsibility for carrying out or approving a project.” DPWD meets this definition of lead agency. Comments about the structure and governance of DPWD do not pertain to the evaluation of impacts presented in the Draft EIR. Please refer to Master Response 21 regarding project funding.

#### **9.48.50 Response to Comment 48-50**

*Comment Summary: The comment states the volume of water from Del Puerto Creek would be small compared to the water stored in the proposed reservoir.*

The proposed reservoir would be filled primarily with water from the Project Partners’ existing CVP allocations and entitlements. Water from Del Puerto Creek would be captured in the reservoir by the presence of the proposed project facilities. To secure permission to capture creek flows, however small compared to the total storage volume of the reservoir, the Project Partners are required to coordinate with the State Water Resources Control Board, Division of Water Rights. The Reservoir Operation Model, included as Appendix F of the Draft EIR, accounted for the average and peak flows from the creek when modeling inputs and outputs of the proposed reservoir and evaluating how the reservoir would be operated.

#### **9.48.51 Response to Comment 48-51**

*Comment Summary: The comment alleges that DPWD is lying to the public because taxpayer dollars may be used for the project.*

Please refer to Master Response 21 which explains construction funding under Section 4011 of the WIIN Act.

#### **9.48.52 Response to Comment 48-52**

*Comment Summary: The comment reminds DPWD that the definition of Substantial under CEQA is a “Significant effect on the environment” meaning a substantial or potentially substantial adverse change in the environment and asks for agreement that the flooding of dry land is a substantial adverse change.*

The Draft EIR acknowledges the proposed project would have significant unavoidable impacts associated with aesthetics, cultural resources, greenhouse gas emissions, construction traffic and utility relocation. Each section of the Draft EIR defines the criteria for determining an impact to be significant. See Master Response 2 for a discussion of the CEQA approval process for projects with significant and unavoidable impacts.

#### **9.48.53 Response to Comment 48-53**

*Comment Summary: The comment asks when and where responses to comments will be provided.*

Comments received on the Draft EIR will be addressed in the Final EIR, to be circulated in accordance with CEQA requirements (see section 6.3 Future Public Involvement on page 6-1 of the Draft EIR). CEQA Guidelines section 15088 details how an agency shall respond to comments received on the Draft EIR. Section 15088(b) states “The lead agency shall provide a written proposed response, either in printed copy or in an electronic format, to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report.” Although CEQA only requires the responses be provided to public agencies 10 days in advance, DPWD intends to make the Final EIR, including the response to comments, publicly available at least 10 days prior to consideration of the Final EIR for certification by DPWD’s Board of Directors.

#### **9.48.54 Response to Comment 48-54**

*Comment Summary: The comment alleges the Project Location fails to mention rerouting Del Puerto Canyon road, which will increase travel times and emergency response times.*

The third sentence in Section 2.1 Project Location, on page 2-1 of the Draft EIR states “The project also includes relocating existing utilities that run north-south through the project area and a section of Del Puerto Canyon Road, which runs east-west through the project area.” Additionally, the analysis under Impact TR-4 on pages 3.13-15 to 3.13-16 states that the roadway relocation would increase travel distance by 0.44 miles, which would result in longer distance traveled. However, the roadway would conform with applicable standards and therefore be readily navigable. The minimally increased distance would not affect emergency response travel routes or times.

#### **9.48.55 Response to Comment 48-55**

*Comment Summary: The comment asks how the reservoir will be filled if it will only store existing CVP allocations and Del Puerto Creek flows.*

Please refer to Response to Comment 48-14 for discussion on how the reservoir will be filled.

#### **9.48.56 Response to Comment 48-56**

*Comment Summary: The comment claims that concrete dams are more robust than earthen dams.*

Please refer to Master Response 6, which explains that earthen dams are safer than concrete dams in seismically active areas. An earthen dam is proposed for the project site precisely because it is safer than other types of dams. An earthen dam is not necessarily cheaper than a concrete dam, because while earth costs less per cubic yard than concrete, earthen dams are designed with a much higher volume than concrete dams. The Project Partners are committed to designing and operating a safe facility and will construct a facility that meets all applicable safety standards.

#### **9.48.57 Response to Comment 48-57**

*Comment Summary: The comment requests clarification on whether water released from the dam would be pumped or flow by gravity.*

The proposed conveyance system includes a pump station to pump water into the reservoir from the DMC. Water would flow from the proposed reservoir back into the DMC by gravity, via the same conveyance system, but as shown in Figure 2-5 on page 2-7 of the Draft EIR, would not flow back through the proposed pumping station.

#### **9.48.58 Response to Comment 48-58**

*Comment Summary: The comment once again expresses concern about increased travel times on Del Puerto Canyon Road.*

Please refer to Response to Comment 48-46.

#### **9.48.59 Response to Comment 48-59**

*Comment Summary: The comment asserts that the public should have been informed about the project earlier and raises objections to the decision-making process.*

Please refer to Master Response 20 regarding notification about the project. Comments about the process for reviewing and approving the project are outside the scope of the CEQA process.

#### **9.48.60 Response to Comment 48-60**

*Comment Summary: The comment asks where the potential retaining walls along the road would be installed and what their construction type would be.*

Retaining walls would be installed as needed along the relocated Del Puerto Canyon Road. Retaining walls would be installed either above the roadway (to hold back land movement from hillsides above the roadway), or below the roadway (to protect the roadway from downhill movement), as needed. The exact location and type of retaining wall would be determined during design to meet applicable engineering,

permitting, and safety requirements. Retaining walls of this nature may be made from a variety of materials, such as rock, concrete, and engineered blocks.

#### **9.48.61 Response to Comment 48-61**

*Comment Summary: The comment asserts that if the project frees up storage in San Luis Reservoir, the Project Partners do not need all of the storage proposed for the project and should consider a smaller reservoir.*

As stated in the Introduction of the Draft EIR on page 1-2, under “Need for Storage”, “DPWD has limited access to storage capacity in San Luis Reservoir associated with its contract with Reclamation ... The Exchange Contractors have no ability to directly utilize San Luis Reservoir for storage.” As noted on page 1-7 of the Draft EIR restrictions in CVP operations are expected to result in DPWD receiving no more than 45 percent of its contract allocation on an annual basis under non-drought conditions and in critical year the Exchange Contractors may only receive 75 percent of their contractual water allotment. Reliable local water storage would allow the Project Partners to take delivery of water when it is available during wet period and store it for use when there is demand for irrigation supply.

The Draft EIR Section 4.8 discusses the option of a smaller reservoir.

#### **9.48.62 Response to Comment 48-62**

*Comment Summary: The comment asks for confirmation that only one pipeline will be used to fill and empty the reservoir and asks whether this is adequate for emergency lowering of the reservoir. The comment expresses concern that this approach presents a safety hazard to downstream communities.*

The comment is correct that there is only one pipeline with which to fill and empty the reservoir, but this would not compromise the ability to drain the reservoir, as there would never be a situation when the reservoir would need to be filled and drained simultaneously. The pipeline consists of two distinct sections: the inlet/outlet conduit and the conveyance pipeline. The inlet outlet conduit connects the reservoir at the inlet/outlet structure to the bifurcation structure, where the conduit splits into a creek discharge outlet for rapid reservoir drawdown and creek augmentation flows and a conveyance branch that connects to the conveyance pipeline. The discharge capacity of the creek discharge outlet would meet DSOD criteria for rapid reservoir drawdown for dam safety and would be approximately 1,000 cfs. The conveyance branch has a capacity of 380 cfs in a DMC release mode of operation. In a reservoir drawdown operation, the drawdown capacity using both outlets is approximately 1,380 cfs.

#### **9.48.63 Response to Comment 48-63**

*Comment Summary: The comment states that nighttime construction will adversely affect wildlife in the canyon.*

The Draft EIR address impacts on wildlife from construction lighting under two impacts:

- Impact BIO-TERR-1 Substantial Adverse Effect on Listed, Candidate, Sensitive, or Special-Status Species (Draft EIR pages 3.4-42 through 3.4-61)
- Impact BIO-TERR-4 Interference with the Movement of Native Resident or Migratory Wildlife Species or Established Native Resident or Migratory Wildlife Corridors or Use of Native Wildlife Nursery Sites (Draft EIR page 3.4-65).

Mitigation Measures AES-2 Nighttime Construction Lighting and AES-3 Directional Lighting for Dam Control Building, Inlet/Outlet Works Control Building and Bifurcation Structure in the Unincorporated Stanislaus County on Draft EIR page 3.1-13, would minimize the effects of lighting on adjacent habitats.



**9.48.64 Response to Comment 48-64**

*Comment Summary: The comment asks whether DPWD has coordinated with a local FM radio station to allow them to complete a revised interference study as the proposed project would change the ground characteristics near their transmitting antennae.*

This comment is not related to the analysis completed under CEQA. DPWD completed all public noticing as required by CEQA; see Section 6 of the Draft EIR for outreach conducted for the proposed project's CEQA process. The comment did not provide additional information on the FM radio station whose transmitter is near the proposed project. A review of radio stations that can be received in the Patterson, California area found 83 FM stations. Two of these are licensed in the City of Patterson – 92.9 FM KOSO and 97.1 FM KTSE. Neither of these stations provide information on their public-facing websites regarding the location of their antennae.

**9.48.65 Response to Comment 48-65**

*Comment Summary: The comment asserts that existing traffic delays would result in longer viewing periods of the proposed dam, and states Section 3.1.1 is incorrect on page 3.1-3 to state close-up views of the proposed dam would only be viewed briefly.*

The commenter is correct to state that traffic delays could result in additional time viewing the proposed dam than when traveling at the speed limit of 70 miles per hour. However, the proposed project is not expected to cause delays on Interstate 5; congestion is due to existing evening commute traffic heading southbound on Interstate 5 from the Bay Area to Patterson. Potential traffic impacts of the proposed project are discussed in Section 3.13 Traffic of the Draft EIR. The Draft EIR also acknowledges that existing interchanges are not adequate for PM peak traffic (see page 3.13-5 and 3.13-6 of the Draft EIR). The analysis in AES-1 has been revised to reflect that.

The paragraph at the top of page 3.1-9 of the Draft EIR is revised as follows:

While driving at 65 miles per hour, the main dam would be visible for less than one minute on Interstate 5, and substantial view impacts would only be experienced for a portion of that time, generally as vehicles pass the mouth of the canyon at Del Puerto Creek. If traffic delays from existing commute traffic are experienced, it may be possible for traffic to slow or stop within the vicinity of the proposed dam, which would increase the potential length of time the dam would be visible from Interstate 5.

The Draft EIR found that visual impacts under AES-1 would be significant and unavoidable because the proposed project would create permanent changes in the visual character of the inundation area and that such changes cannot be reasonably mitigated (page 3.1-11). This clarification does not change that conclusion.

**9.48.66 Response to Comment 48-66**

*Comment Summary: The comment asserts Mitigation Measure AES-2 is inadequate. It also states that excess light from the proposed project will have a serious impact on local wildlife, including nocturnal endangered species.*

Mitigation Measure AES-2 requires shielding and orientation of nighttime lighting to minimize effects on habitat and on glare from public viewpoints, and requires lighting be the minimum for worker safety. Mitigation Measure AES-3 requires all permanent lighting to be directed and shielded to aim light downward and away from wildlife habitat.

Section 3.4 of the Draft EIR acknowledges that lighting from the proposed project could impact special status species, including the California tiger salamander, California red-legged frog, western spadefoot toad, foothill yellow-legged frog, special-status reptiles, migratory and special status birds, Swainson's hawk, roosting bats, San Joaquin kit fox, and American badger. Mitigation measures BIO-TERR-1f, BIO-

TERR-1g, BIO-TERR-1h, BIO-TERR-1I, BIO-TERR-1k, BIO-TERR-1l, BIO-TERR-1m, BIO-TERR-1n, BIO-TERR-1o, and BIO-TERR-1q address measures to minimize potential impacts on these species, which may be caused by potential light-related disturbances in addition to other construction activities. These mitigation measures have been revised in the final EIR to use the correct numbering for Mitigation Measures AES-2 and AES-3, which are the mitigation measures related to lighting.

#### **9.48.67 Response to Comment 48-67**

*Comment Summary: The comment recommends DPWD invest in changing CVP pumping restrictions rather than the proposed project.*

This comment is not related to the environmental impacts or analysis completed in the Draft EIR, and it is beyond the scope of the project to address. The proposed project addresses an identified need for additional storage, as described in Section 1.1.1 of the Draft EIR.

#### **9.48.68 Response to Comment 48-68**

*Comment Summary: The comment states the proposed reservoir would destroy an undeclared amount of unique farmland and asserts it cannot be mitigated because it is unique.*

See Response to Comment 48-36 regarding the impacts to important farmland and the findings made in the Draft EIR. The term “Unique Farmland” is defined by the California Department of Conservation and the definition is presented on page 3.2-10 of the Draft EIR as “Farmland of lesser quality soils used for the production of the state’s leading agricultural crops. These land usually are irrigated but may include non-irrigated orchards or vineyards as found in some climate zones. Unique farmland must have been cropped at some time during the 4 years before the mapping date”. Unique Farmland is not in fact “unique” in the classic dictionary definition of the word. The regulatory term is arguably misleading because Unique Farmland can lose its classification if not farmed. The few acres of Unique Farmland that are not already slated for development by the City of Patterson are currently supporting abandoned orchards and as the EIR notes “this designation could be removed if irrigated agricultural production does not resume before the next biennial update of CDOC important farmland mapping”.

#### **9.48.69 Response to Comment 48-69**

*Comment Summary: The comment states the proposed conveyance facilities would destroy an undeclared amount of unique farmland and asserts it cannot be mitigated because it is unique.*

As noted on page 3.2-14 of the Draft EIR, pipelines installed as part of the conveyance facilities would temporarily interfere with agricultural operations but would not result in permanent conversion of agricultural lands because the pipelines would be underground. The pump station could result in conversion of important farmland if not located within the DMC right-of-way. The potential pump station location being considered that is outside the DMC right-of-way is on important farmland. However, this farmland is not actively being used for agriculture and existing orchards at the site are abandoned. Further, this land is zoned for light industrial use, indicated the area is planned to be converted from farmland to industrial use in the future. For these reasons, the Draft EIR found the conveyance facilities would have a less than significant impact on important farmland. Please refer to Response to Comment 48-68 regarding the definition of “Unique Farmland”.

#### **9.48.70 Response to Comment 48-70**

*Comment Summary: The comment states that only limited biological surveys were conducted for the DEIR, asserting that no wildlife studies were conducted.*

Botanical surveys were conducted for fall-blooming and spring-blooming species, and wildlife species surveys were conducted based on habitat assessment(s) (page 3.4-2). The comment is not correct that no wildlife surveys were conducted. Baseline conditions of the study area were assessed, and field verified based on the numerous field surveys identified on page 3.4-1:

- General habitat evaluation to determine whether suitable habitat exists for special-status plant and animal species; performed by ICF biologists May 2019 through July 2019.
  - Placing motion activated trail cameras near the mouth of Del Puerto Canyon for a total of two weeks in mid to late June 2019.
  - Recording wildlife observations made during field surveys.
- A delineation of waters of the United States and Waters of the State; performed by ICF biologists on June 17–20, 2019, and July 26, 2019.
- Fall botany surveys; conducted by ICF botanists October 28–31, 2019
- Spring botany surveys; conducted by ICF botanists March 26–April 8, 2020.

Each of these field surveys allowed the identification of potential habitat and vegetation that may support special-status wildlife or plant species. This information, in conjunction with the multiple database searches and review of aerial imagery, is described throughout Section 3.4, Terrestrial Biological Resources.

#### **9.48.71 Response to Comment 48-71**

*Comment Summary: The comment states the following regarding San Joaquin kit fox “surveys and studies are best done in the field over long periods of time especially with nocturnal species.” The comment also notes observing kit foxes and mountain lions in the canyon.*

The methods used to assess the study area for potential habitat for San Joaquin kit fox are discussed on page 3.4-17 of the Draft EIR. These methods included: assessing the study area in relation to what is known about the species current range, reviewing records in the California Natural Diversity Database, characterizing the habitat relative to descriptions in the literature, and surveying the areas of suitable habitat for potential kit fox dens, including the placement of wildlife cameras which filmed 24 hours a day, 7 days a week at locations near the mouth of Del Puerto Canyon over a two-week period during the summer of 2019. Field efforts for characterizing the study area were conducted over a period of three months. These methods are generally standard approaches to characterizing existing conditions and are used regularly when preparing EIRs; therefore, they are sufficient for characterizing the habitat for the analysis conducted.

#### **9.48.72 Response to Comment 48-72**

*Comment Summary: The comment suggests that for the analysis “you look well beyond GIS habitat databases” because “they do not cover the unique areas unless specifically entered”.*

As discussed through Section 3.4, Biological Resources–Terrestrial, of the Draft EIR, several databases and data sets were used to assess the study area for biological resources. This information was used together with aerial photo-based habitat mapping and surveys performed by qualified biologists to assess on the ground conditions.

#### **9.48.73 Response to Comment 48-73**

*Comment Summary: The comment references “page 163, Endangered Species Act, second paragraph” and requests that Fresno kangaroo rat and Blainville’s horned lizard be added to the list of species that have a potential to occur in the study area.*

The text in Section 3.4.2 on page 3.4-28 of the Draft EIR (page 163 of the pdf), that is referenced by the comment is a description of the only Habitat Conservation Plan (HCP) that overlaps with the study area, which is the PG&E HCP for their San Joaquin Valley Operations. This paragraph of the Draft EIR lists species that are covered by the PG&E HCP that might also occur in the project area. Neither the Fresno

kangaroo rat nor the Blainville's horned lizard (which is not a federally listed species) is covered by the PG&E HCP, so it is not necessary to modify the text of the Draft EIR to include those species.

#### **9.48.74 Response to Comment 48-74**

*Comment Summary: The comment identifies that on page 170 significant effect on the environment means a substantial or potentially substantial adverse change in the environment.*

Throughout the Draft EIR, the analyses have used criteria described in Appendix G of the CEQA guidelines to determine whether the proposed project would have a significant effect on the environment. Page 3.4-35 (170 of the pdf) identifies the impacts evaluated for terrestrial species using thresholds from Appendix G of the CEQA Guidelines. These are the standard CEQA thresholds under which impacts to terrestrial biological resources are evaluated. The evaluation presented in Section 3.4 of the Draft EIR identifies the fact that the project has the potential to have a "substantial adverse effect" on several different types of species and/or habitat and includes mitigation to reduce those effects. While the Draft EIR concludes that impacts to biological resources can be reduced to a less-than-significant level through the implementation of mitigation measures, throughout the EIR there are a number of impacts that have been identified as significant unavoidable effects of the project.

#### **9.48.75 Response to Comment 48-75**

*Comment Summary: The comment requests the addition of Fresno kangaroo rat and Blainville's horned lizard to Table 3.4-2, Impact Discussion Locations.*

Please see Response to Comment 48-73 for information regarding the Blainville's horned lizard and Fresno Kangaroo rat.

#### **9.48.76 Response to Comment 48-76**

*Comment Summary: The comment suggests that Table 3.4-2 and the text regarding Impact BIO-TERR-1 do not agree.*

The comment does not state specifically what is in disagreement between Table 3.4-2 Summary of Impact Discussion Locations and the text for Impact BIO-TERR-1 Substantial Adverse Effect on Listed, Candidate, Sensitive, or Special-Status Species, or how any disagreement affects the substance of the analysis. There is no discernible disagreement between text and table.

#### **9.48.77 Response to Comment 48-77**

*Comment Summary: The comment offers a definition of a significant impact and states that flooding "one's home is a significant effect on the environment and likely will kill the species involved."*

The Draft EIR in Section 3.4.3 on page 3.4-35 lists the thresholds of significance used for analyzing impacts on terrestrial biological resources. In Impact BIO-TERR-1 Substantial Adverse Effect on Listed, Sensitive, or Special-status Species (Draft EIR pages 3.4-37 through 3.4-62) analyzes the operational impact of inundating species habitats.

#### **9.48.78 Response to Comment 48-78**

*Comment Summary: The comment asks to "explain to the public the scam of buying government sanctioned credits and how it really works".*

The purpose of an EIR is to evaluate and potentially disclose physical environmental impacts. The comment does not raise any concerns regarding physical environmental impacts or address any of the specific content of the Draft EIR.

**9.48.79 Response to Comment 48-79**

*Comment Summary: The comment questions the effectiveness of roadway wildlife signage described in Mitigation Measure BIO-TERR-4c.*

Please see Response to Comment 48-41 regarding roadway wildlife signage and Mitigation Measure BIO-TERR-4c.

**9.48.80 Response to Comment 48-80**

*Comment Summary: The comment suggests that page 203 and Table 3.4-2 page 172-192 are not consistent.*

Page 3.4-68 (203 of the pdf) discusses cumulative impacts and lists mitigation measures to reduce potentially significant cumulative impacts. Table 3.4-2: Summary of Impact Discussion Locations, is meant to provide a summary of the location within this document of the various species impact analyses. The two locations in the document are providing different information to the reader and thus the information is not in conflict or inconsistent.

**9.48.81 Response to Comment 48-81**

*Comment Summary: The comment questions the impact of flooding relative to the definition of "Significant effect on the environment" when considering impacts on fish resources.*

Draft EIR Section 3.5.3, Impact Analysis, (page 3.5-9) considers the impact of inundation of fish habitat as part of the analysis.

**9.48.82 Response to Comment 48-82**

*Comment Summary: The comment asks if any universities with archaeology or anthropology programs were contacted.*

Section 3.6, Cultural Resources, subsections 3.6-1 and 3.6-2 (pages 3.6-1 to 3.6-8) describes outreach to universities with archaeological or anthropology programs:

On April 9, 2019, staff at the California Historical Resources Information System's (CHRIS) Central California Information Center (CCIC) conducted a records search and literature review for the APE and a 0.25-mile buffer surrounding the APE, which is defined as the study area. The records search and literature review by the CCIC provides documentation for previously documented archaeological, historic, and architectural resources within and near the study area, and is useful for developing a context to frame assessments of resource significance.

The CCIC is under the umbrella of the Department of Anthropology at California State University Stanislaus (Stanislaus State), and the record search at Stanislaus State is standard and in compliance for CEQA studies (in Stanislaus and surrounding counties). The information provided by the CCIC includes results of all cultural resources investigations in proximity to the project. This includes work conducted by Universities, Consulting firms, and State, Local, and Federal agencies. In addition, all scholarly works for the region that may be pertinent to the historical and ethnographic record were consulted for the evaluation of the proposed project.

**9.48.83 Response to Comment 48-83**

*Comment Summary: The commenter asks if the list compiled by the Stanislaus CoC for the West Side Drive was consulted for its list of historical resources of importance in Del Puerto Canyon?*

As identified in Response to Comments 48-18 and 48-82, the Draft EIR provides methods for assessing existing cultural resources in the region and study area. Background research included consulting local, State, and National Register lists, Historical Resource Inventories, as well as local historical societies and information centers. The background searches did not reveal a Stanislaus Chamber of Commerce list. In

addition, none of the consulted lists identified any historical resources within the Del Puerto Canyon. Del Puerto Canyon Road was evaluated for listing on the California Register as part of this study. After in-depth research, and applying the CRHR criteria to the road, it was found not eligible for listing.

#### **9.48.84 Response to Comment 48-84**

*Comment Summary: The comment suggests that the project puts residents at risk.*

Please refer to Master Response 6 regarding seismic risk and dam safety and to Master Response 10 regarding flood insurance.

#### **9.48.85 Response to Comment 48-85**

*Comment Summary: The comment asks why the rankings of alternate sites do not agree with rankings in other feasibility studies.*

Please refer Response to Comment 48-9, which explains that the rankings in past studies that were previously cited by the commenter are not directly relevant to the current proposed project site and configuration.

#### **9.48.86 Response to Comment 48-86**

*Comment Summary: The comment states an opinion that “it is obvious no reptile, amphibian, or mammal study was done in the field or there would be listed many species” and that it is not a “correct way to perform an environmental impact survey”.*

Please see Response to Comments 48-70 and 48-71 regarding the methods used to assess the study area for potential habitat for special-status wildlife species (which are presented on pages 3.4-1 and 3.4-8 to 3.4-17 of the Draft EIR). A list of wildlife and plant species observed during field surveys is presented in Appendix B2 and Appendix B3 of the Draft EIR. These efforts were sufficient for characterizing habitat for the analysis conducted in the Draft EIR.

#### **9.48.87 Response to Comment 48-87**

*Comment Summary: The comment asks why the public was not informed of the project years ago.*

Please refer to Master Response 20 regarding notification of the public.

#### **9.48.88 Response to Comment 48-88**

*Comment Summary: The comment asks why the public had only 45 days to review and comment on the Draft EIR and cites “careless errors in the documents”.*

The Draft EIR was published on December 12, 2019 and the 45-day public review period meets the standard requirement for review of Environmental Impact Reports as specified in Section 15105(a) of the CEQA Guidelines, which states that “The public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances.” The preparers of the Draft EIR regret the minor formatting errors, which were limited to supporting material in the appendices. The technical content and readability of the appendices were not materially impaired by the few formatting problems, and updated appendices are available on the project website at:

[https://delpuertocanyonreservoir.com/assets/pdf/reports/Del-Puerto-Canyon-Reservoir-EIR-Appendices\\_Dec19.pdf](https://delpuertocanyonreservoir.com/assets/pdf/reports/Del-Puerto-Canyon-Reservoir-EIR-Appendices_Dec19.pdf).

## 9.49 Comment Letter 49 - Heather Vasquez

### 9.49.1 Response to Comment 49-1

*Comment Summary: The comment expresses opposition to the project and its location and cites concerns about biological, geological and cultural resources, and effects of using rodenticides.*

Please refer to Master Response 2 regarding opposition to the project. Mitigation Measures BIO-TERR-1e on page 3.4-43 of the Draft EIR specifies that “Use of first- and second-generation rodenticides shall not be permitted except for the limited use of zinc phosphide, or a rodenticide allowed for use by the California Department of Pesticide Regulation.” This would ensure that non-target animals would not be adversely affected if rodenticides must be employed. For example, the U.S. Department of Agriculture (USDA) has found that “The release of zinc phosphide into the environment is expected to have minimal or low impacts to nontarget species, the public, and the environment” (USDA 2017). Rodenticides, if needed, would be used in baits and would not be sprayed and their use would not affect groundwater. Application of rodenticides would be subject to County Use Permit and any edible rodenticides would be placed in bait stations that prevent unintended access to bait by wildlife.

### 9.49.2 Response to Comment 49-2

*Comment Summary: The comment expresses concern about the use of herbicides for vegetation control around the dam and reservoir.*

Project maintenance activities would include weed control as needed. Mechanical controls would be employed such as mowing and use of hand tools. Use of herbicides would remain an option but would be applied sparingly and by trained staff in accordance with manufacturer’s instructions. The reservoir embankments would be hydroseeded immediately upon completion which would help prevent the growth and spread of weeds.

### 9.49.3 Response to Comment 49-3

*Comment Summary: Comment is concerned with the protection of migratory and local waterfowl from toxic algal blooms.*

The potential for harmful algal blooms is addressed in Section 3.11 *Hydrology and Water Quality* of the Draft EIR in Impact HYD-1 Violate any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface or Ground Water Quality (Draft EIR page 3.11-18). This analysis states that harmful algal blooms could form in the reservoir during the summer months into early fall when water levels are lower and temperatures high, which could lead to the production of cyanotoxins from cyanobacteria. The analysis concludes that these blooms, if they do occur, would be restricted to the May through October time period. As noted in Section 2.3.2 *Reservoir Management Plan* (Draft EIR pages 2-13 and 2-14) the reservoir management plan will include monitoring for cyanobacteria on a monthly basis and include steps to control harmful algal blooms. These blooms could impact resident waterfowl if they are present; however, conditions would likely improve beginning in October when reservoir volumes increase (Figure 3.11-2, page 3.11-16 of the Draft EIR) and water temperature decreases. When conditions become unfavorable for cyanobacteria, any cyanotoxins that had formed would become diluted and would degrade soon after. Therefore, the potential effect on early arriving migratory waterfowl would be minimal. In general, this is the timeframe that most waterfowl would be using the reservoir given general migration patterns.

## 9.50 Comment Letter 50 - Chuck Marble

### 9.50.1 Response to Comment 50-1

*Comment Summary: The comment expresses opposition to the project and its location and cites concerns about safety, recreational impacts and flood insurance.*

Please refer to Master Response 2 regarding opposition to the project, Master Response 6 regarding safety of the dam, Master Response 10 regarding flood insurance, and Master Response 15 regarding impacts on recreation in Del Puerto Canyon.

### 9.50.2 Response to Comment 50-2

*Comment Summary: The comment states that dams can fail and asserts that new dams reduce property values.*

Please refer to Master Response 6 regarding safety of the dam. Although property values are not an environmental impact, and are thus not addressed in the Draft EIR, the comment does not present any documentation supporting the claim that the proposed project would affect property values.

### 9.50.3 Response to Comment 50-3

*Comment Summary: The comment advocates replenishing underground aquifers instead of building a reservoir.*

Please refer to Master Response 5, which explains that to meet needs for storage the Project Partners will need both groundwater storage and surface storage projects.

### 9.50.4 Response to Comment 50-4

*Comment Summary: The comment advocates other canyons along the Interstate 5 corridor be considered for a reservoir instead of the proposed project site.*

Please refer to Master Response 4 regarding alternate locations.

### 9.50.5 Response to Comment 50-5

*Comment Summary: The comment asserts that nobody attending recent meetings is in support of the project.*

Please refer to Master Response 2 regarding opposition to the project.

### 9.50.6 Response to Comment 50-6

*Comment Summary: The comment states that residents of Patterson cannot afford flood insurance and are concerned about potential dangers of the project.*

Please refer to Master Response 10, which explains that flood insurance would not be required. Master Response 6 provides information on dam safety.

### 9.50.7 Response to Comment 50-7

*Comment Summary: The comment states that the City of Patterson should be listed as a responsible agency.*

Please refer to Master Response 12, which explains why the City of Patterson is not a responsible or trustee agency.



**9.50.8 Response to Comment 50-8**

*Comment Summary: The comment suggests that the EIR needs detailed and accurate information regarding additional dangers and impacts of flooding.*

The Draft EIR does identify the potential effects of a dam breach, which are discussed on page 3.11-22 of the Draft EIR. Please refer to Master Response 8 for additional information about the potential for inundation in the event of a dam failure.

**9.50.9 Response to Comment 50-9**

*Comment Summary: The comment requests the EIR fully document the potential reduction in property values resulting from proximity to the dam.*

Although property values are not an environmental impact, and are thus not addressed in the Draft EIR, the comment does not present any documentation supporting the claim that the proposed project would affect property values.

**9.50.10 Response to Comment 50-10**

*Comment Summary: The comment states that the Draft EIR should document the additional estimated costs of flood insurance.*

Please refer to Master Response 10 which explains that residents and businesses would not need to purchase flood insurance.

**9.50.11 Response to Comment 50-11**

*Comment Summary: The comment requests a summary of the EIR in English and Spanish once the “fully-loaded EIR is completed”.*

This document constitutes the Final EIR for the proposed project and includes responses to comments plus minor revisions to clarify information in the Draft EIR. It is important to note that nothing in the CEQA Statutes, regulations, or published decisions interpreting those authorities require translation of CEQA documents. California Government Code 11135 prohibits discrimination on the basis of national origin and ethnic group identification but does not require language translations in the CEQA context. However, in the interest of making information available to the Spanish-speaking community the Project Partners have updated the project website to provide additional information about the project in Spanish. Information, including a project fact sheet and answers to frequently asked questions, is now available at: <https://delpuertocanyonreservoir.com/espanol>.

**9.50.12 Response to Comment 50-12**

*Comment Summary: The comment requests that the full EIR and a summary be posted on the project website once it is completed.*

The Draft EIR, which includes an Executive Summary, has been posted on the project website since publication on January 12, 2019, and is available at: <https://delpuertocanyonreservoir.com/resources>. The Final EIR will be published at the same location when it is available.

**9.50.13 Response to Comment 50-13**

*Comment Summary: The comment requests another public meeting on the project once the EIR has been completed and asks that it is not during normal business hours.*

The Project Partners have presented information about the project at a Patterson City Council special meeting on February 25, 2020; the meeting started at 7:00 p.m. Consideration of certification of the Final EIR would occur at a regular board meeting of the Del Puerto Water District. Those meetings take place

on third Wednesday of each month at 8:30AM. Please refer to Master Response 20 regarding notification about the project, which documents that noticing and meeting have far exceeded CEQA requirements.

#### **9.50.14 Response to Comment 50-14**

*Comment Summary: The comment requests extension of the time for public comment for at least one month after the EIR has been completed and requests information in English and Spanish.*

As required by Section 21092.5 of the CEQA statute, the Final EIR will be provided to all public agencies who commented on the Draft EIR at least 10 days prior to the board meeting at which certification of the Final EIR will be considered. The Final EIR will be made available to the public at the same time that it is provided to public agencies. Please refer to Response to Comment 50-11 regarding provision of information in Spanish.

### **9.51 Comment Letter 51 - Mike Smith**

#### **9.51.1 Response to Comment 51-1**

*Comment Summary: The comment asserts the need to review filed and approved Sustainable Groundwater Plans to ensure agencies are not including “these ‘excess’ flows” in their groundwater recharge plans.*

Please refer to Draft EIR Section 3.11, Hydrology and Water Quality. Impact HYD-2 fully addresses the project’s potential to “Substantially Decrease Groundwater Supplies or Interfere Substantially with Groundwater Recharge Such That the Project May Impede Sustainable Groundwater Management of the Basin. Although it is not clear what the comment is referencing in regard to “excess” flows, the proposed project would capture water from the Project Partners existing CVP allocations and does not rely on any “excess” flows.

### **9.52 Comment Letter 52 - Naomi Jacobson**

#### **9.52.1 Response to Comment 52-1**

*Comment Summary: The comment expresses concern over endangered species that may be lost due development of the project.*

Please refer to Draft EIR Sections 3.4 and 3.5 which fully evaluate potential project impacts on biological resources including threatened and endangered species. Mitigation measures are specified in the Draft EIR to avoid, minimize, and compensate for effects on species and habitats. With implementation of mitigation measures in the Draft EIR, impacts on terrestrial and aquatic resources, including threatened and endangered species were found to be less than significant.

#### **9.52.2 Response to Comment 52-2**

*Comment Summary: The comment voices concern about geologic significance of the canyon.*

Please refer to Master Response 16 regarding the geology of Del Puerto Canyon.

#### **9.52.3 Response to Comment 52-3**

*Comment Summary: The comment suggests that the project goes against Patterson’s General Plan.*

Please refer to Master Response 13 regarding project consistency with the City of Patterson General Plan. As noted there, DPWD has submitted a request to the City of Patterson Community Development Department for a report on the conformity of the project with the city’s adopted General Plan and pursuant to Government Code Section 65402(c), the proposed project has been deemed to be in conformity with the adopted General Plan.

#### **9.52.4 Response to Comment 52-4**

*Comment Summary: The comment expresses concern about dam safety and the inundation zone in the event of a dam breach.*

Please refer to Master Response 6 regarding dam safety, and to Master Response 8 regarding potential inundation in the event of a dam breach.

#### **9.52.5 Response to Comment 52-5**

*Comment Summary: The comment voices concern about flood insurance and hazard disclosure requirements.*

Please refer to Master Response 10 regarding flood insurance. Please note that because there is not yet a final inundation zone map for the proposed project, approved by the Department of Water Resources, disclosure of inundation zones is not currently required. The Draft EIR does not evaluate effects on property values, which are not an environmental impact.

### **9.53 Comment Letter 53 - Shawn Froats**

#### **9.53.1 Response to Comment 53-1**

*Comment Summary: The comment asserts that project construction would have adverse effects on lung health.*

Please refer to Master Response 14 regarding air quality impacts and their health effects. With regard to COPD specifically, inhalation of particulate pollution (PM<sub>10</sub> and PM<sub>2.5</sub>) can exacerbate COPD (Jiang et al. 2016). It is uncertain whether NO<sub>x</sub> is of significance in COPD or just an indicator of other harmful pollutants originating from traffic, especially particles; however it appears that effects are specifically associated with long-term exposures to traffic as opposed to short-term exposure, such as temporary emissions during construction (Andersen et al. 2010). As described in the Draft EIR in Section 3.3, Air Quality, emissions of particulate matter during construction would be below significance thresholds and would occur a long distance from any sensitive receptors in the City of Patterson. Health impacts would thus be less than significant.

#### **References**

- Jiang, Xu-Qin, Xiao-Dong Mei and Di Feng. 2016. Air pollution and chronic airway diseases: what should people know and do? *Journal of Thoracic Disease*, 8(1): E31-E40, January 2016.
- Anderson, Zorana J., Martin Hvidbert, Steen S. Jensen, Matthias Ketzel, Steffen Lot, Mette Sorensen, Anne Tjonneland, Kim Overvad and Ole Raaschou-Nielsen. 2010. Chronic Obstructive Pulmonary Disease and Long-Term Exposure to Traffic-related Air Pollution. *American Journal of Respiratory and Critical Care Medicine*. 183(4)

#### **9.53.2 Response to Comment 53-2**

*Comment Summary: The comment expresses concern about a crisis associated with the project.*

Please refer to Response to Comment 6 regarding dam safety.

#### **9.53.3 Response to Comment 53-3**

*Comment Summary: The comment expresses opposition to the project*

Please refer to Master Response 2 regarding opposition to the project.

#### **9.53.4 Response to Comment 53-4**

*Comment Summary: The comment states that the City of Patterson is disadvantaged, and additional pollution should not be allowed.*

Please refer to Master Response 14, which documents that the project does not result in significant air quality impacts or associated health risks for any of the citizens of Patterson. The comment states that the City of Patterson is a disadvantaged community, but the closest project facility, which is the pump station on the DMC, is over 2 miles from the closest residential receptor in Patterson. The project would thus not have disproportionate impacts on a minority community.

#### **9.53.5 Response to Comment 53-5**

*Comment Summary: The comment expresses opposition because of impacts on natural habitat.*

Please refer to Master Response 2; impacts on biological resources are addressed in Section 3.4 of the Draft EIR, Biological Resources – Terrestrial.

#### **9.53.6 Response to Comment 53-6**

*Comment Summary: The comment expresses opposition because of the proximity of a fault.*

Please refer to Master Response 2; proximity of faults is addressed in Section 3.8 of the Draft EIR, Geology and Soils.

#### **9.53.7 Response to Comment 53-7**

*Comment Summary: The comment expresses opposition based on geological concerns.*

Please refer to Master Response 2. The comment is unclear about what the geologic concerns are, but Master Response 7 addresses the risk of landslides and Master Response 16 provides information on the geology of Del Puerto Canyon.

#### **9.53.8 Response to Comment 53-8**

*Comment Summary: The comment expresses opposition based on the loss of Native American Heritage.*

Please refer to Master Response 2 regarding project opposition and to Master Response 18 regarding Native American sites in Del Puerto Canyon.

#### **9.53.9 Response to Comment 53-9**

*Comment Summary: The comment expresses opposition to the project due to the presence of burrowing owl and grasshopper sparrow.*

Please refer to Master Response 2 regarding opposition to the project. Project impacts on burrowing owl are discussed beginning on page 3.4-51 of the Draft EIR, and mitigation to avoid and minimize impacts on burrowing owls is presented on page 3.4-51 of the Draft EIR. The Draft EIR concludes that with mitigation impacts on burrowing owls would be less than significant.

Grasshopper sparrow had not been included in the Draft EIR because no occurrences of grasshopper sparrow were identified in the California Natural Diversity Database. However, eBird records do identify sightings of grasshopper sparrow in open grassland in the vicinity of the reservoir. Text of the Draft EIR has been revised to address the presence of grasshopper sparrow. Any potential impacts to grasshopper sparrow would be addressed through implementation of existing Mitigation Measures BIO-TERR-1k: Avoid and Minimize Impacts on Nesting Birds, so no additional mitigation is necessary.

Grasshopper sparrow is added to Table B4-2 in Appendix B4, as follows:

<u>Grasshopper sparrow</u>	<u><i>Ammodramus savannarum</i></u>	<u>-/SSC</u>	<u>Primarily a summer resident in California from March to September and spends winters in California on the coast slope of southern California. Occurs in short- to middle-height, moderately open grasslands with scattered shrubs. The species is more likely to be found in large tracts of habitat. Build nests at or near ground level in grass clumps (Shuford and Gardali eds. 2008).</u>	<u><b>High.</b> Suitable habitat is present in the lower grassland portions of the study area. There are no CNDDDB records within 5 miles of the study area but there are several eBird observations within the lower portion of Del Puerto Canyon during the breeding season.</u>
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Appendix B5 is modified to include grasshopper sparrow as follows:

*Grasshopper Sparrow*

Grasshopper sparrow is a California species of special concern. Grasshopper sparrow occurs in California along the length of the coast and inland in the Central Valley and adjacent foothills from Shasta County south Fresno County where the range becomes restricted to the adjacent lower foothills (Shuford and Gardali eds. 2008). Occurs in short- to middle-height, moderately open grasslands with scattered shrubs. The species is more likely to be found in large tracts of habitat. Build nests at or near ground level in grass clumps (Shuford and Gardali eds. 2008).

There are no CNDDDB occurrences for grasshopper sparrow within 5 miles of the study area (California Department of Fish and Wildlife 2019); however, there are multiple observations of the species on eBird during the breeding season (eBird 2019). The grasslands in the lower portions of the study area are suitable for this species.

Impact BIO-TERR-1k, *Impacts on Special-Status Birds and Nesting Migratory Birds*, has been modified to reflect the potential presence of grasshopper sparrow in the project area.

The first paragraph under *Construction Impacts* on page 3.4-53 is revised as follows:

The relocation of Del Puerto Canyon Road, construction of the dams and associated reservoir facilities, and the realignment of the electrical and gas utilities would result in the permanent removal and temporary disturbance of habitat for special-status birds, including white-tailed kite, tricolored blackbird, grasshopper sparrow, loggerhead shrike, and golden eagle.

#### **9.53.10 Response to Comment 53-10**

*Comment Summary: The comment expresses opposition because of the potential presence of sensitive species.*

Please refer to Master Response 2; impacts on sensitive species, including threatened, endangered and candidate species are addressed in Section 3.4 of the Draft EIR, Biological Resources - Terrestrial.

#### **9.53.11 Response to Comment 53-11**

*Comment Summary: The comment asks that the Project Partners consider other modes of storage and do not dam Del Puerto Canyon.*

Please refer to Master Response 5 which explains that to meet storage needs, the Project Partners are pursuing both groundwater and surface storage options.

## 9.54 Comment Letter 54 - Denise Gonzales

### 9.54.1 Response to Comment 54-1

*Comment Summary: The comment expresses opposition to the project because of potential safety issues, flooding, landslides, air quality impacts, cost to residents, odors, effects on geological, cultural and historical artifacts and impacts on habitat.*

Please refer to Master Response 2 regarding opposition to the project. As noted there impacts to biological and cultural resources and odors are addressed in the Draft EIR. Please refer to Master Response 6 regarding dam safety, Master Response 7 regarding risk of landslides, Master Response 14 regarding air quality impacts, and Master Response 10, which explains that flood insurance would not be needed. Master Response 16 provides additional information about the geology of Del Puerto Canyon.

## 9.55 Comment Letter 55 - Laura Presley

### 9.55.1 Response to Comment 55-1

*Comment Summary: The comment expresses concern about the amount of pollution that would be created by the project.*

Please refer to Master Response 14 regarding air quality and greenhouse gas emissions. Also, the Draft EIR Section 3.3, Air Quality fully analyzes anticipated emissions of air pollutants during construction and long-term operation of the project. The proposed project includes mitigation to ensure that air quality impacts are less than significant.

### 9.55.2 Response to Comment 55-2

*Comment Summary: The comment expresses concern about traffic impacts at the highway exit.*

Please refer to Draft EIR Section 3.13, Traffic and Transportation which fully analyzes project-related construction and operational impacts on local intersections including highway ramps. The Draft EIR acknowledges that the intersection of Sperry Avenue/Diablo Grande Parkway/I-5 Southbound Ramps would continue to operate at an unacceptable Level of Service (LOS) in the PM peak hour, with or without construction traffic. The addition of construction traffic results in a temporary significant impact to intersection operations by contributing further delay to the deficient intersection during project construction. During construction the project would add delay to the Sperry Avenue/Diablo Grande Parkway/I-5 Northbound Ramps intersection, but these impacts are not significant. Project operation would not add measurable traffic to the intersection of the Sperry Avenue/Diablo Grande Parkway/I-5 Southbound Ramps, and therefore the project would have a less-than-significant impact at the intersection.

### 9.55.3 Response to Comment 55-3

*Comment Summary: The comment expresses concern about loss of habitat.*

Please refer to Draft EIR Section 3.4, Biological Resources-Terrestrial and Section 2.5, Biological Resources-Fish, which fully evaluate potential project impacts on terrestrial resources comprised of vegetation, wildlife, natural communities, and wetlands and other waters, as well as aquatic biological resources including fish species and aquatic habitat. A number of mitigation measures are specified in the Draft EIR to avoid, minimize, and compensate for effects on species and habitats. With implementation of the mitigation measures, impacts on terrestrial and aquatic resources and habitats were found to be less than significant. Also refer to Master Response 19 for information about mitigation for impacts to biological resources.

#### **9.55.4 Response to Comment 55-4**

*Comment Summary: The comment expresses concern about the proximity of an earthquake fault.*

Please refer to Master Response 6 which discusses seismic risk and the proximity of the closest fault.

#### **9.55.5 Response to Comment 55-5**

*Comment Summary: The comment expresses concern about historical artifacts being buried under water.*

Please refer to Draft EIR Section 3.6, Cultural Resources, which fully analyzes project-related impacts on cultural resources. The Draft EIR acknowledges that inundation of the reservoir would cause significant damage to P-50-0344, a prehistoric occupation site, eligible for listing on the National Register of Historic Places and the California Register of Historic Resources. This archaeological resource is located completely within the proposed inundation area and submerging it would result in significant modification to its defining archaeological qualities. Furthermore, the Draft EIR acknowledges that if previously unknown archaeological resources are inundated and experience fluctuating water levels, they could be adversely affected. Mitigation measures are proposed in the Draft EIR to help minimize impacts, but impacts could not be reduced to less than significant. As explained on page 5-1 of the Draft EIR, because the project has significant impacts, the Project Partners “would be required to adopt Findings and prepare a Statement of Overriding Considerations for the project’s unavoidable adverse impacts as part of the approval of the project.” As explained in Master Response 2, projects that have significant impacts on the environment can be approved, if there are project benefits that outweigh those impacts. One of the purposes of the EIR is to disclose those impacts to the public and to decisionmakers so that the environmental effects of the project are considered when making decisions about whether to proceed with the project.

#### **9.55.6 Response to Comment 55-6**

*Comment Summary: The comment expresses concern about the reservoir blocking views of the hills.*

Please refer to Draft EIR Section 3.1 Aesthetics, which fully analyzes the project’s impacts to views of the foothills of the Diablo Range. The Draft EIR acknowledges that the main dam would permanently impede views west along the canyon from Interstate 5 and operation of the dam would create permanent changes in the visual character of the inundation area in Del Puerto Canyon that could not be reasonably mitigated. As such, the Draft EIR concludes that impacts to scenic resources would be significant and unavoidable. As explained on page 5-1 of the Draft EIR, because the project has significant impacts, the Project Partners “would be required to adopt Findings and prepare a Statement of Overriding Considerations for the project’s unavoidable adverse impacts as part of the approval of the project.” As explained in Master Response 2, projects that have significant impacts on the environment can be approved, if there are project benefits that outweigh those impacts. One of the purposes of the EIR is to disclose those impacts to the public and to decisionmakers so that the environmental effects of the project area considered when making decisions about whether to proceed with the project.

#### **9.55.7 Response to Comment 55-7**

*Comment Summary: The comment expresses concern about loss of access to parks, such as Frank Raines.*

Please refer to Master Response 15 regarding impacts on recreation in Del Puerto Canyon including access to Frank Raines Park.

#### **9.55.8 Response to Comment 55-8**

*Comment Summary: The comment voices concern about dangers of moving/relocating the oil pipeline.*

Please refer to Section 3.10 Hazards and Hazardous Materials which fully evaluates the project’s potential to “create a hazard through reasonably foreseeable upset and accident conditions to the public and the environment involving release of hazardous materials into the environment.” As discussed in the Draft

EIR, the existing Shell petroleum pipeline currently located within the reservoir footprint would not be relocated per se, but rather a new pipeline would be constructed, and once completed, the existing pipeline would be removed in accordance with federal, state and local standards. This would include proper sampling and clean-up of any potentially contaminated soil that may be encountered during excavation of the existing pipeline. With implementation of mitigation measures to manage hazardous materials and wastes, no significant upset or accident conditions to the public or the environment involving a release of hazardous materials to the environment would be expected.

### **9.55.9 Response to Comment 55-9**

*Comment Summary: The comment expresses concern about the potential loss of wildlife.*

Please refer to Sections 3.4 and 3.5 of the Draft EIR which fully evaluate potential project impacts on terrestrial resources comprised of vegetation, wildlife, natural communities, and wetlands and other waters, as well as aquatic biological resources including fish species and aquatic habitat. A number of mitigation measures are specified in the Draft EIR to avoid, minimize, and compensate for effects on species and habitats. With implementation of mitigation measures in the Draft EIR, impacts on terrestrial and aquatic resources were found to be less than significant. Also refer to Master Response 19 for information about mitigation for impacts to biological resources.

### **9.55.10 Response to Comment 55-10**

*Comment Summary: The comment voices concern about flood insurance and the need to disclose inundation zones.*

Please refer to Master Response 10 which explains that flood insurance would not be required and provides information about hazard disclosure.

### **9.55.11 Response to Comment 55-11**

*Comment Summary: The comment asserts that the project is not consistent with the City of Patterson 2010 General Plan and expresses concern that residents do not have a chance to vote on the project.*

Please refer to Master Response 13 regarding consistency with the City of Patterson General Plan. As noted there, DPWD has submitted a request to the City of Patterson Community Development Department for a report on the conformity of the project with the city's adopted General Plan and pursuant to Government Code Section 65402(c), the proposed project has been deemed to be in conformity with the adopted General Plan. The comment is correct that Patterson residents would not have an opportunity to vote on the project; project approval falls within the jurisdiction of the Boards of Directors of the Project Partners.

### **9.55.12 Response to Comment 55-12**

*Comment Summary: The comment asks that the Project Partners consider another location.*

Please refer to Master Response 4 regarding alternate locations for the project. Chapter 4 of the Draft EIR considers an alternate location in Ingram Canyon.

## **9.56 Comment Letter 56 - Rhonda Chamorro**

### **9.56.1 Response to Comment 56-1**

*Comment Summary: The comment expresses opposition to relocating Del Puerto Canyon Road and expresses concerns about added travel time.*

As noted on page 3.13-14 of the Draft EIR, "The total distance of trips currently using Del Puerto Canyon Road to the east of the study area would increase by 0.44 miles with the realigned roadway." Currently



the distance from Interstate 5 to the intersection of Del Puerto Canyon Road with Mines Road/San Antonio Valley Road is 26.4 miles. An increase of 0.44 miles is not expected to result in a major inconvenience to canyon residents or a substantial increase in the amount of time it takes emergency responders to reach the western end of the canyon. The existing portion of Del Puerto Canyon Road that would be inundated by the reservoir is narrow with a number of sharp curves where speeds must be reduced to as little as 20 miles per hour. With the relocated roadway, there would be a relatively minor increase in the miles traveled. However, the new roadway would be constructed to County standards with a 12-foot wide travel lane and paved 4-foot shoulder, and an improved pavement surface. It is thus expected that it would be possible to maintain higher average speeds along the roadway and that travel times for emergency responders would not increase materially.

## **9.57 Comment Letter 57 - Thomasina Cordero**

### **9.57.1 Response to Comment 57-1**

*Comment Summary: The comment asks for information on the need for the dam and its purpose.*

The need for the project is described in detail on page 1-2 of the Draft EIR and the objectives are defined on page 1-3.

## **9.58 Comment Letter 58 - Deniz Yarim**

### **9.58.1 Response to Comment 58-1**

*Comment Summary: The comment expresses apprehension about flooding.*

Please refer to Master Response 8 regarding the potential for inundation in the event of a dam failure and to Master Response 6 regarding dam safety.

### **9.58.2 Response to Comment 58-2**

*Comment Summary: The comment voices concern about need to identify homes as within an inundation zone.*

Please refer to Master Response 10, which explains that residents will not need to purchase flood insurance.

### **9.58.3 Response to Comment 58-3**

*Comment Summary: The comment expresses concern about insurance costs.*

Please refer to Master Response 10, which explains that flood insurance would not be required.

### **9.58.4 Response to Comment 58-4**

*Comment Summary: The comment expresses concern about air pollution.*

As noted in Section 3.3 of the Draft EIR, with emissions would be below significance thresholds and with mitigation air quality impacts would be less than significant.

### **9.58.5 Response to Comment 58-5**

*Comment Summary: The comment emphasizes concerns about effects on rare geology, ancient artifacts and habitat.*

Impacts on biological resources are addressed in Section 3.4 of the Draft EIR and effects on cultural resources are considered in Section 3.6 of the Draft EIR. Please refer to Master Response 16 for additional information about the geology of Del Puerto Canyon.

### 9.58.6 Response to Comment 58-6

*Comment Summary: The comment asserts that there is no public benefit and that the only beneficiaries would be private companies and expresses opposition to the project.*

Please refer to Master Response 1, which explains that the Project Partners are local public water agencies that serve local farmers. As explained on page ES-1 of the Draft EIR the project would enhance “regional self-reliance and economic benefit from agricultural production, jobs, and industry multipliers”. The agricultural economy provides important support for the Region, funding about one fourth of the local school district bonds. As explained on page 3.11-22 of the Draft EIR, the project would also have flood protection benefits as it would control flows on Del Puerto Creek such that 100-year flow events would no longer exceed the creek capacity, which would allow portions of the City of Patterson to be removed from their existing FEMA flood zone designations. The project would also provide groundwater benefits to the City of Patterson because the Draft EIR includes mitigation to deliver water to lower Del Puerto Creek to support a future groundwater recharge project planned by the City. Please refer to Master Response 2 regarding opposition to the project.

## 9.59 Comment Letter 59 - Carol Schlunz

### 9.59.1 Response to Comment 59-1

*Comment Summary: The comment states that notification of public meetings should be “more sweeping and visible.”*

Please refer to Master Response 20 regarding notification.

### 9.59.2 Response to Comment 59-2

*Comment Summary: The comment asserts that Citizens of Patterson will need to obtain “flood and catastrophic insurance”.*

Please refer to Master Response 10, which explains that residents will not need to purchase flood insurance.

### 9.59.3 Response to Comment 59-3

*Comment Summary: The comment claims that property values will decrease.*

The comment does not provide any evidence that property values would be affected. It should be noted, however, that property values are not an environmental impact.

### 9.59.4 Response to Comment 59-4

*Comment Summary: The comment asks why anyone would put an earthen dam on an active fault.*

As explained in Master Response 6 regarding seismic risk and dam safety, earthen dams are more resilient in seismically active areas, the site of the dam is not on top of a fault, and the closest fault is not a Holocene active fault.

### 9.59.5 Response to Comment 59-5

*Comment Summary: The comment asks why the project is being rushed and suggests that something is being hidden.*

Questions about the project schedule do not pertain to environmental impacts. The Draft EIR is specifically structured to make a good faith effort to fully disclose the potential environmental impacts of the project.

## 9.60 Comment Letter 60 - Patricia Villacana

### 9.60.1 Response to Comment 60-1

*Comment Summary: The comment expresses opposition to the project because of safety concerns and impacts on biological and native American resources, and on a unique geological site.*

Please refer to Master Response 6 regarding seismic risks and dam safety. Impacts on biological resources are addressed in Section 3.4 of the Draft EIR and effects on cultural resources are considered in Section 3.6 of the Draft EIR. Please refer to Master Response 16 for additional information about the geology of Del Puerto Canyon.

## 9.61 Comment Letter 61 - Garry Hayes

### 9.61.1 Response to Comment 61-1

*Comment Summary: The comment expresses the opinion that the Draft EIR does not adequately communicate the national significance of Del Puerto Canyon and cites the informational and educational value of the canyon.*

Please refer to Master Response 16, which discusses the geological significance of the canyon. The Project Partners have consulted with qualified geologists who have stated that the relocated road would provide similar opportunities to view geologic strata. (personal communication William R. Lettis<sup>3</sup>, Lettis Consultants International Inc.)

### 9.61.2 Response to Comment 61-2

*Comment Summary: The comment states that the EIR fails to mention that the first dinosaur fossils ever found in California were in Del Puerto Canyon.*

Please refer to Master Response 17 regarding paleontological resources in Del Puerto Canyon. As noted there, while there have certainly been important fossil finds in the area, it appears that the first find was in the hills west of Gustine.

### 9.61.3 Response to Comment 61-3

*Comment Summary: The comment expresses concern about landslides.*

Please refer to Master Response 7 regarding landslides, which explains that the Vajont reservoir landslide is a unique event, and that evaluation of the project site has determined that landslide impacts are mitigable.

### 9.61.4 Response to Comment 61-4

*Comment Summary: The comment reiterates opinions about the importance of Del Puerto Canyon and urges consideration of groundwater storage alternatives or the Ingram Canyon Alternative.*

Please refer to Master Response 15, which explains that ongoing recreational and educational opportunities in Del Puerto Canyon will be preserved with the relocation of the Road. Please refer to Master Response 5 regarding groundwater storage alternatives and to Master Response 4 for a discussion of the Ingram Canyon Alternative.

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<sup>3</sup> William R. Lettis is the author of *Late Cenozoic stratigraphy and structure of the western margin of the central San Joaquin Valley, California*, USGS Open-File Report 82-526. He is one of the coauthors of the *Geologic Map of the East Flank of the Diablo Range from Hospital Creek to Poverty Flat, San Joaquin, Stanislaus, and Merced Counties, California*. US Geological Survey Miscellaneous Investigations Series Map I-1656

## 9.62 Comment Letter 62 - Mark A. Seedall

### 9.62.1 Response to Comment 62-1

*Comment Summary: The comment expresses a negative reaction to the proposed project and asks that the EIR address impacts on the California Aqueduct access road and other roads leading into Patterson from the north during construction of the conveyance facilities.*

As noted on page 2-20 of the Draft EIR, “Tunneling would be used for crossing under Interstate-5 and the California Aqueduct”. The access road along the Aqueduct would thus be unaffected by construction. Open-cut construction between the DMC and the Aqueduct would not cross any public roads so access to Patterson would not be affected during construction of the conveyance facilities. Please also refer to Master Response 15, which explains that recreational opportunities would be maintained with relocation of Del Puerto Canyon Road.

### 9.62.2 Response to Comment 62-2

*Comment Summary: The comment states that the new road should be constructed before the existing portion of Del Puerto Canyon Road is closed.*

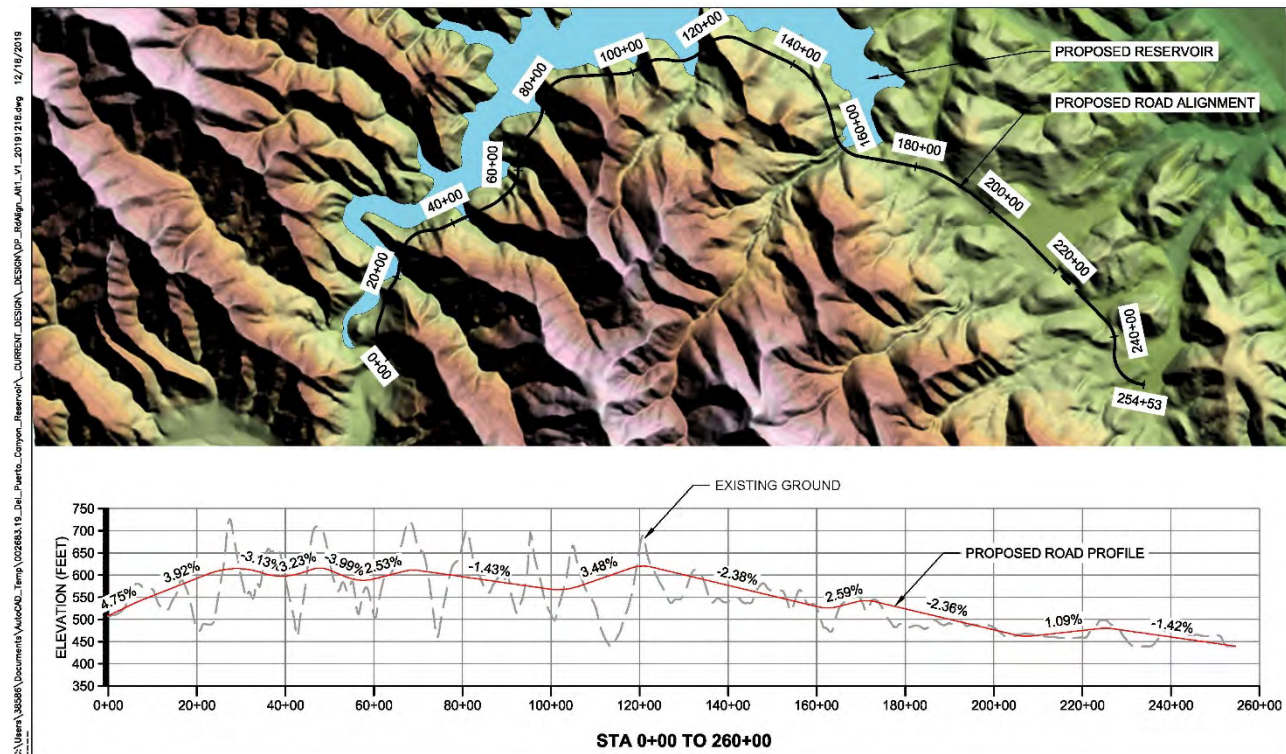
As noted on page 2-16 of the Draft EIR, “the existing Del Puerto Canyon Road would not be closed until the new road is ready for operation.”

### 9.62.3 Response to Comment 62-3

*Comment Summary: The comment asks for information about how the road grades for the new road would compare with the existing road and states that the new road should not contain extended or steep grades above 10 percent because these would discourage access by cyclists.*

Elevation profile of the proposed roadway alignment is available on the project website at <https://delpuertocanyonreservoir.com/assets/pdf/2019-12-18-Del-puerto-canyon-road-profile.pdf> and is presented below. As shown in **Figure 9-11**, the road has been designed to meet Stanislaus County standards with grades less than 6 percent. The portion of the existing road that would be inundated by the reservoir has relatively gentle grades, but as noted below the maximum grade for the road alignment presented in the Draft EIR is 4.75 percent, with large portions of the realigned road having grades of 1 to 3 percent, which are expected to be amenable for cycling.

Figure 9-11: Road Profile



#### 9.62.4 Response to Comment 62-4

*Comment Summary: The comment expresses concern about safety of cyclists at the Sperry Avenue/Diablo Grande Parkway/Interstate 5 interchange and suggests that the EIR should confirm that interchange improvements will occur before the start of construction.*

The schedule for I-5 interchange improvements is under the jurisdiction of the City of Patterson, Stanislaus County and Caltrans, and thus outside the control of the Project Partners. As noted in the Draft EIR on page 3.13-13: “Because the provision of the improvements depends on the actions of other agencies and feasibility of the alternative access from Zacharias Road is uncertain, this impact would remain significant and unavoidable after mitigation.” The Draft EIR includes mitigation to address traffic during construction. Please refer to Mitigation Measure TR-2: Implementation of Construction Traffic Management Plan on page 3.13-15 of the Draft EIR, which specifies that plans for construction include “Provision for accommodation of pedestrians and bicyclists in the construction area”.

#### 9.62.5 Response to Comment 62-5

*Comment Summary: The comment asks for an explanation of the Del Puerto Water District’s involvement in the Los Vaqueros Expansion project and suggests that the Los Vaqueros project is an alternative to the proposed project.*

The Draft EIR does not consider the Los Vaqueros project as an alternative to the proposed project because availability of storage at Los Vaqueros is uncertain, and the Los Vaqueros Expansion would not meet one of the primary project objectives - providing local storage in proximity to the DMC and users. The Del Puerto Water District is evaluating potential participation in the expansion of the Los Vaqueros Reservoir along with a number of other local water districts in the Bay Area and the Central Valley for both conveyance and storage benefits. If storage becomes available in Los Vaqueros, it could augment the portfolio of storage options available to the Project Partners, but it would not eliminate the need for local storage.

## 9.63 Comment Letter 63 - Nancy Jewett

### 9.63.1 Response to Comment 63-1

*Comment Summary: The comment expresses concern about loss of foraging habitat in addition to any pest control measures that would include the use of poisons that may impact golden eagles and bald eagles.*

The Draft EIR addresses the loss of foraging habitat for golden eagle and other birds in Impact BIO-TERR-1k Impacts on Special-Status Birds and Nesting Migratory Birds (Draft EIR page 3.4-53). There is no typical foraging habitat and nesting habitat within the study area for bald eagles and therefore the section does not address impacts on bald eagle.

The Draft EIR addresses rodent control as an impact under Impact BIO-TERR-1k (Draft EIR page 3.4-53). Mitigation Measure BIO-TERR-1e *Avoid and Minimize Impacts on Special-Status Amphibians* on page 3.4-43 of the Draft EIR, says the following:

“Use of first- and second-generation rodenticides shall not be permitted except for the limited use of zinc phosphide, or a rodenticide allowed for use by the California Department of Pesticide Regulation”.

Limited use means it will only be used as need and as authorized under California Department of Pesticide Regulations. Application of rodenticides would be subject to County Use Permit and any edible rodenticides would be placed in bait stations that prevent unintended access to bait by wildlife.

### 9.63.2 Response to Comment 63-2

*Comment Summary: The comment expresses opposition to the project and its location in Del Puerto Canyon.*

Please refer to Master Response 2 regarding opposition to the project and to Master Response 4 regarding alternative locations.

## 9.64 Comment Letter 64 - Erlinda E. Perez

### 9.64.1 Response to Comment 64-1

*Comment Summary: The comment expresses opposition to the project and states that most of the community were unaware of the project.*

Please refer to Master Response 2 regarding opposition to the project and to Master Response 20 regarding notification.

### 9.64.2 Response to Comment 64-2

*Comment Summary: The comment voices concern about the safety of the dam.*

Please refer to Master Response 6 regarding dam safety.

### 9.64.3 Response to Comment 64-3

*Comment Summary: The comment states that the proposed project would make air quality worse.*

Please refer to Master Response 14 regarding air quality. The Draft EIR does not conclude that air quality during construction would be unsafe.

### 9.64.4 Response to Comment 64-4

*Comment Summary: The comment reiterates opposition to the project*

Please refer to Master Response 2 regarding opposition to the project.

## **9.65 Comment Letter 65 - Erica Torres**

### **9.65.1 Response to Comment 65-1**

*Comment Summary: The comment letter is identical to Letter 64.*

Please refer to Responses to Comments 64-1 through 64-5, which are directed to Master Response 2 regarding project opposition, Master Response 6 regarding dam safety, and Master Response 14 regarding air quality.

## **9.66 Comment Letter 66 - Lauren Torres**

### **9.66.1 Response to Comment 66-1**

*Comment Summary: The comment letter is identical to Letter 64 and Letter 65.*

Please refer to Responses to Comments 64-1 through 64-5, which are directed to Master Response 2 regarding project opposition, Master Response 6 regarding dam safety, and Master Response 14 regarding air quality.

## **9.67 Comment Letter 67 - Alfonso Lucero**

### **9.67.1 Response to Comment 67-1**

*Comment Summary: The comment expresses opposition to the project.*

Please refer to Master Response 2 regarding project opposition. As noted in Master Response 6, the dam would not be on an earthquake fault.

## **9.68 Comment Letter 68 - Connie Ramirez**

### **9.68.1 Response to Comment 68-1**

*Comment Summary: The comment expresses opposition to the project because of the risk of the dam breaking.*

Please refer to Master Response 2 regarding project opposition and to Master Response 6 regarding dam safety.

### **9.68.2 Response to Comment 68-2**

*Comment Summary: The comment states that concern about the cost of flood insurance.*

Please refer to Master Response 10 regarding flood insurance, which explains that flood insurance would not be required as a result of the proposed project, and that the project would actually remove some portion of the City Patterson from FEMA flood zones.

### **9.68.3 Response to Comment 68-3**

*Comment Summary: The comment asserts that tax dollars should not be used for a dam if it cannot be used for recreation.*

Please refer to Master Response 21, which explains that the project is not being funded by tax dollars and to Master Response 15 regarding recreation in Del Puerto Canyon.

## 9.69 Comment Letter 69 - Colleen M. Ceciliani-Alves

### 9.69.1 Response to Comment 69-1

*Comment Summary: The comment expresses opposition to the project.*

Please refer to Master Response 2 regarding project opposition.

## 9.70 Comment Letter 70 - Roger Eric Lohmann

### 9.70.1 Response to Comment 70-1

*Comment Summary: The comment voices opposition to the project due to impacts on habitat, need for flood insurance, air pollution, traffic delays and odors.*

Please refer to Master Response 2 regarding opposition to the project. Master Response 10 explains that flood insurance is not required, and Master Response 14 provides information on air quality impacts.

### 9.70.2 Response to Comment 70-2

*Comment Summary: The comment expresses concern about dam safety and the risk of landslides, quoting the EIR.*

Please refer to Master Response 6 regarding dam safety and to Master Response 7 regarding landslides. Master Response 8 provides additional information regarding potential inundation in the event of a dam failure and explains that the EIR describes hypothetical scenarios that are developed to guide the design of the dam to ensure that a dam failure does not occur.

### 9.70.3 Response to Comment 70-3

*Comment Summary: The comment asserts that all dams eventually fail and cites the Oroville dam.*

Please refer to Master Response 6, which provides additional information about dam safety, including explanations of incidents such as the Oroville Dam, which was a failure of the spillway, not the dam.

### 9.70.4 Response to Comment 70-4

*Comment Summary: The comment urges consideration of other alternatives.*

Please refer to Master Response 4 for a discussion of alternatives.

## 9.71 Comment Letter 71 - Lucie Field

### 9.71.1 Response to Comment 71-1

*Comment Summary: The comment states there should be at least one full year of scientific environmental studies for the preparation of the draft environmental impact report. The comment also states that the mouth of Del Puerto Canyon is “not only prime habitat for the endangered San Joaquin kit fox but is also a vital north-south thruway the animal needs for its survival.”*

Please see Response to Comment 48-71 regarding the methods used to assess the study area for potential habitat for San Joaquin kit fox.

The Draft EIR acknowledges that the study area provides habitat for San Joaquin kit fox, however; it was determined to be low quality habitat for the species. It may be used as a dispersal corridor. As described on page 3.4-17 of the Draft EIR:

“...the portion of Stanislaus County within which the study area lies has fragmented, narrow areas of low to moderate or moderate to high quality habitat from Sperry Road north to around the Stanislaus County line. Though this data is not to be interpreted at the project level, it does



emphasize the general lack of suitable San Joaquin kit fox habitat in this region and that this portion of the species range may only serve as a narrow dispersal corridor between areas north and south.

Potentially suitable habitat for San Joaquin kit fox in the study area includes annual grasslands in the areas with slopes less than 15 percent, which is depicted in **Figure 3.4-6**. The area depicted in this figure totals 269 acres, which would be on the low end of previously reported home ranges and with the one large contiguous piece in the valley along Del Puerto Creek totaling approximately 130 acres it is unlikely to provide sufficient area for a kit fox home range...

...Based on the background information presented above and the results of the reconnaissance level surveys, the study area represents low quality habitat for San Joaquin kit fox though it may be used as a dispersal corridor between more suitable habitat to the south and areas to the north.”

Potential impacts on the species are addressed in Impact BIO-TERR-1n Impact on San Joaquin Kit Fox.

### **9.71.2 Response to Comment 71-2**

*Comment Summary: The comment questions the adequacy of the biological survey efforts.*

The methods used to assess the study area for potential habitat for special-status wildlife species are presented on pages 3.4-1 and 3.4-8 to 3.4-17 of the Draft EIR. These methods included assessing the study area in relation to what is known about the species current range, reviewing records in the California Natural Diversity Database, characterizing the habitat relative to descriptions in the literature, and assessing the habitat in the field, including the placement of wildlife cameras at a few locations near the mouth of Del Puerto Canyon over a two week period during the summer of 2019. Field efforts for characterizing the study area were conducted over a period of more than three months in 2019, with follow-up surveys in spring 2020, during which qualified biologists spent over 200 person-days in the field. These methods are generally standard approaches for characterizing existing conditions and are used regularly when preparing EIRs; therefore, they are sufficient for characterizing the habitat for the analysis conducted in the Draft EIR. A list of species observed during field surveys is presented in Appendix B2 and Appendix B3 of the Draft EIR.

### **9.71.3 Response to Comment 71-3**

*Comment Summary: The comment states that removal of the cottonwood trees and heritage oaks in lower Del Puerto Canyon cannot be mitigated because of their cultural and spiritual significance and because they are a gauge of long-term climate change.*

Please see Response to Comment 48-39 regarding impacts to riparian habitat. The Draft EIR acknowledges that loss of the riparian habitat in lower Del Puerto Canyon would be a significant biological impact and proposes mitigation measure BIO-TERR-2 to reduce these impacts to less than significant (page 3.4-62). In addition, oaks are evaluated in Impact BIO-TERR-5 (page 3.4-66). Cultural resources are evaluated in Section 3.6, Cultural Resources. Evaluation of cultural resources included consultation with Native American groups, which did not identify cottonwood trees or oaks as culturally significant.

## **9.72 Comment Letter 72 - Katherine Amaral**

### **9.72.1 Response to Comment 72-1**

*Comment Summary: The comment letter is identical to Letter 64.*

Please refer to Responses to Comments 64-1 through 64-5, which are directed to Master Response 2 regarding project opposition, Master Response 6 regarding dam safety, and Master Response 14 regarding air quality.

## 9.73 Comment Letter 73 - Joshua Mendoza

### 9.73.1 Response to Comment 73-1

*Comment Summary: The comment letter is identical to Letter 64.*

Please refer to Responses to Comments 64-1 through 64-5, which are directed to Master Response 2 regarding project opposition, Master Response 6 regarding dam safety, and Master Response 14 regarding air quality.

## 9.74 Comment Letter 74 - Rosa Jefferson

### 9.74.1 Response to Comment 74-1

*Comment Summary: The comment expresses opposition to the project because of impacts on wildlife and effects on roads.*

Please refer to Master Response 2 regarding project opposition. Del Puerto Canyon Road would be relocated but would not be closed. The Sperry Avenue-Diablo Grande Parkway/Interstate 5 interchange would experience increased traffic during construction but would not be moved.

## 9.75 Comment Letter 75 - Hope Presley

### 9.75.1 Response to Comment 75-1

*Comment Summary: The comment expresses concern for the loss of wildlife habitat due to the proposed project.*

Section 3.4, Biological Resources–Terrestrial, fully discloses the potentially significant impacts on sensitive species, which include threatened, endangered, or candidate species, and mitigation measures to avoid or reduce these impacts.

### 9.75.2 Response to Comment 75-2

*Comment Summary: The comment states that the human benefits of wetland and riparian habitat, including groundwater recharge and other functions, are not discussed in the DEIR.*

Ecological services, such as groundwater recharge and flood control, are benefits that wetlands in general provide to humans. However, individual wetlands may provide few or no specific ecological services for humans, depending on many physical and hydrologic factors. The primary human presence in Del Puerto Canyon consists of cattle grazing, road travel, and recreational or educational activities. Therefore, the Draft EIR focuses on wildlife and plants, the primary benefactors of the ecological services provided by the wetland and riparian habitat in Del Puerto Canyon.

### 9.75.3 Response to Comment 75-3

*Comment Summary: The comment refers to the Draft EIR addressing occurrence records for California tiger salamander being more than 5 miles from the study area but states that this does not mean that they do not have a potential to occur in the study area.*

The Draft EIR identifies potential habitat for California tiger salamander within the study area and assumes the potential presence of this species for purposes of the impact analysis. The analysis addresses potential impacts on the species in Impact BIO-TERR-1d Impacts on California Tiger Salamander (Draft EIR page 3.4-42).

**9.75.4 Response to Comment 75-4**

*Comment Summary: The comment expresses opposition to the project.*

Please refer to Master Response 2 regarding project opposition.

**9.76 Comment Letter 76 - Marilyn Miner****9.76.1 Response to Comment 76-1**

*Comment Summary: The comment expresses opposition to the project and suggests there are other places that a dam could be built.*

Please refer to Master Response 2 regarding project opposition and to Master Response 4 regarding alternatives.

**9.77 Comment Letter 77 - Khyla Smith****9.77.1 Response to Comment 77-1**

*Comment Summary: The comment expresses opposition to the project and asserts that the public was not informed about the project.*

Please refer to Master Response 2 regarding opposition to the project and to Master Response 20 regarding notification about the project.

**9.77.2 Response to Comment 77-2**

*Comment Summary: The comment expresses concern about locating the reservoir on a fault line.*

Please refer to Master Response 6 about dam safety, which explains that the dam would not be located on a fault line.

**9.77.3 Response to Comment 77-3**

*Comment Summary: The comment asserts that the reservoir will be used to store water “from the DMC as part of a replacement of the reclaimed treated water being pumped into the DMC”*

The comment’s suggestion that the Del Puerto Canyon Reservoir would be used to store water that is produced by the North Valley Regional Recycled Water Program (NVRWP) is incorrect. The NVRWP is a water supply project that was designed to operate without any local storage owned and operated by DPWD. Recycled water that is produced during periods when irrigation demand is low is provided to south-of-Delta wildlife refuges under an agreement with the Bureau of Reclamation Refuge Water Supply Program. The NVRWP has successfully augmented supplies for DPWD and is operating as planned without the Del Puerto Canyon Reservoir.

**9.77.4 Response to Comment 77-4**

*Comment Summary: The comment voices opposition to the project based on impacts to historic resources.*

Please refer to Master Response 2 regarding project opposition.

**9.77.5 Response to Comment 77-5**

*Comment Summary: The comment urges that groundwater storage projects should be pursued instead of construction of the proposed project and reiterates opposition to the project.*

Please refer to Master Response 5 regarding groundwater storage and to Master Response 2 regarding project opposition.

## 9.78 Comment Letter 78 - Sean and Lacy Timmins

### 9.78.1 Response to Comment 78-1

*Comment Summary: The comment expresses opposition to the project, and concerns about flood insurance and dam safety.*

Please refer to Master Response 2 regarding project opposition and to Master Response 6 regarding dam safety. As noted in Master Response 10, flood insurance would not be required.

## Letters 79 through 84 were received after the comment deadline, but are addressed below

## 9.79 Comment Letter 79 - Beth Young

### 9.79.1 Response to Comment 79-1

*Comment Summary: The comment expresses opposition to the project based on safety concerns and effects on Native American site and wildlife habitat and suggests that the dam should be “at the San Joaquin River going out of town” or “if southern Calif. Needs water build the dam down there”.*

Please refer to Master Response 2 regarding project opposition. Master Response 4 provides information about alternative site selection. Note that the level terrain immediately adjacent to the San Joaquin River does not provide any suitable locations to construct a dam; reservoirs require a canyon to contain water. The proposed project provides water for Central Valley farmers and does not provide water for Southern California.

## 9.80 Comment Letter 80 - Paolo D’Odorico

### 9.80.1 Response to Comment 80-1

*Comment Summary: The comment expresses concerns about landslides and earthquakes.*

Please refer to Master Response 6 regarding seismic safety and to Master Response 7 regarding landslides. The Draft EIR determined that landslide hazards could be fully mitigated.

### 9.80.2 Response to Comment 80-2

*Comment Summary: The comment requests additional information about the “dam breaching analysis”.*

Please refer to Master Response 10, which includes the requested maps.

### 9.80.3 Response to Comment 80-3

*Comment Summary: The comment states that Del Puerto Canyon has great natural value and important riparian ecosystems.*

Section 3.4 of the Draft EIR presents information about the habitats in Del Puerto Canyon, including riparian habitat.

## 9.81 Comment Letter 81 - Isabel Garcia

### 9.81.1 Response to Comment 81-1

*Comment Summary: The comment expresses opposition to the project based on the loss of scenic resources and recreational opportunities.*

Please refer to Master Comment 81 regarding opposition to the project and to Master Response 15 regarding impact on recreation in the canyon.

## 9.82 Comment Letter 82 - Nancy Maravilla

### 9.82.1 Response to Comment 82-1

*Comment Summary: The comment expresses opposition to the project.*

Please refer to Master Response 2 regarding project opposition.

### 9.82.2 Response to Comment 82-2

*Comment Summary: The comment expresses concern about seismic safety.*

Please refer to Master Response 6 regarding dam safety.

## 9.83 Comment Letter 83 - Kristin Olsen

### 9.83.1 Response to Comment 83-1

*Comment Summary: The comment states that the project is an important solution ensuring the community has sufficient water supplies.*

The Project Partners appreciate the expression of support for the project.

## 9.84 Comment Letter 84 - San Joaquin Valley Air Pollution Control District, Robert Gilles, Program Manager

### 9.84.1 Response to Comment 84-1

*Comment Summary: The comment states that the DEIR should clarify whether additional air emissions analysis would be required after EIR certification to determine whether the proposed on-site emission reductions are sufficient to avoid the need for a VERA. The comment requests clarification that if additional air emissions analysis is required, an enforcement and monitoring mechanism that can be verified by Del Puerto Water District be discussed in the DEIR. Furthermore, the comment recommends that Mitigation Measure AIR-1 be revised to guide the project proponents to enter into a VERA prior to generating project emissions so that the VERA-targeted emissions reductions occur at the same time as the project emissions.*

To ensure that the VERA is based on the most accurate information about equipment and phasing during construction, the Project Partners propose that the emissions estimates be refined based on final design of each project element.

Mitigation Measure AIR-1 starting on page 3.3-23 of the Draft EIR, is revised as follows:

#### **Mitigation Measure AIR-1: Reduce NO<sub>x</sub> Emissions**

NO<sub>x</sub> emissions associated with construction activities shall be reduced to 10 tons per year through on-site equipment and hauling vehicle mitigation measures to the extent feasible. All vehicles and equipment used during construction shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Emissions reduction methods may be chosen from any combination of the following measures:

- Use of alternative fueled vehicles
- Use of newer tier engines
- Use of phased material hauling trips
- Use of after-market pollution control devices to reduce emissions
- Lengthening the construction schedule to reduce the annual intensity of construction activities

After certification of the DEIR, but before emissions associated with proposed project activities begin, the Del Puerto Water District shall be responsible for producing a SJVAPCD-approved air quality impact assessment analysis to determine the projected maximum project emissions which incorporates the most current proposed equipment fleet, hours of operation, duration of work, and on-site NO<sub>x</sub> reduction measures, based on final project design and phasing. If all feasible on-site measures have been implemented and annual emissions are anticipated to still be above 10 tons per year for NO<sub>x</sub>, then the Project Partners shall enter into a Voluntary Emissions Reduction Agreement (VERA) with SJVAPCD. The VERA would provide pound-for-pound mitigation of air emissions increases down to a net zero emissions per year as required under general conformity through a process that develops, funds, and implements emission reduction projects. To ensure emission reductions targeted by the VERA occur at the same time as project emissions, and thereby achieve net zero annual emissions, the Project Partners shall enter into a VERA with SJVAPCD prior to the release of NO<sub>x</sub> emissions associated with proposed project activities. SJVAPCD would serve as administrator of the emissions reduction projects and verifier of the successful mitigation effort.

Under the VERA, the Project Partners shall agree to mitigate project-specific emissions by providing funds for the SJVAPCD's Emission Reduction Incentive Program (ERIP). The funds would be disbursed by ERIP in the form of grants for projects that achieve emission reductions. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors. The Project Partners would request that funding disbursement priority would be given to emission reduction projects of Partner landowners. The initial agreement would generally be based on the projected maximum emissions increases as calculated by a SJVAPCD-approved air quality impact assessment and contain the corresponding maximum fiscal obligation. However, because the goal is to mitigate actual emissions, the SJVAPCD has designed flexibility into the VERA such that the final mitigation would be based on actual emissions related to the project as determined by actual equipment used, hours of operation, and duration of work. After the project is mitigated, the SJVAPCD would certify to the lead agency that the mitigation is completed, providing the lead agency with an enforceable mitigation measure demonstrating that project-specific emissions have been mitigated to less than significant.

#### **9.84.2 Response to Comment 84-2**

*Comment Summary: The comment recommends that an Ambient Air Quality Analysis be performed on proposed Project construction activities because CO emissions during construction would be greater than the threshold for an Ambient Air Quality Analysis of 100 pounds CO per day. The comment states that the SJVAPCD recommends consultation with SJVAPCD staff to determine the appropriate model and input data and references the screening tools and modeling guidance available at [www.valleyair.org/ceqa](http://www.valleyair.org/ceqa).*

The Final EIR includes an Ambient Air Quality Analysis for CO emissions during the construction phase. In addition, all references to an annual average of 18 tons per year as the threshold for determining whether to conduct an Ambient Air Quality Analysis have been deleted.

An Ambient Air Quality Analysis was conducted using the conservative screening model SCREEN3. Input data was obtained from the EIR Project Description. The results of the Ambient Air Quality Analysis can be found in the EIR under Impact AIR-2 Increase of Nonattainment Criteria Pollutants and are also presented here.

The discussion of Significance After Mitigation under Impact AIR-2 on page 3.3-26 of the Draft EIR is revised to add text to the end of the discussion as follows:

As explained under the Thresholds of Significance, above, SJVAPCD recommends (SJVAPCD 2015) that an ambient air quality analysis be performed when the increase in on-site emissions from construction and/or operation exceeds the 100 pounds per day ~~(or 18 tons per year, on average)~~ screening level of any criteria pollutant, after implementation of all enforceable mitigation measures. As shown in **Table 3.3-11**, with implementation of all enforceable mitigation, no criteria pollutant having a significant level of emissions would exceed 100 pounds per day, except CO ~~(or 18 tons per year)~~. CO emissions were estimated to be greater than 100 pounds per day and therefore require an ambient air quality analysis. ~~(18 tons per year); however, these emissions are below the significance threshold for CO (100 tons per year) and thus would constitute an insignificant amount of emissions.~~

An Ambient Air Quality Analysis was conducted using the conservative SCREEN3 model and results are presented below.

### **Carbon Monoxide Ambient Air Quality Analysis**

The maximum single-year carbon monoxide (CO) emission rate for the project-wide emissions would be 93.231 tons per year, or 510.855 pounds per day, which exceeds the 100 pounds per day SJVAPCD threshold triggering the requirement for an Ambient Air Quality Analysis. The “Dam Facilities - Main Dam” construction phase is projected to have the maximum annual CO emissions compared to all other proposed project construction phases; therefore, for modeling purposes, a portion of the “Dam Facilities - Main Dam” construction area was selected as the area over which the project-wide emissions would be spread out in the model. The area over which CO would be emitted during this phase is conservatively modeled to be 914,932 square feet (though the actual area would be much larger, thus dispersing emissions and reducing downwind concentrations). Following guidance<sup>4</sup>, the conservative screening model SCREEN3 was employed to evaluate the maximum project-wide emission rate (510.855 lbs/day) as an area source using a 914,932-square-foot portion of the “Dam Facilities – Main Dam” construction phase area. These model input assumptions are conservative because the maximum annual project-wide emissions would be associated with a much larger area. The model inputs are listed in **Table 3.3-12** below.

**Table 3.3-12: SCREEN3 Area Source Inputs**

<b><u>CO Emission Rate (lb/hr/ft2)</u></b>	<b><u>Source Release Height (ft)</u></b>	<b><u>Area Source Side Length (ft)</u></b>
<u>0.000023</u>	<u>0</u>	<u>956.5</u>

The immediate area surrounding the project is largely rural, thus SCREEN3 was run using the rural dispersion coefficient configuration. In addition, surface-based receptors (0 ft above ground) and full meteorology were used. Receptors were automatically placed between 25 and 1,000 meters to capture the maximum 1-hour modeled concentration. The maximum 1-hour impact was modeled to be 5,028 µg/m3, which is above the 1-hour and 8-hour Significant Impact Levels (SILs) for CO, meaning the modeled impact should be evaluated with ambient background CO concentration included. Thus, background ambient air CO concentrations were added to the maximum SCREEN3 modeled concentration to be compared to the California Ambient Air Quality (CAAQS) and National Ambient Air Quality Standards (NAAQS) for 1-hour and 8-hour CO. Adding a maximum 3-year highest-

<sup>4</sup> *Guidance for Air Dispersion Modeling*, San Joaquin Valley Air Pollution Control District. Accessed from [https://www.valleyair.org/busind/pto/Tox\\_Resources/Modeling%20Guidance.pdf](https://www.valleyair.org/busind/pto/Tox_Resources/Modeling%20Guidance.pdf) on 3/18/2020. The SCREEN3 model is inherently more conservative than a more refined model like AERMOD because the screening model assumes preset, or “worst case,” meteorology, whereas a more refined model would use actual meteorology.

second-high<sup>5</sup> 1-hour CO background value taken from a nearby representative monitor of 2,863  $\mu\text{g}/\text{m}^3$  to the maximum modeled impact results in a downwind ambient air concentration of 7,891  $\mu\text{g}/\text{m}^3$ , which is well below the 1-hour CO CAAQS of 23,000  $\mu\text{g}/\text{m}^3$  and the NAAQS of 40,000  $\mu\text{g}/\text{m}^3$ . Conservatively using the maximum 1-hour modeled CO concentration as an 8-hour CO concentration and adding in the representative 8-hour CO background value results in a downwind ambient air **Table 3.3-13** below summarizes the SCREEN3 assessment.

**Table 3.3-13: SCREEN3 Model Results and CAAQS Comparison**

<b>CO Averaging Period</b>	<b>SCREEN3 Maximum Downwind Impact (<math>\mu\text{g}/\text{m}^3</math>)[1]</b>	<b>Background Concentration (<math>\mu\text{g}/\text{m}^3</math>)[3]</b>	<b>SCREEN3 Model + Background (<math>\mu\text{g}/\text{m}^3</math>)</b>	<b>CO CAAQS / NAAQS (<math>\mu\text{g}/\text{m}^3</math>)</b>	<b>Result</b>
1-hour	5,028	2,863	7,891	23,000 / 40,000	Passes
8-hour	5,028[2]	2,176	7,204	10,000 / 10,000	Passes
<b>Notes:</b> [1] See Appendix D for SCREEN3 model data. [2] Conservatively taken as 1-hour maximum. [3] See Appendix D for background concentration data. EPA AIRS data, Site ID: 060990005, Modesto, CA. Maximum highest-second-high of latest three years (2016, 2017, 2018, 2019 incomplete) of available data for each averaging period.					

Based on this conservative screening modeling, the project would not cause or contribute to a violation of the state or federal air quality standards and no further analysis is required. The ambient air quality analysis confirms that with mitigation, impacts would be less than significant.

Appendix D of the Draft EIR is revised to include the SCREEN3 Model Data and EPA AIRS CO Background Concentration Data as follows:

#### EPA AIRS CO Background Concentration Data

Monitor	Year	Highest Second High Concentration			
		1-hour (ppm)	8-hour (ppm)	1-hour ( $\mu\text{g}/\text{m}^3$ )	8-hour ( $\mu\text{g}/\text{m}^3$ )
Site ID: 060990005 Address: 814 14th St. City: Modesto County: Stanislaus	2016	1.8	1.4	2,061	1,603
	2017	2	1.6	2,290	1,832
	2018	2.5	1.9	<b>2,863</b>	<b>2,176</b>
	2019*	1.5	1	1,718	1,145
	Maximum	2.5	1.9	<b>2,863</b>	<b>2,176</b>
* incomplete year of monitoring data Source: EPA AIRS Data. <a href="https://www.epa.gov/outdoor-air-quality-data/monitor-values-report">https://www.epa.gov/outdoor-air-quality-data/monitor-values-report</a> , accessed 3/18/2020.					

<sup>5</sup> The air quality standards for CO are not to be exceeded more than once per year, thus, the typical concentration evaluated as a background is the form of the standard: the 2<sup>nd</sup> high concentration over the course of each year is taken; the highest 2<sup>nd</sup> high over all the years evaluated is taken as the background value.



**SCREEN3 Model Data**

03/18/20

14:33:31

\*\*\* SCREEN3 MODEL RUN \*\*\*  
 \*\*\* VERSION DATED 13043 \*\*\*

C:\Lakes\Screen View\projects\delpuerto\_CO\delpuerto\_CO.scr

## SIMPLE TERRAIN INPUTS:

SOURCE TYPE = AREA  
 EMISSION RATE (G/(S-M\*\*2)) = 0.311938E-04  
 SOURCE HEIGHT (M) = 0.0000  
 LENGTH OF LARGER SIDE (M) = 291.5475  
 LENGTH OF SMALLER SIDE (M) = 291.5475  
 RECEPTOR HEIGHT (M) = 0.0000  
 URBAN/RURAL OPTION = RURAL

THE REGULATORY (DEFAULT) MIXING HEIGHT OPTION WAS SELECTED.

THE REGULATORY (DEFAULT) ANEMOMETER HEIGHT OF 10.0 METERS WAS ENTERED.

MODEL ESTIMATES DIRECTION TO MAX CONCENTRATION

BUOY. FLUX = 0.000 M\*\*4/S\*\*3; MOM. FLUX = 0.000 M\*\*4/S\*\*2.

\*\*\* FULL METEOROLOGY \*\*\*

\*\*\*\*\*  
 \*\*\* SCREEN AUTOMATED DISTANCES \*\*\*  
 \*\*\*\*\*

\*\*\* TERRAIN HEIGHT OF 0. M ABOVE STACK BASE USED FOR FOLLOWING DISTANCES \*\*\*

DIST (M)	CONC (UG/M**3)	STAB	U10M (M/S)	USTK (M/S)	MIX HT (M)	PLUME HT (M)	MAX DIR (DEG)
25.	4259.	6	1.0	1.0	10000.0	0.00	45.
100.	4632.	6	1.0	1.0	10000.0	0.00	45.
200.	5005.	6	1.0	1.0	10000.0	0.00	45.
300.	2032.	6	1.0	1.0	10000.0	0.00	45.
400.	1481.	6	1.0	1.0	10000.0	0.00	45.
500.	1192.	6	1.0	1.0	10000.0	0.00	45.
600.	1005.	6	1.0	1.0	10000.0	0.00	45.
700.	874.7	6	1.0	1.0	10000.0	0.00	45.
800.	778.5	6	1.0	1.0	10000.0	0.00	45.
900.	705.2	6	1.0	1.0	10000.0	0.00	45.
1000.	646.7	6	1.0	1.0	10000.0	0.00	45.

MAXIMUM 1-HR CONCENTRATION AT OR BEYOND 25. M:

207.	5028.	6	1.0	1.0	10000.0	0.00	45.
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\*\*\*\*\*  
 \*\*\* SUMMARY OF SCREEN MODEL RESULTS \*\*\*  
 \*\*\*\*\*

CALCULATION PROCEDURE	MAX CONC (UG/M**3)	DIST TO MAX (M)	TERRAIN HT (M)
SIMPLE TERRAIN	5028.	207.	0.

\*\*\*\*\*  
 \*\* REMEMBER TO INCLUDE BACKGROUND CONCENTRATIONS \*\*  
 \*\*\*\*\*

### 9.84.3 Response to Comment 84-3

*Comment Summary: The comment states that the proposed project is a “development project” and subject to SJVAPCD Rule 9510 Indirect Source Review because it is new construction that exceeds 9,000 square feet of space. The comment further states that Rule 9510 applies to the project because it can incorporate clean air design elements into construction and operation. The comment recommends that the project should submit an Air Impact Assessment (AIA) application to SJVAPCD no later than applying for final discretionary approval and refers to the SJVAPCD website for an AIA application form. The comment suggests that an AIA application be submitted for the proposed project before the EIR is finalized and recommends that compliance with Rule 9510 be made a condition of project approval.*

The Project Partners will submit an AIA application form before the EIR is finalized. The clean air design element that the Project Partners will consider incorporating into construction, which is included in the AIA, is use of a Construction Clean Fleet.

The remainder of the NO<sub>x</sub> and PM<sub>10</sub> emission reductions required by Rule 9510 would be achieved through Off-Site Fees, as detailed in the AIA application.

In addition, in response to Comment 84-3, Page 3.3-13 of the Draft EIR is revised as follows:

Rule 9510 applies to any applicant seeking discretionary approval for a development project. Rule 9510 defines a development project to include any project that will result in the construction of a new building, facility, or structure (Section 3.13). The rule applies to any development project that would include 9,000 square feet of space at full build out (Section 2.0). Therefore, the proposed project would be subject to Indirect Source Review and would be required to submit an Air Impact Assessment (AIA) application to the SJVAPCD no later than applying for final discretionary approval. As a water supply project, the proposed project does not meet the definition of a development project and Rule 9510 is thus not applicable

### 9.84.4 Response to Comment 84-4

*Comment Summary: The comment requests that the Health Risk Screening/Assessment prioritization calculator be sent for assessment to the SJVAPCD.*

The Health Risk Screening/Assessment prioritization calculator was provided to the SJVAPCD on March 12, 2020.

### 9.84.5 Response to Comment 84-5

*Comment Summary: The comment expresses that the project may be subject to other SJVAPCD rules and regulations, including:*

*a) An Authority to Construct or Permit to Operate for the proposed emergency generator. The comment states that, prior to the start of construction, Del Puerto Water District should contact the SJVAPCD Small Business Assistance Office to determine if an Authority to Construct or Permit to Operate are required for any proposed project equipment.*

*b) The comment expresses that the project may be subject to Regulation VIII (Fugitive PM<sub>10</sub> Prohibitions).*

*c) Rule 4102 (Nuisance)*

*d) Rule 4601 (Architectural Coatings), and*

*e) Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).*

*f) The comment expresses that the project may be subject to SJVAPCD Rule 9410 (Employer Based Trip Reduction) if the project would result in employment of 100 or more eligible employees at a worksite.*

a) Page 3.3-11 of the Draft EIR is revised as follows:

**SJVAPCD Rule 2020, Exemptions from Authority to Construct or Permit to Operate**

Rule 2020 specifies emissions units that are not required to obtain an Authority to Construct or Permit to Operate under Rule 2201 (see below). An “emissions unit” is defined as an identifiable operation or piece of process equipment such as a source operation which emits, may emit, or results in the emissions of any affected pollutant directly or as fugitive emissions.

The rule exempts portable emissions units that have obtained a valid registration under Rule 2280 (see below) and specifically exempts portable generators that provide supplemental power during power interruptions, as long as the generator is not used for more than 60 calendar days. If operation of the proposed project were to include a backup standby generator, it ~~may~~ would qualify under this exemption. Prior to the start of construction, DPWD would contact the SJVAPCD Small Business Assistance Office to determine if an Authority to Construct or Permit to Operate is required for the backup standby generator.

b) As stated on page 3.3-12 of the EIR, the project would implement mandatory control measures to reduce fugitive dust emissions, in accordance with SJVAPCD Rule 8011, General Requirements – Fugitive Dust Emission Sources, which are listed below:

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
- All onsite unpaved roads and offsite unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
- With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.
- When materials are transported offsite, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.
- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday.
- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
- In urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
- An owner/operator of any site with 150 or more vehicle trips per day, or 20 or more vehicle trips per day by vehicles with three or more axles shall implement measures to prevent carryout and trackout.

Thus, the EIR has not been revised in response to the comment.

c) As stated in the EIR, Rule 4102 (Nuisance) prohibits emissions of air contaminants that would cause a nuisance to “considerable numbers of persons or the public” and this rule is applicable to the proposed project. Nuisance odors are assessed qualitatively in the EIR, taking into consideration project design elements, proximity to off-site receptors that potentially would be exposed to objectionable odors, local meteorological conditions, and the nature of the odor source. As discussed under Impact AIR-4 Odors, the

area of the project where odors could be perceptible is not inhabited by considerable numbers of people. The nearest area with considerable numbers of persons is 1.5 miles away (City of Patterson) from the project area. Construction-related emissions from heavy construction equipment and roadway paving would dissipate at the distance of the nearest receptors. The EIR also considers the potential impacts from odors from a possible algal bloom at the proposed reservoir to be less than significant because the nearest receptors are outside the distance where odor impacts are projected to be perceptible. Thus, the project would not cause nuisance odors and the EIR has not been revised in response to the comment.

d) As stated on page 3.3-12 of the EIR, Rule 4601 (Architectural Coatings) specifies limits on VOC content of architectural coatings such as paint and would be applicable to any coatings used during project construction or maintenance activities. The EIR has been revised to model the VOC content of architectural coatings for coating of piping, valves, pumps, tanks, and other on-site structures to be 100 grams per liter, consistent with Rule 4601. The updated modeled emissions of VOC (ROG) can be found in section Impact AIR-2 and in Appendix D.

e) As stated on page 3.3-12 of the EIR, Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving, and Maintenance Operations) limits VOC emissions by restricting the application and manufacturing of certain types of asphalt for paving and maintenance operations; project construction and maintenance would comply with this rule. SJVAPCD Rule 4641 requires that any person shall not manufacture for sale nor use any of the following for penetrating prime coat, tack coat, dust palliative, or other paving and maintenance operations: rapid cure cutback asphalt; medium cure cutback asphalt; slow cure asphalt which is produced for application, contains more than one-half (0.5) percent of organic compounds which evaporate at 500 degrees Fahrenheit or lower; and emulsified asphalt containing organic compounds, in excess of three percent by volume, which evaporate at 500 degrees Fahrenheit or lower.

SJVAPCD Rule 4641 would apply to the proposed roadway paving. To ensure compliance with this Rule, the proposed project would incorporate requirements of Rule 4641 into the construction plans and project specifications. No revisions have been made to the EIR in response to this comment.

f) The trips reduction and administrative requirements of SJVAPCD Rule 9410 (Employer Based Trip Reduction) apply to employers in the San Joaquin Valley Air Basin with at least 100 “Eligible Employees” at a worksite for at least 16 consecutive weeks a year and more than 50 percent of their employees work at least 2,040 hours per year (for employers within the unincorporated area of a county). “Eligible Employees” are all employees except emergency health and safety employees; employment agency personnel; farm workers; field personnel; field construction workers; home garage employees; on-call employees; part-time employees; seasonal employees; volunteers; and employees who do not report to work during the peak period. As noted on page 2-11 of the Draft EIR, “it is estimated that three to five employees would be needed for operation and maintenance of the reservoir and conveyance facilities.” The proposed project thus would not be subject to District Rule 9410.

## **9.85 Comments Submitted at Public Hearing on January 15, 2020**

### **9.85.1 Response to Kent Mitchell, Sierra Club, Comment 85-1**

*Comment Summary: The comment expresses opposition to the project because of the belief that the water would “go to agribusiness”, suggests that the project is not necessary and recommends conservation, groundwater storage and use of recycled water.*

The proposed project does not serve large agribusinesses. All of the farmers in the DPWD service area are small family farmers, with an average farm size of 287 acres. The average farm size in the Exchange Contractors service area is less than 100 acres. Many farmers in the Project Partners’ service area have been operating their businesses locally for several generations or more. Please refer to page 1-2 of the Draft EIR which explains the need for the project. Page 4.5-1 of the Draft EIR discusses additional conservation and explains why this would not meet project objectives. Please refer to Master Response 5,

which explains that the Project Partners are working on groundwater storage projects, but groundwater storage alone is not sufficient to meet the demand for storage. DPWD has already implemented the North Valley Regional Recycled Water Program and is using all of the recycled water that the Cities of Modesto and Turlock can produce. Surface storage is a necessary part of the overall picture for reliable water supply.

#### **9.85.2 Response to Keith Ensminger, Comment 85-2**

*Comment Summary: The comment provides information about climate change and suggests that aquifer storage with crop fallowing is the solution to water supply needs.*

Please refer to Master Response 5 regarding groundwater storage. As explained on page 1-2 of the Draft EIR, which describes the need for the project, both Project Partners are already experiencing fallowing, and are working to avoid increased land fallowing, crop damage and crop loss.

#### **9.85.3 Response to Garry Hayes, Comment 85-3**

*Comment Summary: The comment expresses concerns about geology, paleontology and landslides. A written version of the comments was submitted as Letter 61.*

Please refer to Responses to Comments 61-1 through 61-4.

#### **9.85.4 Response to Milt Trieweler, Comment 85-4**

*Comment Summary: The comment suggests that the project would not provide sufficient water to be worthwhile, and questions how it would be paid for.*

The project does not need to store the Project Partner's entire annual water demand to improve reliability of supply. The ability to capture water when it is available is a great benefit, as deliveries of water from the DMC vary both annually and seasonally and are often not delivered when the demand is greatest. As noted on page ES-1 of the Draft EIR, "lack of storage for CVP supplies means that the Project Partners are not always able to use CVP water when it is available to them, and some water may be effectively lost. Reliable local water storage would allow the Project Partners to better manage water by taking delivery of CVP supplies when available and during wet periods and store it for later irrigation use."

Although cost of the project and method of payment are outside the scope of the environmental document, Master Response 21 explains that the Project Partners are hoping to receive funding through the Water Infrastructure Improvements for the Nation (WIIN) Act.

#### **9.85.5 Response to Wayne Armbrust, Comment 85-5**

*Comment Summary: The comment expresses concern about the schedule for the project, recommends consideration of other locations or a smaller reservoir, potential for dam failure and flooding, project permitting agencies, and asserts that effects on a unique area cannot be mitigated. A written version of the comments was submitted as Letter 48.*

Please refer to Responses to Comments 48-1 through 48-88, which address the comments presented at the public meeting, plus the additional comments that were submitted in writing. Response to Comment 48-8 and Master Response 4 address alternative locations. Response to Comment 48-20 explains that a smaller reservoir is considered in Chapter 4 of the Draft EIR. Responses to Comment 48-11 discusses permitting requirements for the project. Response to Comment 48-70 addresses impacts to endangered species. Please refer to Master Response 10 regarding the potential for inundation in the event of a dam failure. Response to Comment 48-88 answers questions about the project schedule.

**9.85.6 Response to David Piecyk, Comment 85-6**

*Comment Summary: The comment provides suggestions about the alignment for the relocation of Del Puerto Canyon Road. A written version of the comments was submitted as Letter 46.*

Please refer to Responses to Comments 46-1 and 46-2.

**9.85.7 Response to Elias Funez, Comment 85-7**

*Comment Summary: The comment references a petition with 554 signatures of people who are “against the proposed 200 foot high dam of Del Puerto Canyon as well as any other development of that area that doesn't include full protection of the Del Puerto Creek drainage through the unique, historic, and culturally significant Del Puerto Canyon Gateway” and requests that information be provided in Spanish. The comment also claims that “project proponents” have been calling bosses of project opponents in an effort to silence them.*

Please refer to Master Response 2 regarding project opposition and to Master Response 3 regarding petitions. Please refer to Master Response 20 regarding notification. In the interest of making information available to the Spanish-speaking community the Project Partners have updated the project website to provide additional information about the project in Spanish. Information, including a project fact sheet and answers to frequently asked questions, is available at: <https://delpuertocanyonreservoir.com/espanol>. As noted in Master Response 13 regarding the City of Patterson General Plan, although the Draft Parks and Recreation Master Plan mentions concepts such as an equestrian staging area or outdoor performance venue along Del Puerto Creek west of Interstate 5, this plan was never finalized and was not adopted as part of the General Plan. Please refer to Master Response 18 regarding Native American cultural sites. The Project Partners have made no effort to quell the dissemination of information about the proposed project.

**9.85.8 Response to Sharon Reeves, Comment 85-8**

*Comment Summary: The comment expresses concern about seismic safety including reservoir triggered seismicity.*

Please refer to Master Response 6 regarding seismic safety and to Master Response 11 regarding reservoir-triggered seismicity.

**9.85.9 Response to Marissa Chavez-Yang, Comment 85-9**

*Comment Summary: The comment summarizes the EIR conclusions regarding the significant unavoidable impacts of the project on aesthetics, cultural resources, greenhouse gas emissions, and traffic and expresses concern about the air quality effects of the project.*

The comment is correct that the Draft EIR identifies several significant unavoidable impacts associated with the proposed project. Please refer to Master Response 14 for a discussion of air quality impacts.

**9.85.10 Response to Shivaugn Alves, Comment 85-10**

*Comment Summary: The comment references an online petition opposing the project, and expresses concerns about project notification, landslides, inundation, property values, air quality impacts, effects on biological and cultural resources, and recreational opportunities, and suggests an alternative site at Howard Road.*

Please refer to Master Response 3 regarding petitions. Please refer to Master Response 20 regarding notification about the project and to Master Response 2 regarding project opposition. Please refer to Master Response 6 regarding project opposition. Please refer to Master Response 7 regarding landslides, and to Master Response 10 for a discussion of the potential for inundation in the event of a dam failure. The Draft EIR does not project that there would be a catastrophic failure of the dam. To the contrary, page 3.11-22 of the Draft EIR states that “The design standards would protect the dams from seismic or

other catastrophic failure.” As documented in Master Response 10 regarding flood insurance, there will be no increased flood insurance cost for the residents of Patterson, and thus there is no expectation that property values would be affected. However, assessment of property values is outside the scope of the environmental document. Master Response 14 explains that mitigation is included to address air quality impacts. The Draft EIR evaluates impacts to biological and cultural resources. Please refer to Master Response 17 regarding paleontological resources. The proposed project is not a “private reservoir project”; Master Response 1 explains that the Project Partners are public agencies. Please refer to Master Response 15 regarding recreational opportunities in Del Puerto Canyon.

#### **9.85.11 Response to Andrea Stang, Comment 85-11**

*Comment Summary: The comment expresses opposition to the project and states that Del Puerto Canyon should be preserved.*

Please refer to Master Response 2 regarding project opposition. Master Response 15 explains how recreational opportunities in Del Puerto Canyon would be maintained.

#### **9.85.12 Response to Chuck Marble, Comment 85-12**

*Comment Summary: The comment expresses opposition to the project and states that there are other sites that would be better than the proposed project and cites the beauty of Del Puerto Canyon. The comment suggests that residents would need flood insurance and expresses concern about seismic activity and traffic impacts. A written version of the comments was submitted as Letter 50.*

Please refer to Responses to Comments 50-1 through 50-14 which address most of the comments made by the commenter at the public meeting. Please refer to Master Response 2 regarding opposition to the project. Master Response 4 addresses the evaluation of alternative sites. As noted in Master Response 10, residents would not be required to purchase flood insurance. Master Response 6 addresses seismic safety and Master Response 15 discusses impacts on recreation in Del Puerto Canyon. Section 3.13 of the Draft EIR addresses traffic impacts during construction and does conclude that construction traffic is a significant unavoidable impact of the project.

#### **9.85.13 Response to Sean Hansen, Comment 85-13**

*Comment Summary: The comment claims that the project would endanger residents of Patterson, asserts that the project must be moved to an alternate site and complains about the timing of meetings. The comment also suggests that flood insurance is necessary even if it is not required.*

Please refer to Master Response 6 regarding seismic safety and to Master Response 4 regarding evaluation of alternative sites. Please refer to Master Response 20 regarding notification and timing of meetings. Master Response 10 explains that the Project Partners would be responsible for compensating for losses to surrounding people and properties in the event of damages resulting from a dam failure, so additional insurance is not expected to be needed as a result of the project.

#### **9.85.14 Response to Nancy Jewett, Comment 85-14**

*Comment Summary: The comment expresses opposition to the project based on impact to biological and cultural resources.*

Please refer to Master Response 2 regarding project opposition.

#### **9.85.15 Response to Ronald Stork, Comment 85-15**

*Comment Summary: The comment expresses skepticism about the financial viability of the project.*

The comment does not pertain to the adequacy of the Draft EIR. Cost and financing considerations are outside the scope of the environmental document.

**9.85.16 Response to Frank Molina, Comment 85-16**

*Comment Summary: The comment expresses opposition to the project based on concerns about dam safety and suggests that notification was inadequate.*

Please refer to Master Response 2 regarding opposition to the project and to Master Response 6 regarding safety of the dam. Please see Master Response 20 regarding notification.

**9.85.17 Response to Laura Presley, Comment 85-17**

*Comment Summary: The comment requests consideration of another site, expresses concerns about aquifer replenishment, flood insurance, and air quality; and asks which wildlife refuges would benefit from the project.*

Please refer to Master Response 2 regarding project opposition, to Master Response 4 regarding alternate locations and Master Response 5 regarding groundwater storage. Master Response 10 explains that flood insurance would not be required, and Master Response 14 provides information about air quality. As noted on page 1-2 of the Draft EIR, “Upon execution of appropriate agreements to ensure cost share and recovery, storage could also be provided for management of supplies for South of Delta refuges.” Agreements to provide storage for refuge water supply would be developed with the Bureau of Reclamation Refuge Water Supply Program, and Reclamation would manage how the stored water would be used and determine which refuges would benefit. Potential beneficiaries could include the San Luis National Wildlife Complex; Kern National Wildlife Refuge; Volta, Mendota, Los Banos and North Grassland Wildlife Areas; and refuges managed by the Grassland Water Resources Conservation District.

**9.85.18 Response to David Froba, Comment 85-18**

*Comment Summary: The comment expresses concern about effects on wildlife and recreation in the canyon, especially birdwatching and suggests that the project may not be financially viable. A written version of the comments was submitted as Letter 10.*

Please refer to Responses to Comments 10-1 and 10-2 regarding impacts on recreation and wildlife. Cost and financing considerations are outside the scope of the environmental document.

**9.85.19 Response to Justice Taylor, Comment 85-19**

*Comment Summary: The comment expresses concern about seismic safety, suggesting that the project be moved to a different location, asks about potential requirements for flood insurance, suggests that information should be available in Spanish, and provides suggestions regarding project approval.*

Please refer to Master Response 6 regarding seismic safety and to Master Response 4 regarding evaluation of alternative locations. As noted in Master Response 10 flood insurance is not required. In the interest of making information available to the Spanish-speaking community the Project Partners have updated the project website to provide additional information about the project in Spanish. Information, including a project fact sheet and answers to frequently asked questions, is now available at: <https://delpuertocanyonreservoir.com/espanol>. Please refer to Master Response 1 for a description of the public agencies who will consider project approval. The Del Puerto Water District is based on Patterson and serves many local farmers who live in the Patterson area.

**9.85.20 Response to John Mataka, Comment 85-20**

*Comment Summary: The comment asserts that additional information must be provided in Spanish, states that the project would have impacts on biological and cultural resources, expresses concern about impacts of an earthquake and the process for notification and voices opposition to a location in Ingram Canyon.*

Nothing in the CEQA Statutes, regulations, or published decisions interpreting those authorities require translation of CEQA documents. California Government Code 11135 prohibits discrimination on the



basis of national origin and ethnic group identification but does not require language translations in the CEQA context. However, in the interest of making information available to the Spanish-speaking community the Project Partners have updated the project website to provide additional information about the project in Spanish. Information, including a project fact sheet and answers to frequently asked questions, is now available at: <https://delpuertocanyonreservoir.com/espanol>. The Draft EIR addresses effects on listed species in Section 4 and evaluates effects on cultural resources, including Native American sites, in Section 3.6. Please refer to Master Response 6 regarding seismic safety. Master Response 20 presents information on the process for notifying the public about the project. The Ingram Canyon location, referenced by the commenter as “Howard Road”, has not been identified as the preferred location for the project.

#### **9.85.21 Response to Amanda Isham, Comment 85-21**

*Comment Summary: The comment suggests that flood insurance will be required and suggests that property values will be decreased, expressing concern about the risks of a dam break and the presence of an earthquake fault.*

Please refer to Master Response 10, which explains that flood insurance is not required. While there is no expectation that property values would be affected, the Draft EIR does not address this because property values are not an environmental impact. Please refer to Master Response 6 for a discussion of seismic safety.

#### **9.85.22 Response to Patrick Kolar, United States Geological Survey, Comment 85-22**

*Comment Summary: The comment provides information on golden eagles in the project area. A written version of the comments was submitted as Letter 1.*

Please refer to Response to Comment 1-1.

#### **9.85.23 Response to Troy McCormick, Comment 85-23**

*Comment Summary: The comment cites the presence of listed species as an impediment to project implementation, requests that the EIR includes an assessment of the cost of flood insurance and inquires about other options for water storage including groundwater storage. The comment also cites concerns about loss of recreational opportunities.*

Section 3.4 of the Draft EIR identifies potential impacts to California tiger salamander, California red-legged frog, and San Joaquin kit fox and identifies mitigation measures for impacts to those species. Master Response 10 explains that flood insurance would not be required. Master Response 5 provides a discussion of groundwater storage options. The proposed project was developed in consideration of the existing regulatory environment in California, which can severely limit the amount of water that the Project Partners receive from the Central Valley Project during dry years. It is beyond the scope of the EIR to consider alternatives that would require changing the existing regulator environment. Please refer to Master Response 15, which discusses recreational opportunities in Del Puerto Canyon.

#### **9.85.24 Response to Cassandra Torres, Comment 85-24**

*Comment Summary: The comment expresses opposition to the project because of its effects on wildlife and potential for pollution.*

Please refer to Master Response 2 regarding opposition to the project and to Master Response 14 regarding air quality impacts and greenhouse gas emissions. Section 3.4 of the Draft EIR evaluates impacts on wildlife.

**9.85.25 Response to Alysonn Cassidy, Comment 85-25**

*Comment Summary: The comment asks why the community does not get to vote on whether the project should move forward and asks about funding sources.*

The citizens of Patterson would not have an opportunity to vote on the project because project approvals do not require a public vote; project approval falls within the jurisdiction of the Boards of Directors of the Project Partners. The project would be funded by the Project Partners, and potentially by federal construction funding through the Water Infrastructure Improvements for the Nation (WIIN) Act. Funds awarded to projects under Section 4011 of the WIIN Act are not taxpayer dollars, but instead paid by CVP contractors. See Master Response 21 for additional information about potential federal funding.

**9.85.26 Response to Aileen Marble, Comment 85-26**

*Comment Summary: The comment asks for clarification on the proposed mitigation for rare plants and asks whether they would be transplanted to other locations, and if so, where.*

The Draft EIR does not propose transplanting rare plants, as this type of mitigation is often unsuccessful. Mitigation Measure BIO-TERR-1b, which begins on page 3.4-38 of the Draft EIR specifies that:

“Prior to any activities that would result in permanent impacts on special-status plants, compensation habitat for each affected species shall be acquired and permanently protected at a ratio of 2 acres protected for every 1 acre that would be lost. Compensation habitat shall consist of existing, off-site occupied habitat acquired in-fee, through conservation easements, or from a certified conservation bank. The compensation habitat shall be monitored annually to verify that the habitat suitability is maintained. An operations and management plan shall be prepared and implemented for each compensation habitat, with funding provided through an endowment, to monitor the habitat and determine and implement appropriate management measures to maintain the habitat. Annual monitoring reports shall be submitted to CDFW for review and determination that the project remains in compliance with the mitigation.”

**9.85.27 Response to Daniel Estrada, Comment 85-27**

*Comment Summary: The comment expresses concern regarding the loss of recreational opportunities in Del Puerto Canyon and the cost of flood insurance.*

Please refer to Master Response 15 regarding impacts to recreation in Del Puerto Canyon, and to Master Response 10, which explains the flood insurance is not required.

**9.85.28 Response to Tom Biglione, Comment 85-28**

*Comment Summary: The comment voices concern about the loss of recreational opportunities in Del Puerto Canyon and impacts on wildlife and suggests that groundwater storage should be implemented.*

Please refer to Master Response 15 regarding impacts to recreation in Del Puerto Canyon. Section 3.4 of the Draft EIR addresses impacts on wildlife. Please refer to Master Response 5 for a discussion of groundwater storage.

## **Chapter 10 Comment Submittals**

The comment letters and other submittals received regarding the Draft EIR are included in this chapter.

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# United States Department of the Interior

Letter 1

U. S. GEOLOGICAL SURVEY  
Forest and Rangeland Ecosystem Science Center  
777 NW 9th St., Suite 400  
Corvallis, OR 97330

Anthea G. Hansen  
Del Puerto Water District  
P.O. Box 1596  
Patterson, CA 95363

January 27, 2020

## **RE: Comments on Del Puerto Canyon Reservoir Draft Environmental Impact Report**

Dear Ms. Hansen,

The purpose of this letter is to inform you and Del Puerto Water District of relevant information available on Golden Eagles that was not included in the Del Puerto Canyon Reservoir Draft Environmental Impact Report.

Since 2014, the U.S. Geological Survey (USGS) and collaborators have been conducting a broad-scale study on the status, distribution, and reproductive success of Golden Eagles in the northern Diablo Range, California. As part of this research we have conducted extensive surveys and monitoring of territorial pairs of Golden Eagles at random plot locations throughout the northern Diablo Range, including areas within the proposed Del Puerto Canyon Reservoir project footprint. Several published studies (Wiens et al. 2015, 2018, Hunt et al. 2017, Dunk et al. 2019) show that nesting pairs of Golden Eagles are regularly distributed throughout much of the northern Diablo Range, including the Del Puerto Canyon Reservoir project area. We note that several of these publications included detailed maps illustrating the spatial distribution of high-quality nesting conditions identified for Golden Eagles in the vicinity of the project site. 1-1

The draft EIR states that, *"There are no CNDDDB occurrences within 5 miles of the study area. The closest occurrence is approximately 10.5 miles south of the study area (California Department of Fish and Wildlife 2019b). Potential nesting habitat occurs to the west of the study area where there are cliffs and escarpments."* The data from the publications cited above were not necessarily included in the CNDDDB, which seems to be the primary source of data on eagles for the project site. Contrary to the draft EIR, the publications mentioned above, as well as more recently collected unpublished data, show several Golden Eagle occupied territories and known nesting locations within just 5 miles of the project area. We are currently working with the California Department of Fish and Wildlife and US Fish and Wildlife Service to make our unpublished data available to state and federal databases or research projects, where possible.

Thank you for considering my comments and please feel free to contact me if I can provide any additional information regarding eagles in the proposed Del Puerto Canyon Reservoir project area.

Sincerely,

J. David Wiens, Ph.D.  
Supervisory Research Wildlife Biologist  
U.S. Geological Survey, Forest and Rangeland Ecosystem Science Center

### **Published literature on Golden Eagles relevant to the Del Puerto Canyon Reservoir project:**

- Dunk J.R., B. Woodbridge, T.M. Lickfett, G. Bedrosian, B.R. Noon, and D.W. LaPlante. 2019. Modeling spatial variation in density of golden eagle nest sites in the western United States. PLoS ONE 14(9): e0223143. <https://doi.org/10.1371/journal.pone.0223143>.
- Hunt, W.G., J.D. Wiens, P.R. Law, M.R. Fuller, T.L. Hunt, D.E. Driscoll, and R.E. Jackman. 2017. Quantifying the demographic cost of human-related mortality to a raptor population. Plos One e0172232. doi:10.1371/journal.pone.0172232.
- Wiens, J.D., P.S. Kolar, M.R. Fuller, W.G. Hunt, and T. Hunt. 2015. Estimation of occupancy, breeding success, and predicted abundance of golden eagles (*Aquila chrysaetos*) in the Diablo Range, California, 2014: U.S. Geological Survey Open-File Report 2015-1039, 23 p., <http://dx.doi.org/10.3133/ofr20151039>.
- Wiens, J.D., Kolar, P.S., Hunt, W.G., and Hunt, T., Fuller, M.R., and Bell, D.A. 2018. Spatial patterns in occupancy and reproduction of golden eagles during drought: prospects for conservation in changing environments. The Condor: Ornithological Applications 120:106–124.



**Jared Blumenfeld**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Meredith Williams, Ph.D.  
Acting Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



**Gavin Newsom**  
Governor

December 24, 2019

Governor's Office of Planning & Research

**DEC 24 2019**

Ms. Anthea Hansen  
Del Puerto Water District  
17840 Ward Avenue, P.O. Box 1596  
Patterson, California 95363

### STATE CLEARINGHOUSE

DRAFT ENVIRONMENTAL IMPACT REPORT FOR DEL PUERTO CANYON  
RESERVOIR – DATED DECEMBER 2019  
(STATE CLEARINGHOUSE NUMBER: 2019060254)

Dear Ms. Hansen:

The Department of Toxic Substances Control (DTSC) received a Draft Environmental Impact Report (EIR) for the Del Puerto Canyon Reservoir.

The proposed project consists of constructing an 82,000-acre-foot reservoir in Del Puerto Canyon west of Patterson and the I-5 freeway. The project includes the construction of a main dam, three saddle dams, a spillway, inlet/outlet works, conveyance facilities and electrical facilities. The project also includes relocating Del Puerto Canyon Road and existing utilities which currently run through the reservoir site.

DTSC recommends that the following issues be evaluated in the EIR, Hazards and Hazardous Materials section:

2-1

1. The EIR should acknowledge the potential for project site activities to have resulted in the release of hazardous wastes/substances. In instances in which releases have occurred, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The EIR should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.

2-2 2. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 *Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers* ([https://dtsc.ca.gov/wpcontent/uploads/sites/31/2018/09/Guidance\\_Lead\\_Contamination\\_050118.pdf](https://dtsc.ca.gov/wpcontent/uploads/sites/31/2018/09/Guidance_Lead_Contamination_050118.pdf)).

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2-3 3. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to *DTSC's 2001 Information Advisory Clean Imported Fill Material* ([https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/SMP\\_FS\\_Cleanfill-Schools.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/SMP_FS_Cleanfill-Schools.pdf)).

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2-4 4. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 *Interim Guidance for Sampling Agricultural Properties (Third Revision)* (<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/Ag-Guidance-Rev-3-August-7-2008-2.pdf>).

DTSC appreciates the opportunity to review the EIR for the Del Puerto Canyon Reservoir. Should you need any assistance with an environmental investigation, please submit a request for Lead Agency Oversight Application, which can be found at: [https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/VCP\\_App-1460.doc](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/VCP_App-1460.doc). Additional information regarding voluntary agreements with DTSC can be found at: <https://dtsc.ca.gov/brownfields/>.

Ms. Anthea Hansen  
December 24, 2019  
Page 3

If you have any questions, please contact me at (916) 255-3710 or via email at [Gavin.McCreary@dtsc.ca.gov](mailto:Gavin.McCreary@dtsc.ca.gov).

Sincerely,



Gavin McCreary  
Project Manager  
Site Evaluation and Remediation Unit  
Site Mitigation and Restoration Program  
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning and Research  
State Clearinghouse  
[State.clearinghouse@opr.ca.gov](mailto:State.clearinghouse@opr.ca.gov)

Ms. Lora Jameson, Chief  
Site Evaluation and Remediation Unit  
Department of Toxic Substances Control  
[Lora.Jameson@dtsc.ca.gov](mailto:Lora.Jameson@dtsc.ca.gov)

Mr. Dave Kereazis  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereasis@dtsc.ca.gov](mailto:Dave.Kereasis@dtsc.ca.gov)



**DEPARTMENT OF WATER RESOURCES**

1416 NINTH STREET, P.O. BOX 942836  
 SACRAMENTO, CA 94236-0001  
 (916) 653-5791



Governor's Office of Planning &amp; Research

January 24, 2020

**JAN 27 2020**

Anthea Hansen, General Manager  
 Del Puerto Water District  
 17840 Ward Avenue/P.O. Box 1596  
 Patterson, CA 95363  
[ahansen@delpuertowd.org](mailto:ahansen@delpuertowd.org)

**STATE CLEARINGHOUSE**

RE: Review of Draft Environmental Impact Report (DEIR) for  
 Del Puerto Canyon Reservoir, Stanislaus County, California  
 Prepared by Del Puerto Water District  
 (State Clearinghouse # 2019060254)

Dear Ms. Hansen,

The California Department of Water Resources (DWR) has reviewed the Del Puerto Water District's (District) DEIR for the proposed Del Puerto Canyon Reservoir (Project) in the Stanislaus County, California, dated December 2019. The following comments do not include 3-1 comments from DWR's Division of Safety of Dams (DSOD). If DSOD provides comments, they will do so in a separate comment letter.

***Encroachment Permits***

DWR commented that an encroachment permit would be required for work within, under or over California Aqueduct (Aqueduct) right-of-way. Per the DEIR, the District added to Table 1-1 Responsible and Trustee Agencies and Coordination the potential need to obtain an encroachment permit from DWR in addition to an approval for construction and operation of the proposed dam from DWR's Division of Safety of Dams. Thank you for making that change.

***Section 3.11 Hydrology and Water Quality******Potential Effects on Hydrology and Water Quality*****Impact HYD-4: Conflict with Coordinated Operation Agreement and Existing CVP Operations**

DWR requests that the Impact HYD-4 be modified to include State Water Project (SWP) operations as a potential conflict. As stated in the DEIR, Del Puerto Creek (Creek) is tributary to the San Joaquin, thence the Sacramento-San Joaquin Delta Estuary (Delta). The diversions from the Creek contemplated in the DEIR could conflict with the SWP's operations; especially 3-2 when DWR is releasing supplemental SWP project water to meet water quality flow objectives and water quality standards in the Delta, or diversions are limited due to Endangered Species Act requirements. As such, DWR requests a more detailed analysis of the Project's potential effects on hydrology and water quality standards in the Delta under normal operations and emergency release.

Anthea Hansen  
January 24, 2020  
Page 2

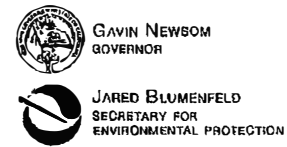
Please send additional Project environmental documents, and future notices, correspondence and questions related to this project to:

Anna Fock,  
Supervising Engineer  
State Water Project Analysis Office  
Department of Water Resources  
1416 Ninth Street, Room 1620  
Sacramento, California 94236-0001  
(916) 653-0190

Sincerely,

A handwritten signature in blue ink, appearing to read "Nancy Finch".

Nancy Finch, Senior Attorney  
Office of the Chief Counsel  
Department of Water Resources  
1416 Ninth Street, Room 1118  
Sacramento, California 95814  
Phone (916) 653-6840  
Fax (916) 653-0952  
[Nancy.Finch@water.ca.gov](mailto:Nancy.Finch@water.ca.gov)



## State Water Resources Control Board

January 27, 2020

Anthea Hanson  
 Del Puerto Water District  
 P.O. Box 1596  
 Patterson, CA 95363  
 ahansen@delpuertowd.org

Dear Ms. Hanson,

### **COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE DEL PUERTO CANYON RESEVOIR PROJECT (SCH#2019060254) IN STANISLAUS COUNTY**

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff appreciates the opportunity to review and comment on the Del Puerto Canyon Reservoir Project (DPCR or proposed project) Draft Environmental Impact Report (Draft EIR). The Draft EIR states that the primary purpose of the DPCR is to develop additional, locally controlled south of Delta water storage for the Del Puerto Water District (DPWD) and the San Joaquin River Exchange Contractors Water Authority (Exchange Contractors), who depend on the U.S. Bureau of Reclamation's (Reclamation) Central Valley Project (CVP) for delivery of a large portion of their water supplies. The proposed project involves the construction and operation of a reservoir on Del Puerto Creek to provide approximately 82,000 acre-feet (AF) of new storage. Comments on the Draft EIR are due on January 27, 2020. Division staff conducted an initial review of the Draft EIR. Upon further review, the State Water Board may have additional comments.

4-1

On June 27, 2019, a Notice of Preparation (NOP) for the proposed project was circulated by DPWD and began a 30-day public review period, which ended on July 29, 2019. On July 26, 2019, State Water Board, Division of Water Rights staff submitted comments on the NOP to DPWD (Attachment A). The Draft EIR discusses the public scoping process and identifies state and regional/local agencies that submitted comments on the NOP (Section 1.6.2, Public Scoping). The Draft EIR also summarizes the scoping process completed for the DPCR EIR, summarizes the comments received

4-2

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

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during scoping, and includes copies of comment submittals (Appendix A, Scoping: Notice of Preparation, Initial Study and Scoping Report). The State Water Board, Division of Water Rights staff comments on the NOP are not referenced in Section 1.6.2 or in Appendix A of the Draft EIR and no response is provided to the State Water Board, Division of Water Rights staff comments. Accordingly, State Water Board staff reiterate the July 26, 2019 State Water Board, Division of Water Rights staff comments on the NOP for the DPCR and provide the following additional comments on the DPCR EIR.

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### **Water Right for Del Puerto Creek Diversions**

A new appropriative water right permit will be required to collect water from Del Puerto Creek for storage in DPCR. The Draft EIR states that the Project Partners have applied to the Division for the right to store a portion of Del Puerto Creek flows in DPCR. This appears to be an inaccurate statement, as the Division has no record of having received a water right application for the proposed project.

4-3

Two initial findings are required before an appropriative water right permit can be issued: (1) unappropriated water is available to supply the applicant, and (2) the applicant's appropriation is in the public interest. If the proposed appropriation does not meet these criteria, conditions may be imposed to ensure they are satisfied or the water right application may be denied. A permit may only allow diversion and use of that amount of water that the applicant has demonstrated is necessary for the proposed purpose for as long a time as the project is deemed reasonable and is diligently pursued.

The Draft EIR does not appear to include an analysis of water availability for the proposed project, but does include modeled inflows from Del Puerto Creek and a reservoir operations plan that includes proposed operational rules and provisions for bypassing or releasing water from DPCR to meet environmental and regulatory flow requirements established during permitting of the proposed project. Division staff will consider the hydrologic analyses and proposed operational rules included in the Final EIR when processing any water right application filed for the proposed project. However, the State Water Board is required to make its own, independent findings on the availability of unappropriated water to supply the proposed project as a prerequisite to any water right permitting decision. In determining the amount of water available for appropriation, the State Water Board must take into consideration the public interest and the amounts of water required for recreation, preservation and enhancement of fish and wildlife resources, and water quality. Additional hydrologic and environmental analysis may be required during the water right permitting process to inform and support these findings. The additional analysis may ultimately lead to water availability findings and associated reservoir operations that differ from those proposed in the Draft EIR.

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## **Modeling of the Proposed Project**

As discussed in the State Water Board, Division of Water Rights staff comments on the NOP for the DPCR, the EIR should evaluate the effects the proposed project would have on diversions from the Delta and any associated impacts to fish and wildlife species in the Delta and propose appropriate mitigation for any impacts, including cumulative impacts. The Draft EIR acknowledges the potential for the DPCR to affect Delta exports but the modeling of the proposed project does not evaluate these effects. The project description states that "The proposed project operations would be consistent with the Coordinated Operation Agreement and would not affect existing CVP Delta pumping operations. However, certain federal benefits may be achieved should Reclamation choose to pump additional water that could be stored in capacity made available in San Luis Reservoir by the Project Partners storing water in DPCR, or by shifting pumping to provide additional Delta pumping capacity during periods of peak delivery by pumping water for delivery to the Project Partners during non-peak delivery periods and delivering that water to the Project Partners for storage in DPCR. Any such modification of Delta pumping by Reclamation would be evaluated by Reclamation in a separate NEPA document if such pumping is determined to be outside existing certified environmental documentation and/or operating agreements." (Section 2.3.1, Operations). Such changes to Delta export operations would be contingent upon the operation of the DPCR and should be modeled and evaluated accordingly in the DPCR EIR. For example, if CVP deliveries are stored in DPCR instead of San Luis Reservoir during the winter through late spring, Reclamation may export additional water at times when lack of storage space and real time demand would limit exports in the absence of the project. The magnitude of export modifications cannot be assessed without a model study that approximates likely operational scenarios. This effort should also analyze whether any changes to Delta exports due to the proposed project would alter Delta hydrodynamic processes such as Delta outflow, salinity conditions, reverse flows, and entrainment, and whether there could be impacts on water quality and biological resources upstream in the Delta.

4-4

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There is limited information on the hydrology of Del Puerto Creek provided in the Draft EIR. In particular, the Draft EIR discusses annual flows in Del Puerto Creek, but limited information is provided to describe the existing seasonal hydrology of the Del Puerto Creek watershed. The EIR should provide additional quantitative information on the existing monthly and seasonal hydrology of Del Puerto Creek. Summary statistics of the changes in flows in Del Puerto Creek should be provided along with a detailed explanation of how these changes affect downstream water quality and fish and wildlife. Ultimately, such information will be needed to support a water availability analysis for any application for diversion from Del Puerto Creek.

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4-5

### **Impacts to Fish and Wildlife in the Delta**

- 4-6 As discussed in the modeling comments above, the modeling does not evaluate the potential changes in diversions from the Delta that would occur under the proposed project and the associated impacts to fish and wildlife. In addition, the cumulative impact assessment is cursory and should be expanded to evaluate several additional issues. The EIR uses a specific project list-based approach for evaluation of cumulative impacts (Table 3.0-1) that includes several Del Puerto Water District and Exchange Contractors projects, City of Patterson projects, Stanislaus County projects, StanCOG projects, and Western Area Power Administration projects. The scope of the cumulative impact analysis should be broadened to include other projects that could potentially affect Delta flows, Delta exports, and south of Delta reservoir storage. As discussed in the State Water Board's Scientific Basis Report for Potential Updates to the Bay-Delta Water Quality Control Plan (Bay-Delta Plan) for the Sacramento River and Delta ([https://www.waterboards.ca.gov/water\\_issues/programs/peer\\_review/docs/scientific\\_basis\\_phase\\_ii/201710\\_bdphasell\\_sciencereport.pdf](https://www.waterboards.ca.gov/water_issues/programs/peer_review/docs/scientific_basis_phase_ii/201710_bdphasell_sciencereport.pdf)) and the July 2018 Framework for such updates to the Bay-Delta Plan ([https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/docs/sed/sac\\_delta\\_framework\\_070618%20.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/sed/sac_delta_framework_070618%20.pdf)), Delta outflows under existing conditions are highly impaired resulting in prolonged and precipitous declines of native Delta species. The cumulative impacts of the proposed project should be evaluated in the context of these findings. In addition, the cumulative impacts evaluation should address proposed changes to biological opinion requirements for the Long Term Operations of the CVP and State Water Project (SWP) that would allow for greater diversions from the Delta, including increased diversions for the proposed project. These diversions could cause cumulative impacts to fish and wildlife and water quality, growth inducing effects, and other impacts that should be evaluated and disclosed.

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### **Wetlands Mitigation**

- 4-7 The mitigation measure for impacts to wetlands under the proposed project, described at pp. 3.4-63, should be updated to recognize the need to comply with the State Water Board's new wetlands policy, the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State, which will be effective on May 28, 2020 ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/procedures\\_conformed.pdf](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/procedures_conformed.pdf)).

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### **Conclusions**

- 4-8 State Water Board staff appreciates the opportunity to provide comments on the DPCR Draft EIR. If you would like to discuss these comments, please contact Scott Frazier at (916) 341-5289 or [scott.frazier@waterboards.ca.gov](mailto:scott.frazier@waterboards.ca.gov) for questions regarding water right

Anthea Hanson  
Del Puerto Water District

- 5 -

January 27, 2020

permitting or Nicole Williamson at (916) 319-8202 or  
nicole.williamson@waterboards.ca.gov for questions regarding the review and update of  
the Bay-Delta Plan. Written correspondence or inquiries should be addressed as  
follows: State Water Resources Control Board, Division of Water Rights, P.O Box 2000,  
Sacramento, CA 95812-2000.

4-8  
cont'd

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Sincerely,

Diane Riddle, Assistant Deputy Director  
Division of Water Rights

Attachment A: State Water Board, Division of Water Rights staff comments on Notice of  
Preparation for Del Puerto Canyon Reservoir Project (SCH#2019060254) in Stanislaus  
County



GAVIN NEWSOM  
GOVERNOR



JARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## State Water Resources Control Board

JUL 26 2019

Anthea Hanson  
Del Puerto Water District  
P.O. Box 1596  
Patterson, CA 95363

Dear Ms. Hansen:

### NOTICE OF PREPARATION FOR DEL PUERTO CANYON RESERVOIR PROJECT (SCH#2019060254) IN STANISLAUS COUNTY

4-9 State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff has reviewed the Notice of Preparation (NOP) for the proposed Del Puerto Canyon Reservoir Project (SCH#2019060254). Based on information provided in the notice, it appears that the project may require one or more water right approvals. The Del Puerto Water District (District) should contact the Division to determine whether a water right permit and/or other water right approvals involving modification of Central Valley Project water rights via petition are necessary to implement the project. Information regarding the water right permitting and petition processes can be found on the Division's website at: <https://www.waterboards.ca.gov/waterrights/>.

If water right approvals are required, the State Water Board will act as a Responsible Agency and may need to rely on the Environmental Impact Report (EIR) developed by the District when evaluating potential impacts on environmental resources within its purview. The District should therefore ensure that any EIR prepared for the project consider all potential direct, indirect, and cumulative impacts associated with the diversion and use of water; and a range of project alternatives that reduce or avoid flow-related impacts on terrestrial and aquatic species.

4-10 Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including water quality standards<sup>1</sup> and implementation plans promulgated pursuant to section 303 of the

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<sup>1</sup> California's water quality standards are comprised of beneficial uses together with the water quality objectives and state and federal anti-degradation requirements. The water  
(footnote continued on next page)



Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification (Cal. Code Regs., tit 23, §3859) to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Applications for water quality certification are submitted to the State Water Board whenever the potential discharge from a proposed activity: (1) may fall under the jurisdiction of more than one regional board; or (2) involves or is associated with one or more of the following: (a) an appropriation of water; (b) a hydroelectric facility, and the proposed activity requires a Federal Energy Regulatory Commission license or amendment; or (c) any other diversion of water for domestic, irrigation, power, municipal, industrial, or other beneficial use. (Cal. Code Regs., tit 23 §3855, subd. (b)(1).) If the proposed project meets any of these criteria, the District would be required to submit an application for water quality certification to the State Water Board's Executive Director. If these criteria do not apply, the water quality certification application would be submitted to the Central Valley Regional Water Quality Control Board.

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The NOP describes that the proposed Del Puerto Canyon Reservoir Project would provide additional South of Delta water storage for water exported from the Bay-Delta. The EIR should evaluate the effects the project would have on diversions from the Delta and any associated impacts to fish and wildlife species in the Delta and propose appropriate mitigation for any impacts, including cumulative impacts. The EIR should specifically evaluate the potential impacts of the proposed project on Delta outflows, salinity conditions, reverse flows, and entrainment of native fish species. The EIR should also evaluate the project in the context of the State Water Board's current effort to update the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) to improve protections of fish and wildlife beneficial uses, including potential higher Delta outflow requirements and other Central Valley Project and State Water Project related operational constraints. More information about this effort is available on the Division's website at: [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/).

4-11

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If you have any questions regarding Section 401 requirements, please contact Jeff Wetzel at (916) 323-9390 or [jeff.wetzel@waterboards.ca.gov](mailto:jeff.wetzel@waterboards.ca.gov). For questions regarding water rights permitting, please contact Scott Frazier at (916) 341-5289 or [scott.frazier@waterboards.ca.gov](mailto:scott.frazier@waterboards.ca.gov). For questions regarding modification of existing water rights via petition, please contact Sam Boland-Brien at (916) 322-6797 or [sam.boland-brien@waterboards.ca.gov](mailto:sam.boland-brien@waterboards.ca.gov). For questions regarding the review and update of the Bay-Delta Plan, please contact Nicole Williamson at (916) 319-8202 or [nicole.williamson@waterboards.ca.gov](mailto:nicole.williamson@waterboards.ca.gov). Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000.

4-12

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quality control plans (basin plans) designate the beneficial uses of waters within each watershed basin, and water quality objectives designed to protect those uses pursuant to Section 303 of the Clean Water Act. (33 U.S.C. § 1313.)

Sincerely,

ORIGINAL SIGNED BY:  
JULE RIZZARDO, FOR

Erik Ekdahl  
Deputy Director  
Division of Water Rights

cc: State Clearinghouse  
Office of Planning and Research  
P.O. Box 3044  
Sacramento, CA 95812-3044



State of California – Natural Resources Agency  
**DEPARTMENT OF FISH AND WILDLIFE**  
 Central Region  
 1234 East Shaw Avenue  
 Fresno, California 93710  
 (559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



January 27, 2020

Governor's Office of Planning & Research

**JAN 27 2020**

Anthea Hansen, General Manager  
 Del Puerto Water District  
 17840 Ward Avenue  
 Patterson, California 95363

## **STATE CLEARINGHOUSE**

**Subject: Del Puerto Canyon Reservoir (Project)**  
**Draft Environmental Impact Report (DEIR)**  
**SCH#: 2019060254**

Dear Ms. Hansen:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the Del Puerto Water District for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

### **CDFW ROLE**

5-1

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

The use of unallocated stream flows is subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code section 1225. CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Certain fish and wildlife are reliant upon aquatic ecosystems, which in turn are reliant upon adequate flows of water. CDFW, therefore, has a material interest in assuring adequate water flows within streams for the protection, maintenance and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities.

5-1  
cont'd

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Del Puerto Water District

**Objective:** The Project proposes the construction and operation of a new reservoir on Del Puerto Creek to provide approximately 82,000 acre-feet (AF) of additional off-stream storage to the Central Valley Project (CVP). Project components are the reservoir (including the main dam, three saddle dams, and other facilities), conveyance facilities to transport water to/from the Delta-Mendota Canal (DMC) (including a pipeline and pumping plant), electrical facilities, relocation of Del Puerto Canyon Road, and relocation of existing and proposed utilities that are within the Project area.

**Location:** The Project site is located in the foothills west of the City of Patterson and Interstate-5.

**Timeframe:** Construction of the proposed Project is expected to take approximately six years.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist Del Puerto Water District in adequately identifying and/or mitigating the Project's significant, or potentially

significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

There are many special-status resources present in and adjacent to the Project area. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State candidate-listed as threatened foothill yellow-legged frog (*Rana boylei*), the State and federally endangered least Bell's vireo (*Vireo bellii pusillus*), the State candidate-listed as endangered Crotch bumble bee (*Bombus crotchii*), and the State species of special concern California red-legged frog (*Rana draytonii*), western spadefoot (*Spea hammondi*), the State rare Tracy's eriastrum (*Eriastrum tracyi*) and tule elk (*Cervus canadensis nannodes*). In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, especially in the areas not in irrigated agriculture, and to identify any Project-related impacts under CESA and other species of concern.

5-1  
cont'd

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## I. Environmental Setting and Related Impact

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?**

### COMMENT 1: California Tiger Salamander (CTS)

**Issue:** CTS have the potential to occur in the Project site. Aerial imagery shows that the Project site consists of upland habitat and Del Puerto Creek which likely serve as refugia and breeding habitat for CTS that are dispersing from and into the area.

**Specific Impacts:** Aerial imagery shows that the proposed Project site has upland habitat for refugia and Del Puerto Creek which may function as breeding habitat. Potential ground- and vegetation-disturbing activities associated with Project activities include: water inundation as a result of the proposed new reservoir, collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia,

5-2

water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Evidence impact would be significant:** Up to 75% of historic CTS habitat has been lost to urban and agricultural development (Searcy et al. 2013). Loss, degradation, and fragmentation of habitat are the primary threats to CTS in both the Central and San Joaquin valleys. Contaminants and vehicle strikes are also sources of mortality for the species (CDFW 2015, USFWS 2017a). The Project site is within the range of CTS and has suitable habitat (i.e., grasslands interspersed with burrows and vernal pools). CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011) and have been documented to occur near the Project site (CDFW 2019). Given the presence of suitable habitat within the Project site, ground-disturbing activities have the potential to significantly impact local populations of CTS.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

5-2  
cont'd

Because suitable habitat for CTS is present throughout the Project site, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the environmental impact report (EIR) prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 1: Focused CTS Protocol-level Surveys**

CDFW recommends that a qualified biologist conduct protocol-level surveys in accordance with the USFWS "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. The protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

#### **Recommended Mitigation Measure 2: CTS Avoidance**

If CTS protocol-level surveys as described in Mitigation Measure 1 are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within

and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals. Alternatively, the applicant can assume presence of CTS within the Project site and obtain from CDFW a State Incidental Take Permit (ITP) in accordance with Fish and Game Code section 2081(b).

### **Recommended Mitigation Measure 3: CTS Take Authorization**

5-2  
cont'd

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization would be warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081(b). As stated above, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

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### **COMMENT 2: Swainson's Hawk (SWHA)**

**Issue:** SWHA have the potential to nest near the Project site, and forage within the Project site. SWHA have been documented to occur within the Project site (CDFW 2020), and the DEIR indicates that they were observed during wildlife surveys in the Project site.

**Specific impacts:** Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include: nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code.

5-3

**Evidence impact is potentially significant:** SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat in the San Joaquin Valley limits their local distribution and abundance (CDFW 2016). Approval of the Project may lead to subsequent ground-disturbing activities that involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment and loss of foraging habitat, significantly impacting local nesting SWHA.

### **Recommended Potentially Feasible Mitigation Measure(s)**

Because suitable foraging habitat for SWHA is present throughout the Project site, CDFW recommends conducting the following evaluation of the Project site,

incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 4: SWHA Surveys**

CDFW agrees with Mitigation Measure BIO-TERR-1L of the DEIR that a qualified wildlife biologist conduct surveys for nesting SWHA following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) prior to project implementation. However, the 0.25-mile survey distance from the Project site as indicated in the DEIR is inconsistent with the SWHA TAC; the SWHA TAC recommends a 0.5-mile survey distance from the limits of disturbance. The survey protocol includes early season surveys to assist the project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities.

#### **Recommended Mitigation Measure 5: No-disturbance Buffer**

5-3  
cont'd

If ground-disturbing activities are to take place during the normal bird breeding season (March 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation. Mitigation Measure BIO-TERR-1L of the DEIR states that a minimum no-disturbance buffer of 600 feet shall be established around all active SWHA nests. CDFW recommends a minimum no-disturbance buffer of ½-mile be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

#### **Recommended Mitigation Measure 6: SWHA Take Authorization**

CDFW recommends that in the event an active SWHA nest is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the issuance of an ITP, pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA.

#### **Recommended Mitigation Measure 7: Loss of SWHA Foraging Habitat**

CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:



- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of  $\frac{3}{4}$  acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of  $\frac{1}{2}$  acre of HM land for each acre of development is advised.

5-3  
cont'd

### **Recommended Mitigation Measure 8: SWHA Nest Trees**

CDFW recommends that the removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity to reduce impacts resulting from the loss of nesting habitat.

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### **COMMENT 3: San Joaquin Kit Fox (SJKF)**

**Issue:** SJKF have been documented to occur within the vicinity of the Project site (CDFW 2020). SJKF den in right-of-ways, vacant lots, etc., and populations can fluctuate over time. Presence/absence in any one year is not necessarily a reliable indicator of SJKF potential to occur on a site. SJKF may be attracted to project areas due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. As a result, there is potential for SJKF to colonize the Project area or to occupy adjacent grassland.

**Specific impact:** Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with Project activities include den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

5-4

**Evidence impact is potentially significant:** Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJKF (Cypher et al. 2013). The Project area is bordered by some of the only remaining undeveloped land in the vicinity. Therefore, subsequent ground-disturbing activities have the potential to significantly impact local SJKF populations.

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

To evaluate potential impacts to SJKF, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 9: SJKF Surveys**

5-4  
cont'd

CDFW agrees with Mitigation Measure BIO-TERR-10 in the DEIR that presence/absence of SJKF be assessed by conducting surveys and implementing den avoidance buffers following the USFWS "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (2011). Specifically, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14 days and no more than 30 days prior to beginning of ground-disturbing activities.

#### **Recommended Mitigation Measure 10: SJKF Take Authorization**

SJKF detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081(b).

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#### **COMMENT 4: Foothill Yellow-Legged Frog (FYLF) and California Red-Legged Frog (CRLF)**

**Issue:** FYLF are primarily stream dwelling and requires shallow, flowing water in streams and rivers with at least some cobble-sized substrate; CRLF primarily inhabit ponds but can also be found in other waterways including marshes, streams, and lagoons, and the species will also breed in ephemeral waters (Thomson et al. 2016). FYLF and CRLF have been documented to occur in the vicinity of the Project site (CDFW 2020). The Project site contains habitat that may support both species. Avoidance and minimization measures are necessary to reduce impacts to FYLF and CRLF to a level that is less than significant.

5-5

**Specific impact:** Without appropriate avoidance and minimization measures for FYLF and CRLF, potentially significant impacts associated with the Project's activities include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

**Evidence impact would be significant:** FYLF and CRLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated; historically, FYLF occurred in mountain streams from the San Gabriel River in Los Angeles County to southern Oregon west of the Sierra-Cascade crest (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to FYLF and CRLF (Thomson et al. 2016, USFWS 2017b). Project activities have the potential to significantly impact both species.

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to FYLF and CRLF, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

### **Recommended Mitigation Measure 11: FYLF and CRLF Surveys**

CDFW recommends that a qualified wildlife biologist conduct surveys for FYLF and CRLF in accordance with the USFWS "Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog" (USFWS 2005) to determine if FYLF and CRLF are within or adjacent to the Project area; while this survey is designed for CRLF, the survey may be used for FYLF with focus on stream/river habitat.

### **Recommended Mitigation Measure 12: FYLF and CRLF Avoidance**

5-5  
cont'd

If any FYLF or/and CRLF are found during pre-construction surveys or at any time during construction, consultation with CDFW is warranted to determine if the Project can avoid take. CDFW recommends that initial ground-disturbing activities be timed to avoid the period when FYLF and CRLF are most likely to be moving through upland areas (November 1 and March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends a qualified biologist monitor construction activity daily for FYLF and CRLF.

### **Recommended Mitigation Measure 13: FYLF Take Authorization**

Species such as FYLF with a Candidate listing are treated as threatened or endangered by CDFW. If through surveys it is determined that FYLF are occupying or have the potential to occupy the Project site and take cannot be avoided, take authorization would be warranted prior to initiating ground-disturbing activities. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081(b).

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### **COMMENT 5: Least Bell's Vireo (LBV)**

**Issue:** LBV are known to occur within the Project site along the Del Puerto Creek (CDFW 2020). Review of aerial imagery indicates the presence of riparian woodland vegetation, suitable to support LBV, both within the Project site and its vicinity. Therefore, the Project has the potential to impact LBV.

5-6

**Specific impact:** Without appropriate avoidance and minimization measures for LBV, potential significant impacts associated with Project development include nest

abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

**Evidence impact is potentially significant:** LBV were abundant and widespread in the United States until the 1950s (Grinnell and Miller 1944). By the 1960s, they were considered scarce (Monson 1960), and by 1980, there were fewer than 50 pairs remaining (Edwards 1980), although this number had increased to 2,500 by 2004 (Kus and Whitfield 2005). The primary cause of decline for this species has been the loss and alteration of riparian woodland habitats (USFWS 2006). Fragmentation of their preferred habitat has also increased their exposure to brown-headed cowbird (*Molothrus ater*) parasitism (Kus 2002). Current threats to their preferred habitat include colonization by non-native plants and altered hydrology (diversion, channelization, etc.) (USFWS 2006).

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

5-6  
cont'd

To evaluate potential impacts to LBV, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

**Recommended Mitigation Measure 14: LBV Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its immediate vicinity contains suitable habitat for LBV. Although LBV inhabit riparian woodlands, the species has also been found to benefit from non-riparian systems including brushy fields, second-growth forest or woodland, scrub oak, coastal chaparral, and mesquite brushlands (Kus and Miner 1989 *in* Poulin et al. 2011).

**Recommended Mitigation Measure 15: LBV Avoidance**

CDFW recommends that Project activities be timed to avoid the typical bird breeding season (February 1 through September 15).

**Recommended Mitigation Measure 16: LBV Surveys**

If Project activities must take place during the typical bird breeding season, and suitable LBV habitat is detected during habitat assessments, CDFW recommends assessing presence/absence of LBV by conducting surveys following the USFWS' "Least Bell's Vireo Survey Guidelines" (2001) well in advance of the start of Project implementation to evaluate presence/absence of LBV nesting in proximity to Project activities, and to evaluate potential Project-related impacts and permitting needs.

Additionally, CDFW advises conducting focused pre-construction surveys for LBV in all areas of potentially suitable habitat within 10 days of Project implementation, when initiated during the bird breeding season.

5-6  
cont'd

#### **Recommended Mitigation Measure 17: LBV Take Authorization**

LBV detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081(b).

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#### **COMMENT 6: Crotch Bumble Bee (CBB)**

**Issue:** On June 28, 2019, the Fish and Game Commission published findings of its decision to advance CBB to candidacy as endangered. Pursuant to Fish and Game Code section 2074.6, CDFW has initiated a status review report to inform the Commission's decision on whether listing of CBB, pursuant to CESA, is warranted. During the candidacy period, consistent with CEQA Guidelines section 15380, the status of the CBB as an endangered candidate species under CESA (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. It is unlawful to import into California, export out of California, or take, possess, purchase, or sell within California, CBB and any part or product thereof, or attempt any of those acts, except as authorized pursuant to CESA. Under Fish and Game Code section 86, take means to hunt, pursue, catch, capture, or kill, or to attempt to hunt pursue, catch, capture, or kill. Consequently, take of CBB during the status review period is prohibited unless authorization pursuant to CESA is obtained.

CBB have been documented to occur within the vicinity of the Project area (CDFW 2020). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows, but may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local CBB populations.

5-7

**Specific impact:** The DEIR does not address CBB. Without appropriate avoidance and minimization measures for CBB, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with construction of the Project include loss of foraging plants, changes in foraging behavior, burrow

collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality in violation of Fish and Game Code.

**Evidence impact is potentially significant:** CBB was once common throughout most of the central and southern California; however, it now appears to be absent from most of it, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to CBB associated with the Project, CDFW recommends incorporating the following mitigation measures into the EIR prepared for this Project and implementing the following mitigation measures as a condition of approval for the Project.

5-7  
cont'd

### **Recommended Mitigation Measure 18: CBB Surveys**

CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance associated with the Del Puerto Canyon Road and utility relocations, and potential impacts resulting from inundation as a result of the new reservoir.

### **Recommended Mitigation Measure 19: CBB Take Avoidance**

If surveys cannot be completed, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

### **Recommended Mitigation Measure 20: CBB Take Authorization**

If CBB is identified during surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground-disturbing activities may be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081(b).

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## **COMMENT 7: Western spadefoot**

**Issue:** Western spadefoot inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the breeding season (Thomson et al. 2016). Review of aerial imagery indicates that the Project contains these requisite habitat elements.

**Specific impact:** Without appropriate avoidance and minimization measures for western spadefoot, potentially significant impacts associated with ground disturbance include water inundation as a result of the proposed new reservoir, collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Evidence impact is potentially significant:** Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to western spadefoot (Thomson et al. 2016). The Project area is within the range of western spadefoot and contains suitable upland habitat (i.e., grasslands interspersed with burrows) and breeding habitat (i.e., vernal pools and swales). As a result, ground-disturbing activities associated with development of the Project site have the potential to significantly impact local populations of this species.

5-8

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to western spadefoot associated with the Project, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

### **Recommended Mitigation Measure 21: Western Spadefoot Surveys**

CDFW recommends that a qualified biologist conduct focused surveys for western spadefoot and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance.

### **Recommended Mitigation Measure 22: Western Spadefoot Avoidance**

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows.

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## **COMMENT 8: Tule Elk**

**Issue:** Elk are California's largest land mammal and an important wildlife resource whose population growth in recent decades has been of great interest to the public.

5-9

Prior to non-indigenous settlement, it is estimated the elk population in California was more than 500,000 animals. Non-indigenous settlement decimated California's elk populations. By 1872, only a few tule elk remained in the San Joaquin Valley. Conservation organizations and hunters were able to restore elk to the California landscape. Elk population growth since 1970 has been significant and California now supports approximately 5,700 tule elk (CDFW 2018). CDFW regional biologists have confirmed tule elk within and adjacent to the Project site. The Project has the potential to impact this species.

**Specific impact:** Tule elk are known to utilize the Project site and adjacent areas. During routine population assessment surveys in early November 2019, several groups of tule elk were sighted by CDFW staff west of the Project site; tule elk were also found to regularly utilize the lower flats in the Project site. Potential impacts to tule elk as a result of the Project includes loss of habitat, loss of habitat connectivity to other elk herds, mortality resulting from vehicle collisions, and entanglement with fences and other structures. Without appropriate mitigation measures for tule elk, potentially significant impacts include loss of habitat.

5-9  
cont'd

**Evidence impact is potentially significant:** Habitat loss and fragmentation resulting from development or conversion to other land uses are the primary threat to tule elk. The Project site is within the range of tule elk and is utilized by tule elk based on CDFW population assessment surveys. As a result, ground-disturbing activities associated with development of the Project site have the potential to significantly impact local populations of this species.

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to tule elk, CDFW recommends incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 23: Tule Elk habitat**

The Project as proposed will result in the loss of tule elk habitat. CDFW recommends that tule elk habitat be conserved at a minimum 1:1 ratio to the loss of habitat within the general vicinity of the Project site.

#### **Recommended Mitigation Measure 24: Fencing**

Physical barriers such as fencing, mesh wire, panels, electric fence, and visual barriers (such as landscaping cloth hung between fence poles) have the potential to impact tule elk. CDFW recommends not utilizing physical barriers that may impede tule elk habitat connectivity to other elk herds, access to water, and foraging areas.

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**COMMENT 9: Tracy's eriastrum, and other California Rare Plant Rank (CRPR) plant species**

**Issue:** Tracy's eriastrum and other CRPR plant species are known to occur in the vicinity of the Project area (CDFW 2020). Tracy's eriastrum occurs in chaparral and Valley and foothill grassland habitat (CNPS 2020).

**Specific impact:** Without appropriate avoidance and minimization measures potential impacts to special-status plant species include inability to reproduce and direct mortality. Unauthorized take of species listed as threatened, endangered, or rare pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

**Evidence impact would be significant:** Tracy's eriastrum and many of the CRPR-listed plant species above are threatened with habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species (CNPS 2020), all of which may be unintended impacts of the Project. Therefore, impacts of the Project have the potential to significantly impact populations of the species mentioned above.

5-10

**Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to special-status plants associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's CEQA document.

**Recommended Mitigation Measure 25: Special-Status Plant Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of project implementation, to determine if the Project area or its vicinity contains suitable habitat for special-status plant species.

**Recommended Mitigation Measure 26: Focused Surveys**

CDFW recommends that the Project area be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

### **Recommended Mitigation Measure 27: Special-Status Plant Avoidance**

CDFW recommends special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

5-10  
cont'd

### **Recommended Mitigation Measure 28: Special-Status Plant Take Authorization**

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. However; if take cannot be avoided, take authorization would need to occur through issuance of an ITP by CDFW to comply with Fish and Game Code section 1900 and California Code of Regulations, title 14, section 786.9, subdivision (b).

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## **II. Editorial Comments and/or Suggestions**

### **Riparian impacts**

**Issue:** The proposed Project and associated reservoir effectively inundate and remove the aquatic and riparian habitat and associated species within the Del Puerto Creek and surrounding area of the Project footprint. The DEIR does not include a hydrologic study or other information that identifies and analyzes the impacts of the removal of riparian woodland and aquatic habitats in the Del Puerto Creek or the species supported by these habitats.

5-11

**Specific Impact:** Watershed and habitat protection are vital to the CDFW's management of California's diverse fish, wildlife, and plant resources. The riparian zone of Del Puerto Canyon supports riparian woodland habitat and associated annual grassland, and may potentially support several sensitive species listed as threatened or endangered under CESA and the Federal Endangered Species Act (FESA), as well as several State special-status species including least Bell's vireo, San Joaquin kit fox, Swainson's hawk, California red-legged and foothill yellow-legged frog. CDFW is concerned that the loss of riparian habitat will result in direct and cumulative adverse impacts to these fish and wildlife and other public trust resources supported by the Del Puerto Creek and its associated riparian habitats.

## **Recommended Analysis**

The DEIR does not include a hydrologic study or other information that identifies and analyzes the impacts to the riparian woodland and aquatic habitats in the Del Puerto Creek or the species supported by these habitats.

### Study Plan

Where a project could affect the hydrologic regime of a watershed, the necessary elements to successfully maintain the downstream biological diversity and avoid impacts to threatened and endangered species needs to be identified to facilitate sound management decisions. CDFW recommends the Lead Agency develop and implement a site-specific study to evaluate potential Project-related impacts to the Del Puerto Creek and determine appropriate measures to reduce impacts due to the proposed diversion to a less than significant level. CDFW recommends that the MND be amended and recirculated with the results of this study and proposed mitigation and monitoring measures.

At a minimum, the study plan should include the following:

1. Identification of minimum bypass flows necessary to maintain the health and perpetuation of aquatic and riparian resources in the Del Puerto Canyon downstream of the reservoir.
2. A complete updated (within the last two years) assessment of the flora and fauna within, adjacent to, and downstream of the Project footprint with particular emphasis on identifying endangered, threatened, and sensitive species and sensitive habitats. The assessment should be based on the findings of appropriate applicable protocol surveys to determine the presence or absence of special-status species within the Project footprint of Del Puerto Canyon. These surveys should be conducted on the project site, including adjacent habitats and downstream reaches affected by the discharge.
3. A quantification of the loss of biological resources that will occur as a result of the inundation of Del Puerto Canyon and associated tributaries, and an evaluation of the impacts to resources.
4. A mitigation plan to replace lost plant, fish, and/or wildlife resources including, but not limited to the species or habitats described above. This plan must include a survey which quantifies the loss of resources that will occur as a result of this project. It must also specify measures that will be taken to offset impacts to resources and outline specific mitigation and monitoring programs.

5-11  
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5-12 **Lake and Streambed Alteration:** The Project is subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, such as the unnamed stream within the Project site, as well as those that are perennial in nature.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement (LSAA). If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays.

5-13 **Water Rights:** Project-related diversions to storage will impact riparian, wetland, fisheries and terrestrial (upland) wildlife species and their habitats. The Project will capture surface flow from Del Puerto Creek, and additional surface storage would come from existing contracts that the Del Puerto Water District (DPWD) and the San Joaquin River Exchange Contractors (Exchange Contractors) have for Central Valley Project (CVP) water supply delivered through the Delta-Mendota Canal (DMC), which would be diverted and pumped from the DMC to the proposed reservoir.

The Project proponents have applied to the SWRCB Division of Water Rights for the right to store surface flow from Del Puerto Creek. As stated previously, CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Given the potential for impacts to sensitive species and their habitats, it is advised that consultation with CDFW occur well in advance of the SWRCB water right application process.

5-14 **Federally Listed Species:** CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, CTS and SJKF. Take under FESA is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

5-15

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## FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

5-16

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CDFW appreciates the opportunity to comment on the Project to assist Del Puerto Water District in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014, extension 254, or by electronic mail at [Jim.Vang@wildlife.ca.gov](mailto:Jim.Vang@wildlife.ca.gov).

Sincerely,



Julie A. Vance  
Regional Manager

cc: See Page Twenty

Anthea Hansen  
Del Puerto Water District  
January 27, 2020  
Page 20

cc: United States Fish and Wildlife Service  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825

State Water Resources Control Board  
Division of Water Rights  
Post Office Box 2000  
Sacramento, California 95812

United States Army Corps of Engineers  
San Joaquin Valley Office  
1325 "J" Street, Suite #1350  
Sacramento, California 95814-2928

ec: Annette Tenneboe, Bob Stafford, and Cristen Langner; CDFW

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Gavin Newsom  
Governor

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



Kate Gordon  
Director

January 28, 2020

Anthea G. Hansen  
Del Puerto Water District  
17840 Ward Avenue/P.O. Box 1596  
Patterson, CA 95363

Subject: Del Puerto Canyon Reservoir  
SCH#: 2019060254

Dear Anthea G. Hansen:

The State Clearinghouse submitted the above named EIR to selected state agencies for review. The review period closed on 1/27/2020, and the comments from the responding agency (ies) is (are) available on the CEQA database for your retrieval and use. 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."

6-1

**Check the CEQA database for submitted comments for use in preparing your final environmental document: <https://ceqanet.opr.ca.gov/2019060254/3>**. Should you need more information or clarification of the 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

cc: Resources Agency

January 27, 2020

**VIA U.S. MAIL AND EMAIL**

Anthea G. Hansen  
Del Puerto Water District  
P.O. Box 1596  
Patterson, CA 95363  
Email: ahansen@delpuertowd.org

**Re: Draft Environmental Impact Report for the Del Puerto Canyon Reservoir**

Dear Ms. Hansen:

As discussed in the Draft Environmental Impact Report, State Clearinghouse Number 2019060254 ("EIR") for the planned Del Puerto Canyon Reservoir ("Project"), currently being circulated for public comment, the City of Patterson ("City") is located just east of the Project and is the nearest municipality to the Project. Consequently, City residents are concerned with the impacts to their health and safety from the Project. City resident concerns are varied, but the most urgent concerns that have been raised in regard to the Project include: (1) flooding in the City in the event of any dam failure; (2) the potential for additional Federal Emergency Management Agency ("FEMA") requirements; (3) air quality impacts during construction, as well as operation of the Project; and (4) impacts on traffic at the Sperry Avenue interchange. This letter is submitted to ensure that all public health and safety concerns for City residents are adequately addressed and properly mitigated in the EIR.

7-1

1. Flooding as a Result of Dam Failure

The City is the first urbanized, developed area that any flood waters would inundate in the event of a dam failure. Some estimates indicate that the City could be faced with up to ten (10) feet of water should a Project dam failure occur. With this potential impact, the safety of City residents must be seriously considered and

7-1  
cont'd

addressed in the EIR and through operational requirements associated with the Project. This includes providing for emergency notification and evacuation planning as well as clear operating standards for the Project to guard against the potential emergency of a dam failure. City residents' safety is a paramount concern for the City, and both preventing as well as responding to emergency situations associated with the Project must be fully addressed and mitigated in the EIR. This planning and mitigation must comply with all local, state, and federal requirements to provide the highest level of protection to City residents.

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## 2. Additional FEMA Requirements

7-2

In addition to the plan to address emergency issues from a possible dam failure, the Project also raises concerns for the impact on City housing options and compliance with state and federal laws for properties located in FEMA identified flood hazard zones. There is the potential that additional property within the City could be subject to federal and state laws for insurance and notification requirements as a consequence of the Project. The City has seen an increase in its population through its robust housing market and related commercial and industrial development. Changes to insurance and notice requirements under state and federal law for properties within the City as a consequence of the Project may result in a cooling to this sector of the City's economy and stagnate the housing market. The EIR must analyze the federal and state law requirements to determine if additional City properties will be subject to new requirements in FEMA identified flood hazard areas.

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## 3. Air Quality Impacts

7-3

During both construction and operation, the Project will increase the amount of greenhouse gases ("GHG") and other air pollutants released in the area. First, during construction, the Project will increase the particulates in the air from moving large amounts of earthen material to build the Project, increase the number of truck trips in the City's vicinity, and require an increase in heavy vehicle operation near the City. Then, during operation of the Project, there will be an increase in GHG emissions to pump water to the Project. These increases will add to the already existing nonattainment status of the San Joaquin Valley Air Basin and expose City residents to continued degradation of their air quality. The Project must analyze and implement mitigation to address these impacts to ensure that City residents are not unduly burdened with reduced air quality and increased GHG emissions.

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#### 4. Traffic Impacts

Access to the Project from Interstate 5 will be from the Sperry Avenue onramps and offramps. Sperry Avenue is the main point of access to the City from Interstate 5. The intersection of the onramp/offramps and Sperry Avenue already experiences congestion, especially during peak hours. The increase in traffic is likely to significantly slow City residents' travel to and from the City, especially in the near-term when large trucks and other heavy vehicles will be required for construction of the Project. To ensure that the City can still be accessed from Interstate 5, both during and after construction of the Project, there must be mitigation in place to provide traffic control, allowing travelers to access the City in a timely manner. Commuting to and from and access to the City is integral to City residents and must be analyzed and addressed in the EIR to ensure that the City is not cutoff from one of the main travel corridors in the area.

7-4

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#### 5. Aesthetics

The Project is located in a largely undeveloped area on the westside of Interstate 5, with a large portion of the Project located within the City's sphere of influence. Some of the Project will obstruct views into Del Puerto Canyon from Interstate 5. As Interstate 5 is one of the main points of access to the City, changes to the aesthetics of the area from the Project as travelers approach the City must be addressed in the EIR. The Project will also impact the aesthetic environment of Del Puerto Canyon that currently provides recreational activities such as birdwatching and photography to City residents. The impact to the aesthetics of Del Puerto Canyon must be addressed in the EIR.

7-5

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#### 6. Biological Resources

There are several special status species habitats that exist in the Project vicinity. With the construction and use of the Project, this habitat will be altered and permanently changed. Impacts on biological resources from the Project are likely to be significant. Consequently, the EIR must not only analyze the impacts of the Project, but it must provide mitigation to any significant impacts to ensure that biological resources are not burdened in an unreasonable manner as a result of the Project. The Project area is currently used for birdwatching and wildlife viewing. Without thorough analysis and appropriate mitigation there will no longer be the opportunity for City residents to engage in these activities near Del Puerto Canyon.

7-6

7. Additional Concerns

7-7 Finally, the EIR must address any impacts to cultural resources and recreation associated with the Project. The Project is located in close proximity to the City with the potential to impact City residents' cultural and recreational opportunities. Native American cultural resources, including human remains, may exist near the Project. The EIR must address this impact and provide a plan to address the discovery of any human remains. Additionally, the Project is located in an area currently used for recreation including birdwatching, wildlife viewing, photography, bicycling, and motorcycling. The Project may offer additional recreational activities or have an impact on the current recreation that occurs in the area. Cultural resources and recreation are vital elements of the City's services to address the health and welfare of its residents and any impacts to those interests must be addressed and mitigated in the EIR.

---

Thank you for the opportunity to comment on the EIR and ensure that the health and safety concerns of City residents are properly addressed and mitigated. The City looks forward to future discussions of the Project with the Del Puerto Water District.

Kind regards,

Churchwell White LLP



Douglas L. White



**CHIEF EXECUTIVE OFFICE**

*Jody L. Hayes*  
*Chief Executive Officer*

*Patricia Hill Thomas*  
*Chief Operations Officer/  
Assistant Executive Officer*

*Keith D. Boggs*  
*Assistant Executive Officer*

*Patrice M. Dietrich*  
*Assistant Executive Officer*

**STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE**

January 27, 2020

Anthea Hansen, General Manager  
Del Puerto Water District  
117840 Ward Avenue  
PO Box 1596  
Patterson, CA 95363

**SUBJECT: ENVIRONMENTAL REFERRAL – DEL PUERTO WATER DISTRICT – DEL  
PUERTO CANYON RESERVOIR PROJECT – NOTICE OF DRAFT  
ENVIRONMENTAL IMPACT REPORT AND PUBLIC MEETING**

Ms. Hansen:

Thank you for the opportunity to review the above-referenced project.

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and provides the following comments:

**Transportation and Traffic (Circulation)**

1. Chapter 3.13 Traffic and Transportation only proposes one alternative for the roadway realignment of Del Puerto Canyon Road as shown on page 3.13-2. As previously communicated through initial meetings, including the September 16, 2019 meeting between Stanislaus County Public Works and Project Partners, and ongoing discussions with the Project Partners, the alignment shown on page 3.13-2 is not an alignment Stanislaus County Department of Public Works (DPW) will support as the maintaining agency for public highways. The Department of Public Works looks forward to finalizing a new alignment with the Project Partners.

8-1

Additionally, Appendix G: Transportation Impact Assessment of the DEIR analyzes a second alternative, which is not addressed in the DEIR. The DEIR should at a minimum compare all alternatives and propose a preferred alternative with the agreement of Stanislaus County Department of Public Works. If a final (approved) alternative is not included in this environmental document, the Project Partners will need to conduct further Environmental Impact Assessments for an approved alignment, as discussed on page 2-8 of the DEIR.

**ENVIRONMENTAL REFERRAL – DEL PUERTO WATER DISTRICT – DEL PUERTO CANYON  
RESERVOIR PROJECT – NOTICE OF DRAFT ENVIRONMENTAL IMPACT REPORT AND  
PUBLIC MEETING**

**January 27, 2020**

**Page 2**

- 8-2      2. Section 3.13.2: Regulatory Framework on Page 3.13-6 should include reference to the latest and ongoing revisions of the 2014 California Manual on Uniform Traffic Control Devices, currently in its 4th Revision effective as of March 29, 2019. These are the relevant, adopted regulatory standards in the State of California for use on public roadways.

---

The ERC appreciates the opportunity to comment on this project.

Sincerely,



Patrick Cavanah  
Sr. Management Consultant  
Environmental Review Committee

PC:ss

cc:      ERC Members





**Mount Diablo Audubon Society**

P.O. Box 53  
Walnut Creek, California 94597-0053  
[www.diabloaudubon.com](http://www.diabloaudubon.com)

January 16, 2020

Anthea G. Hansen  
Del Puerto Water District  
P. O. Box 1596  
Patterson, CA 95636

RE: Del Puerto Canyon Reservoir DEIR

Dear Ms. Hansen:

On behalf of the 400+ members of the Mt. Diablo Audubon Society, I appreciate the opportunity to comment on the draft Environmental Impact Report prepared for the proposed Del Puerto Canyon Reservoir project.

As the DEIR itself states, this project as proposed would “permanently alter the natural resources of lower Del Puerto Canyon.” Figure 3.1-5 in the report is a visual simulation of the 300-foot-high main dam which demonstrates the massive scale of this project. The large footprint of inundation, as well as construction of the relocated road and infrastructure, would result in temporary as well as permanent loss of habitat for many species. The three-year construction period would cause disruption and potential injury and mortality of special status and migratory nesting birds, other wildlife and native plants. Finally, the reservoir when completed would be a large and permanent obstruction to connectivity and movement in what is a critical wildlife corridor. 9-1

Our members are of course concerned about substantial adverse impacts to Western Burrowing Owl, White-tailed Kite, Tri-colored Blackbird, Loggerhead Shrike, Golden Eagle and Swainson’s Hawk. In addition, we are concerned about impacts to other migratory nesting birds, many of which are site loyal and would never return to the area. But the significant adverse impacts to all wildlife must be considered. The proposed 1:1 mitigation measures would never truly compensate for the lost habitat in what is now a relatively pristine, unlit and undeveloped area. 9-2

Sadly, this project would also eliminate opportunities for wildlife viewing which our chapter members have enjoyed for many years. Although not considered a “significant impact” under CEQA, it would be a significant impact for us and others who enjoy Del Puerto Canyon’s serene beauty and wildlife. 9-3

Sincerely,

  
Nancy H. Wenninger  
Conservation Chair

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Friday, January 24, 2020 10:09 AM  
**To:** Sandra Watts  
**Subject:** Fwd: Comments on Del Puerto Canyon Reservoir Darft EIR

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** David Froba <froba@comcast.net>  
**Date:** 1/24/20 8:54 AM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** Salvatore Salerno <bees2@sbcglobal.net>  
**Subject:** Comments on Del Puerto Canyon Reservoir Darft EIR

Anthea Hansen,

Del Puerto Water District

Ms. Hansen, This is the public comment on the Draft EIR on the Del Puerto Canyon Reservoir from the Board of Directors of Stanislaus Audubon Society. We reference the following two sections of the Draft EIR.

10-1

(at 3.4.62 to 63) We agree that the loss of riparian habitat along Del Puerto Creek requires mitigation. For the protection of birds and other wildlife, a well-executed mitigation plan would go a long way to compensate for the loss of nesting and foraging habitat of virtually all of the biological species that need such protection. Our concern is that the proposed plan in the EIR is not specific enough. It needs to specifically state that the mitigation acreage would be "permanently protected" by means of a fence to keep cattle from those habitats. In addition, it needs to specify what the configuration of the acreage would be. We have suggested that the acreage be in the form of fencing along both sides of the creek upstream for 100 feet on each side. Since riparian habitat by its very nature develops in a thin line along a stream or river, any other way of allocating the acreage would not be adequate mitigation. Also, from the standpoint of the District, it would not be more costly or onerous to secure and maintain the same acreage of mitigation land, whether it is in a ribbon, or in any other shape or configuration.

10-2

(at 3.12.11 to 12) The Draft EIR states that "The CEQA environmental checklist does not directly address recreational uses associated with the educational values of wildlife viewing." First, wildlife observation, particularly as practiced by Audubon members, is partly recreational and educational, but of scientific value as well. EBird postings provide for a database that indicates the status, distribution, and overall health of many bird species. Secondly and more importantly, CEQA requires addressing the recreational, educational, and scientific uses in question, even if they are not on the "checklist." Therefore, any significant impact on wildlife observation needs to be addressed and mitigated. In its current state, the DPC road at the proposed reservoir site has multiple places to pull off the road and park to allow wildlife observation. Birders and other educational observers use these pull-outs daily. The mitigation that we feel to be required is to specially require that comparable pull-outs be incorporated in the design and construction

10-2  
cont'd

of the new road. We understand that others at the meetings have evidenced disappointment that the reservoir would not create recreational opportunities. Regardless of the merits of that dispute, we understand that the district is under no obligation under CEQA to create recreation. But that is not what we are addressing. We are talking about mitigating the loss of preexisting recreational use, not creating new use. There is an obligation for that.

---

Sincerely,

Stanislaus Audubon Society  
David Froba, treasurer  
Salvatore Salerno, president

Sent from my iPad



CALIFORNIA  
NATIVE PLANT SOCIETY

January 27, 2020

Anthea G. Hansen  
General Manager  
Del Puerto Water District  
P.O. Box 1596  
Patterson, CA 95363.  
Submitted electronically to: ahansen@delpuertowd.org

**Re: Draft Environmental Impact Report, Del Puerto Canyon Reservoir Project  
SCH# 2019060254**

Dear Ms. Hansen:

These comments are submitted on behalf of the California Native Plant Society (CNPS) on the Draft Environmental Impact Report (DEIR) for the proposed Del Puerto Canyon Reservoir Project.

CNPS is a non-profit environmental organization with more than 10,000 members in 35 Chapters across California and Baja California, Mexico. CNPS's mission is to protect California's native plant heritage and preserve it for future generations through the application of science, research, education, and conservation. CNPS works closely with decision-makers, scientists, and local planners to advocate for well-informed policies, regulations, and land management practices.

11-1

We recommend the following points be addressed in the Final EIR (FEIR) to adequately avoid and mitigate for impacts to native plants and habitats. We have concerns that special-status plants and natural habitats currently on the project site have been insufficiently evaluated in the Draft EIR and believe that the proposed mitigation measures are infeasible and would not reduce significant impacts to plants to less than significant.

#### **Overall EIR Comments:**

- In general, we find the DEIR cursory and lacking in the detail and analysis required for review under CEQA. For example, while repeatedly mentioning that the project would provide "approximately 82,000 acre-feet" of new water storage capacity, and while going into some detail regarding dam operations; the project description does not provide an estimate of the actual number of acres that would be affected by the project and associated project components.
- 
- The DEIR does not provide an estimate of the acreage that will be temporarily impacted by construction and staging activities.
- 

11-2

11-3	<ul style="list-style-type: none"> <li>Not providing an estimate of the project acreage is a substantial oversight, particularly since it can be inferred (from Table 3.4-1) that the project would impact over 2,000 acres of undeveloped land. Since this acreage estimate is not contained in the project description, it is impossible to determine if the environmental analysis in this DEIR is accurate, as environmental analysis is based on what is listed in this project description. The DEIR is also unclear if the acreage estimates contained in Table 3.4-1 include construction and staging areas and conveyance facilities. Please revise this table in the FEIR to include the acreages of all areas that are expected to be temporarily impacted by the proposed project.</li> </ul>
11-4	<ul style="list-style-type: none"> <li>The project description in the DEIR does not provide adequate maps and figures to illustrate the areas that will be affected by the proposed construction, construction staging, road realignment, and dam inundation. Please revise the maps and figures in the FEIR to include all areas potentially affected by all site features of the proposed project. Please revise the maps and figures in the FEIR to include all areas potentially affected by all site features of the proposed project. Please show these jurisdictional boundaries on a figure in the FEIR.</li> </ul>
11-5	<ul style="list-style-type: none"> <li>The DEIR discusses the requirements, goals, and policies of the County of Stanislaus and the City of Patterson at various points in the text but does not provide a map or drawing in the project description illustrating where the boundaries of these agencies are located in relation to the project components. For this reason, it is impossible to determine which jurisdiction's plans and policies apply to various project components.</li> </ul>

## **Section 3.4, Biological Resources – Terrestrial**

### **3.4.1 Environmental Setting**

11-6	<p><u>Vegetation Types</u>: The vegetation maps were compiled using aerial photos and have not been field-verified. Sensitive plant communities and habitats may be present that could not be identified by the vegetation mapping effort. Since it is impossible to adequately identify sensitive plant communities that could be affected by the proposed project, it is also impossible to substantively determine if sensitive plant communities would be affected by this project. Please provide an analysis in the FEIR that details sensitive plant communities based on field surveys.</p>
11-7	<p><u>Special-Status Species</u>: Biologists visited the project site in June and July 2019 to conduct a wetland delineation survey,<sup>1</sup> and again in October 2019 for a botanical survey. Since the blooming periods for most of the rare plants with potential to occur on the project site are detectable only in the spring (February/March to May/June), the DEIR fails to determine baseline conditions and does not disclose the extent of the potential impacts of project actions. Please provide conclusions on the presence of these plant species in the FEIR that are based on field surveys taken during the blooming periods (or other applicable diagnostic criteria) for these special-status plants.</p>
11-8	<p>The DEIR discusses potential impacts to four plants listed as rare in the California Native Plant Society Inventory<sup>2</sup> and were either seen during surveys or were documented in the past. This information is provided in the special-status plant assessment in Appendix B3.<sup>3</sup></p>

<sup>1</sup> The draft wetland delineation survey mentioned in the DEIR text and Appendix B3 was not provided for public review.

<sup>2</sup> California Native Plant Society, Inventory of Rare and Endangered Plants. <http://www.rareplants.cnps.org/>

<sup>3</sup> ICF. "Re: Special-Status Plant Assessment – Del Puerto Canyon Reservoir Project." November 18, 2019.

These four species are:

Species	CNPS Rare Plant Rank	Blooming Period	DEIR Population Estimate
<b>Big tarplant</b> ( <i>Blepharizonia plumosa</i> )	1B.1: Rare or endangered in California and elsewhere (1B)/ Seriously endangered in California (.1)	July-October	60.9 acres total, 45.25 acres of occupied habitat mapped on project site.
<b>Lemmon's jewelflower</b> ( <i>Caulanthus lemmonii</i> )	1B.2: Rare or endangered in California and elsewhere (1B)/ Fairly endangered in California (.2)	February-April	Collected in the study area in 1930's. Presumed extant.
<b>Diamond-petaled California poppy</b> ( <i>Eschscholzia rhombipetala</i> )	1B.1: Rare or endangered in California and elsewhere (1B)/ Seriously endangered in California (.1)	March-April	Collected in the study area in 1940. Presumed extant.
<b>California alkali grass</b> ( <i>Puccinellia simplex</i> )	1B.2: Rare or endangered in California and elsewhere (1B)/ Fairly endangered in California (.2)	March-May	80 occurrences, two in the county. New population mapped on project site.

Based on the analysis in Appendix B3 of the DEIR, potential habitat for 15 additional rare plant species is present in the study area and/or road relocation area.<sup>4</sup> These species, their rarity, and their blooming periods are listed below:

11-8  
cont'd

Species	Federal/State Listing, CNPS Rare Plant Rank	Blooming Period
<b>Santa Clara thorn-mint</b> ( <i>Acanthomintha lanceolata</i> )	4.2: Limited distribution in California/Fairly endangered	March-June
<b>red-flowered bird's-foot trefoil</b> ( <i>Acmispon rubriflorus</i> )	1B.1: Rare or endangered in California and elsewhere (1B)/Seriously endangered in California (.1)	April-June
<b>large-flowered fiddleneck</b> ( <i>Amsinckia grandiflora</i> )	<b>Federally Endangered/State Endangered</b> , 1B.1: Rare or endangered in California and elsewhere (1B)/Seriously endangered in California (.1)	March-May
<b>California androsace</b> ( <i>Androsace elongata</i> ssp. <i>acuta</i> )	4.2: Limited distribution in California /fairly endangered	March-June
<b>chaparral harebell</b> ( <i>Campanula exigua</i> )	1B.2: Rare or endangered in California and elsewhere (1B)/Fairly endangered in California (.2)	May-June
<b>Brewer's clarkia</b> ( <i>Clarkia breweri</i> )	4.2: Limited distribution in California/fairly endangered	April-June
<b>small-flowered morning-glory</b> ( <i>Convolvulus simulans</i> )	4.2: Limited distribution in California/fairly endangered	March-July
<b>Rattan's cryptantha</b> ( <i>Cryptantha rattanii</i> )	4.3: Limited distribution in California/not very endangered in California	April-July

<sup>4</sup> The Draft EIR states that the project site has potential habitat for 17 additional rare plant species.

11-8  
cont'd

Species	Federal/State Listing, CNPS Rare Plant Rank	Blooming Period
<b>Hospital Canyon larkspur</b> ( <i>Delphinium californicum</i> var. <i>interius</i> )	1B.2: Rare or endangered in California and elsewhere (1B)/Fairly endangered in California (.2)	April-June
<b>San Benito poppy</b> ( <i>Eschscholzia hypocoides</i> )	4.3: Limited distribution in California/not very endangered in California	March-June
<b>showy madia</b> ( <i>Madia radiata</i> )	1B.1: Rare or endangered in California and elsewhere (1B)/Seriously endangered in California (.1)	March-May
<b>Hall's bush mallow</b> ( <i>Malacothamnus hallii</i> )	1B.2: Rare or endangered in California and elsewhere (1B)/Fairly endangered in California (.2)	(April) May- September (October)
<b>shining navarretia</b> ( <i>Navarretia nigelliformis</i> subsp. <i>radians</i> )	1B.2: Rare or endangered in California and elsewhere (1B)/Fairly endangered in California (.2)	(March) April-July
<b>San Benito pentachaeta</b> ( <i>Pentachaeta exilis</i> subsp. <i>aeolica</i> )	1B.2: Rare or endangered in California and elsewhere (1B)/Fairly endangered in California (.2)	March-May
<b>forget-me-not (warty)</b> <b>popcornflower</b> ( <i>Plagiobothrys</i> <i>verrucosus</i> )	2B.1: Rare or Endangered in California, common elsewhere (2B)/Seriously endangered in California (.1)	April-May

Of the four species that have been documented in the project area, and the 15 additional species with potential habitat on the project site, only two species were observed during site visits by the project's biological consultants (big tarplant and California alkali grass). For information on the proper design of protocol-level botanical surveys please see the Protocols<sup>5</sup> prepared by the California Department of Fish and Wildlife (CDFW).

Private lands (such as those included in the project site) are often difficult for botanists to access, and the low rate of herbarium collections and database reports from the area cannot be inferred as the confirmation that rare species are absent. The California Natural Diversity Database (CNDDB) search included in Appendix B3 provides an introductory overview of the rare plants that may be present on the site. Botanical surveys over large areas, such as the project site (apparently over 2,000 acres), that have not been frequently surveyed in the past often result in the discovery of new species and populations of rare plants. Conclusions about the impacts to rare plants is not possible without thorough pre-project botanical surveys conducted during appropriate blooming times per CDFW Protocols.

### 3.4.3 Impact Analysis, Methodology for Analysis.

This section states:

11-9

“Permanent direct impacts on terrestrial resources were quantified using the estimated amount of land cover that would be converted as a result of construction of new facilities and the operation of the project, which would be from the filling of the reservoir. Temporary impacts on biological resources were quantified using the estimated amount of land cover that would be temporarily disturbed during project construction but would be restored to pre-project conditions within one year of disturbance.”

<sup>5</sup> State of California, California Natural Resources Agency, Department of Fish and Wildlife. “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. March 20, 2018. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>



Although the DEIR states that the permanent and temporary impacts were quantified using GIS software, as stated above, the DEIR does not contain what the estimated amount of land cover that would be affected by the project. The size of the areas affected by temporary and permanent project activities needs to be disclosed in the FEIR, with a breakdown of the acreage affected by temporary/permanent impacts in each habitat type (e.g. grasslands, oak woodlands, etc.)

11-9  
cont'd

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### **Impact BIO-TERR-1a, Special-Status Plants.**

This section describes permanent and temporary impacts to special-status plants. However, it concludes that the full extent of impacts on special-status plants is currently unknown, as botanical surveys for spring-blooming special-status plants have not been conducted for the study area. The DEIR relies on the special-status plant assessment in Appendix B3 for the evaluation of impacts, but admits that:

“...Although many spring- and -summer-blooming plants were still identifiable, many were not, and spring- and summer-blooming special-status plants were assumed to be neither evident nor identifiable. Therefore, no findings regarding spring- or summer-blooming special-status species are made in this report. The only special-status plant presumed to be evident and identifiable during the fall survey was big tarplant.”

11-10

As stated above, the failure to conduct appropriate and timely botanical surveys makes it impossible for the Lead Agency to make any meaningful impact determinations, develop feasible mitigation measures, or make defensible CEQA findings regarding botanical resources.

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### **Mitigation Measure BIO-TERR-1a Avoid and Minimize Impacts on Biological Resources**

This measure concludes that impacts on biological resources can be reduced to less than significant levels. This measure relies on standard best management practices for the avoidance of sensitive resources. However, due to the nature of the project’s impacts which would inundate a large area for the new reservoir, it is assumed that these measures would primarily apply to construction and staging areas. This means that there is no analysis to determine the terrestrial impacts related to the inundation of a large area for the reservoir.

11-11

Since impacts to rare plants and other biological resources cannot be avoided in the areas to be inundated, reliance on these standard construction avoidance measures to reduce impacts to less than significant is inadequate and incorrect. The FEIR must contain an analysis on the proposed inundation, make conclusions on the significance of the potential impacts, and determine if mitigation measures will reduce impacts identified in this process to less than significant levels.

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### **Mitigation Measure BIO-TERR-1b: Avoid and Compensate for Adverse Effects on Special-Status Plant Species Where Temporary Ground-disturbing Activities Would Take Place**

Mitigation Measure BIO-TERR-1b describes measures intended to reduce impacts to special-status species to less than significant levels. This measure describes the following steps: surveys for special-status plants following appropriate protocols of the CDFW during the appropriate season, and “no more” than three years before construction. The reports would be submitted to the lead agency, CDFW, and other responsible agencies “no less” than one year prior to construction. The project would also implement avoidance measures for plants outside of the inundation area.

11-12

We question the ability of these proposed mitigation measures to reduce the impacts to special-status plants to less than significant, for the following reasons.



## Pre-construction Surveys

The CDFW protocols mentioned in the DEIR recommend conducting surveys early in the process to form the foundation for an adequate impact analysis.<sup>6</sup> Appropriate surveys for special-status plants should be completed prior to the development of mitigation measures. Complete survey information about the species that will be affected by the project and detailed, species-specific mitigation measures should be included in the EIR before the project is considered for approval.

Deferring botanical surveys to a date after the project's EIR is certified is not a suitable mitigation measure. This means that the public, resource agencies, and the scientific community have no way of knowing what botanical resources will actually be impacted by the project, and so it goes against the basic tenets of CEQA to provide agencies, decisionmakers and the public with enough information to make an informed decision regarding land use change. CEQA requires an accurate disclosure of baseline project conditions before a project is considered for approval. This allows for an objective and transparent review of a project's impacts and proposed mitigation measures. Deferring surveys until after project approval conflicts with the intent of CEQA, because it precludes disclosure of the magnitude and severity of the project's impacts. These surveys must be done now and the results need to be contained in the FEIR.

11-12  
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CEQA Guidelines Section 15121(a) state that "An EIR is an informational document which will inform public agency decision-makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project." The Guidelines Section 15151 go on to say that "An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences." Without providing decision-makers with relevant information on the project's biological impacts - how can they make an informed decision about this project?

Figure 2-9 (Construction Sequence) in the project description shows the conceptual project schedule. The EIR proposes to start utility relocation in Year 1, road relocation in Year 2, and the main dam/spillway construction in Year 3. The text suggests construction could start as early as 2022, depending on funding, design and permitting. There is no mention of biological surveys in this project timeline. Since the project proponent is proposing an aggressive construction timeline, botanical surveys should be completed this spring and summer (timing and site conditions must be appropriately timed to document all plant species present on the site). The results of these surveys should be presented in the FEIR for the review of the lead agency, resource agencies and the public for review and comment. These surveys must be completed prior to the project's approval.

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## Buffers and Activity Exclusion Zones

Mitigation Measure BIO-TERR-1b also states:

"Where surveys determine that a special-status plant species is present in or adjacent to a project area where temporary ground-disturbing activities would take place, project impacts on the species shall be avoided through the establishment of activity exclusion zones, within which no ground-disturbing activities will take place, including construction staging, or other temporary work areas. Activity exclusion zones for special-status plant species shall be established around each occupied habitat site, the boundaries of which shall be clearly marked with standard orange plastic construction exclusion fencing or its equivalent. The establishment of activity exclusion zones shall not be required if no construction-related disturbances will occur within 250 feet of the occupied

11-13

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<sup>6</sup> State of California, California Natural Resources Agency, Department of Fish and Wildlife. "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. March 20, 2018. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

habitat. The size of activity exclusion zones may be reduced through consultation with a qualified biologist and with concurrence from CDFW based on site-specific conditions.”

Since the location and population of size of special-status plants is mostly unknown (apart from two species), this measure can only be implemented following botanical surveys. As the appropriate timing for these surveys is February-June, the project proponent should be required to finalize construction and staging plans and activities after the biological surveys are completed and reviewed. Proceeding with construction, staging, and other ground-disturbance activities prior to completion of these surveys risks permanent damage to special-status plants and habitats.

11-13  
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### Compensation Habitat

After surveys are completed, the project proponents propose:

“compensation habitat for each affected species shall be acquired and permanently protected at a ratio of 2 acres protected for every 1 acre that would be lost. Compensation habitat shall consist of existing, off-site occupied habitat acquired in-fee, through conservation easements, or from a certified conservation bank.”

The DEIR concludes that implementation of this mitigation measure (protection of occupied habitat at a 2:1 ratio) would reduce the impact to special-status plants to less than significant. Since adequate information about special-status plants is not included in the DEIR, the mitigation measures proposed to reduce these significant impacts are infeasible and vague.

Based on this measure, if rare plants are found on the site, implementation of this measure may require the project proponent to locate off-site occupied habitat for potentially up to 19 rare plant species at a 2:1 ratio. Has the project proponent confirmed this required habitat is available for purchase or acquisition of easement and not already protected? Please disclose where equivalent acreage for any of the species is available for offsite mitigation. As previously stated, the DEIR has failed to disclose the amount of “occupied” habitat for rare plants on the project site. The density of plants on the site and the quality of the habitat should be equivalent or better in mitigation sites compared to the resident population on the project site.

11-14

In the case of big tarplant, over 90 acres of occupied habitat would need to be acquired in-fee or via the acquisition of conservation easements. Even though preliminary information about the size of the population of big tarplant on the project site is currently available, the DEIR does not identify where this mitigation acreage might be located or how it would be acquired.

The DEIR also suggests a “certified conservation bank” as a third option to protect the rare plants on site. Based on the current “Conservation and Mitigation Banks Established in California by CDFW” webpage,<sup>7</sup> there are currently no conservation and mitigation banks available to mitigate any of the 19 rare plant species with suitable habitat on site. The same is true of mitigation banks operated by the USFWS Sacramento Fish & Wildlife Office.<sup>8</sup> Since conservation banks are not available to mitigate the loss of these species, this part of the mitigation measure should be deleted from the EIR.

Please note that one of the species with potential habitat on the project site (large-flowered fiddleneck, *Amsinckia grandiflora*) is listed both by the Federal (FESA) and State (CESA) Endangered Species Acts as Endangered. Any listed species that are found would require the project proponent to obtain a

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<sup>7</sup> California Department of Fish and Wildlife. “Conservation and Mitigation Banks Established in California by CDFW” <https://wildlife.ca.gov/Conservation/Planning/Banking/Approved-Banks>. Accessed January 23, 2019.

<sup>8</sup> USFWS, Sacramento Fish & Wildlife Office. “Conservation Banks within Our Service Area.” <https://www.fws.gov/sacramento/es/Conservation-Banking/Banks/In-Area/>.

Biological Opinion from the US Fish and Wildlife Service (USFWS) and/or an Incidental Take Permit from the CDFW.

11-14  
cont'd For purposes of a take permit, CDFW must rely on information and analysis in an EIR. CDFW cannot issue an incidental take permit unless the EIR addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the fully mitigated requirements of an incidental take permit.

These permits are not guaranteed and are contingent upon the project being fully able to mitigate for impacts. If a population of this species was encountered on site, the project may not be able to mitigate impacts to this vulnerable species.

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#### Habitat Monitoring

After acquisition, monitoring of these dispersed conservation sites is described as follows:

“The compensation habitat shall be monitored annually to verify that the habitat suitability is maintained. An operations and management plan shall be prepared and implemented for each compensation habitat, with funding provided through an endowment, to monitor the habitat and determine and implement appropriate management measures to maintain the habitat. Annual monitoring reports shall be submitted to CDFW for review and determination that the project remains in compliance with the mitigation.”

11-15 Any mitigation measure requiring monitoring reports should specify:

- the frequency and duration in years when reports would be required,
- what success criteria are being monitored,
- who is responsible for submitting the reports, and
- what management or restoration measures are required.

The measure does not specify how large the endowment must be or how it would be managed. The measure does not specify what the CDFW’s responsibility is for ensuring the success of these dispersed habitat conservation areas as mitigation. Since the lead agency has not established performance standards for these sites, it is not clear how the CDFW would respond and what actions would be taken if the project proponent is found to be not in compliance with the mitigation. The CDFW has no legal authority to require remedial actions if conservation lands are not functioning as adequate habitat. There is no guarantee that these habitat areas (whether in-fee or by conservation easement) and special-status plants would be preserved in perpetuity. Please provide this specific information in the FEIR.

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#### Other Measures Not Included

11-16 The DEIR does not propose any measures for preserving plants prior to construction and inundation by the reservoir. These measures could include salvage of rare plants and seed-banking to preserve genetic material and allow the potential use of these species for future restoration sites in similar habitats.

11-17 Without reliable information on the species that occur -- and as a result, the level and types of project impacts on those species -- the DEIR cannot conclude that the proposed mitigation measures would reduce project impacts to less than significant levels. A conclusion of this nature would rely on the presumption that all possible impacts can be mitigated to a less than significant level, which clearly is unrealistic. In summary, the DEIR has not shown that **Mitigation Measure BIO-TERR-1b** is feasible, nor would the steps in this measure reduce the impacts to special-status plants to less than significant. Therefore, this information must be contained in the FEIR. Otherwise, this impact can only be characterized as Significant and Unavoidable.

### **Impact BIO-TERR-2 Substantial Adverse Effect on Riparian Habitat or Other Sensitive Natural Community.**

The project would result in the permanent removal of over 16 acres of riparian woodland and 19 acres of riparian habitats/wetlands. These impacts should be considered significant in the FEIR and mitigation measures/avoidance protocol needs to be identified. 11-18

Once again, the project proposes to acquire or permanently protect riparian habitat at a 1:1 ratio, without identifying the location of potential habitat to be acquired. The DEIR lacks details and specificity about how the monitoring and maintenance of this habitat would be accomplished. This specificity needs to be included in the FEIR.

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### **Impact BIO-TERR-5 Conflict with Local Policies or Ordinances Protecting Biological Resources**

A total of 39 acres of blue oak woodland would be lost as a result of the project. This is also a significant impact, and analysis and measures to reduce this impact need to be included in the FEIR. The project proposes a management plan “for the protection and enhancement of oak woodlands to offset the loss of oak woodlands from the project.” The location of oak woodland that would be acquired to offset these impacts is suggested, but specific details and a description of these areas and a long-term management plan is lacking. Without greater specificity, future acquisition of oak woodland habitat is speculative and would not reduce this impact to less than significant. 11-19

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### **Impact BIO-TERR-7. Spread invasive plant species such that there would be a substantial effect on special-status species, sensitive communities, or wetlands**

Appendix B3 to the DEIR notes that at least 30 invasive plant species were identified on the project site.

The DEIR states that

“Introduction or spread of invasive species into the project area during construction activities would not have a substantial adverse effect on special-status species, sensitive natural communities, or wetlands, because these resources would be permanently removed by the proposed project, as identified in BIOTERR-1, BIO-TERR-2 and BIO-TERR-3. If there were spread of invasive plant species during the construction phase, they would be inundated along with the other plants and habitats under reservoir operations.”

This impact statement implies that the entire project site would be inundated, which is clearly inaccurate, since the proposed project also includes the realigned roadway, dam faces, and conveyance and electrical facilities. No mitigation measures, or even best management practices (BMPs) are proposed in the DEIR to reduce the spread of invasive plants during and after construction are specified. This analysis ignores standard construction practices in California, particularly with regard to roadway construction and revegetation activities. 11-20

It is well established that invasive weeds disrupt ecosystem processes and degrade habitat for native plants and animals. Although some weed species are already present in the study area, the project has the potential to: (1) introduce new invasive plant species, and (2) facilitate the spread of existing invasive plant species. The California Invasive Plant Council has published guidelines for preventing the spread of invasive plants.<sup>9</sup> The BMPs described therein are feasible and they should be incorporated as required mitigation measures. Because the DEIR fails to incorporate any mitigation, potentially significant

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<sup>9</sup> Cal-Invasive Plant Council (Cal-IPC). 2012. “Preventing the Spread of Invasive Plants: Best Management Practices for Land Managers (3rd ed.)” Cal-IPC Publication 2012-03. California Invasive Plant Council, Berkeley, CA. Available at: <https://www.cal-ipc.org/resources/library/publications/landmanagers/>

11-20 impacts associated with the colonization and spread of weeds remain unmitigated. These measures must  
cont'd be contained in the FEIR.

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#### **Other Comments**

11-21 **2.4.4 Dam Facilities Construction, and 2.4-10 Environmental Commitments.**

Please specify measures for the revegetation of the dam and spillway areas post-construction in these sections, including measures to control invasive species. Please add a conceptual plant list of appropriate native plant species for this purpose, and add this plant list to the FEIR.

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Thank you for the opportunity to provide comments on the Draft EIR. Please feel free to contact us with any questions.

Sincerely,



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**Re:      Comments on the Del Puerto Canyon Reservoir  
         Draft Environmental Impact Report**

Dear Ms. Hansen and Mr. White:



On behalf of the undersigned organizations, we are writing to provide comments on the Del Puerto Water District (DPWD) Del Puerto Canyon Reservoir Draft Environmental Impact Report (DEIR.) As discussed below, the DEIR fails to comply with the California Environmental Quality Act (CEQA.) Specifically, the DEIR:

- Fails to provide an accurate project description.
- Fails to analyze the entire project.
- Fails to provide adequate information to the public about the potential, significant environmental effects of the proposed project.
- Fails to adequately inform the public about potential, significant geological impacts of the project
- Fails to adequately consider and discuss the potential alternatives.
- Fails to identify and include findings of a responsible agency

The DPWD must revise the DEIR to comply with the California Environmental Quality Act (CEQA) and recirculate the revised DEIR for public comment. (Cal. Code Regs. tit. 14 §§ 15088(a)(1)-(3), 15090.)

In addition, DPWD appears to have pre-judged the outcome, as they state “Comments received during the public review period will be addressed in a Response to Comments document which together with the DEIR, will constitute the Final EIR.” (Emphasis added.) This presumes the comments will not result in revision and recirculation of the DEIR. (p. 1-7, 1.6.3.)

Thank you for accepting these comments on the Draft Environmental Impact Statement for the Del Puerto Canyon Reservoir. Please feel free to contact us with any questions.

Sincerely,



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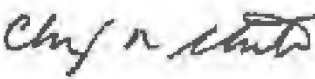
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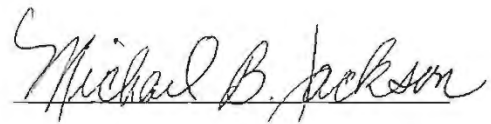
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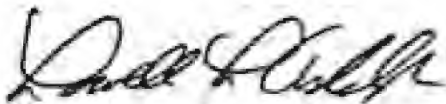
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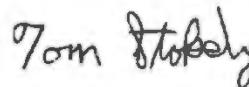
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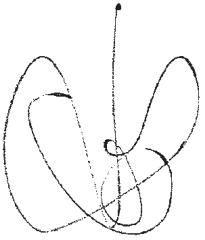


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**I. The DEIR Violates CEQA Because It Fails To Provide An Accurate Project Description.**

It is established law that “[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” *County of Inyo v City of Los Angeles* 71 Cal. App. 3d 185, 193 (1977.) The preferred alternative must give a clear explanation of the nature and scope of the proposed project, otherwise it “is fundamentally inadequate and misleading.” See *Communities for a Better Environment v. City of Richmond*, 184 Cal.App.4<sup>th</sup> 70, 84-85 (2010.)

The DEIR describes the purpose of the proposed project, construction of a dam on Del Puerto Creek, (DPCD) as being to increase storage of water. (p. 2-1.) This is inconsistent with the Project Objectives which are a detailed description of the use of additional water. (p. ES-1.) In point of fact it appears the purpose of the proposed project is to create a storage facility which will allow the Project Partners to avoid reductions in water use under drought conditions by restoring water from other CVP reservoirs and potentially increasing Delta exports, as well as using a percentage of the flow from Del Puerto Creek. 12-1

The DEIR states that the Bureau of Reclamation “would have an opportunity to participate in the project for South of Delta benefits of up to 20,000 AF of storage,” which “could” be stored for wildlife refuges. (p. 1-3.) Yet this use is not included as one of the project objectives in the DEIR. Without a clear description of whether or not Reclamation will be participating in the project to store water for wildlife refuges, the project description is not stable or accurate.

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Section 1.1 on “Need for water storage” references the Central Valley Project deliveries as a reason for the project, stating: “due to both hydrologic and regulatory restrictions at certain times on the operations of the CVP, DPWD may receive only a fraction of that allocation. In 2014 and 2015, DPWD received no CVP water at all, and it is expected that restrictions in CVP operations will result in the DPWD receiving no more than an average of 45 percent of its contract allocation on an annual basis under non-drought conditions.” (p. 1-2.) The DEIR has no indication of where the 45% number came from, and whether it is currently an accurate estimate of future deliveries. The operations section of the DEIR is similarly vague, only stating that: 12-2

Availability of water from the DMC would be dependent on U.S. Bureau of Reclamation deliveries under each existing surface water entitlement available to the Project partners consistent with the Coordinated Operation Agreement between the Bureau of Reclamation and DWR.

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The analysis of operations of Del Puerto Reservoir was done using the 2017 State Water Project Delivery Capability Report CALSIM II model.<sup>1</sup> But the 2017 State Water Project Delivery Capability Report modeling predates the 2018 *Addendum to the Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project* (“2018 COA Addendum.”)<sup>2</sup> Therefore the 2017 CALSIM II model is not an accurate representation of conditions at the time of the 2019 scoping notice for Del Puerto Canyon reservoir.

Nor is the modeling an accurate representation of future operations. The DEIR fails to analyze the project in conjunction with the preferred alternative for Reclamation’s proposed Long Term Operations for the Central Valley Project and State Water Project, which would increase Reclamation’s diversions from the Delta by an average of almost 600,000 acre-feet a year, and 300,000 acre-feet in dry and critically dry years.<sup>3</sup>

The obsolete modeling assumptions could have a substantial effect on both the No Action Alternative and the Preferred Project. Article 6(c) in the 1986 Coordinated Operation Agreement between the United States and the Department of Water Resources<sup>4</sup> provides:

12-3

(c) Sharing of Responsibility for Meeting Sacramento Valley Inbasin use With Storage Withdrawals During Balanced Water Conditions: Each party's responsibility for making available storage withdrawals to meet Sacramento Valley inbasin use of storage withdrawals shall be determined by multiplying the total Sacramento Valley inbasin use of storage withdrawals by the following percentages:

United States	State
75%	25%

The amendment of Article 6(c) in the 2018 COA Addendum significantly reduced the obligation of the Central Valley Water Project to provide water for meeting the Bay-Delta Water Quality

<sup>1</sup> Woodard and Curran, *Technical Memorandum, Del Puerto Canyon Reservoir Operations Analysis*, p.1 in *Del Puerto Canyon Reservoir Draft Environmental Impact Report Appendices*, pdf p. 518.

<sup>2</sup> US Bureau of Reclamation and California Department of Water Resources, *Addendum to the Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project*, December 12, 2018. Available at: <http://calsport.org/news/wp-content/uploads/Signed-COA-Addendum-121218.pdf>.

<sup>3</sup> US Bureau of Reclamation, *Final EIS for Reinitiation of Consultation on the Coordinated Long Term Operations of the Central Valley Project and State Water Project*, Appendix F, Modeling, p. 2183. December 2019. [https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc\\_ID=41744](https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=41744).

<sup>4</sup> US Bureau of Reclamation and California Department of Water Resources, *Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project*, November 24, 1986. Available at [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/exhibits/docs/petitioners\\_exhibit/glenn/gcid\\_1.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/petitioners_exhibit/glenn/gcid_1.pdf), pp. 9-10.

Control Plan requirements in dry and critically dry years. Amendment #1<sup>5</sup> provided that “[e]ach party’s responsibility for making available storage withdrawals to meet Sacramento Valley inbasin use of storage withdrawals shall be determined by multiplying the total Sacramento Valley inbasin use of storage withdrawals by the following percentages:

	United States	State
Wet Years	80%	20%
Above Normal Years	80%	20%
Below Normal Years	75%	25%
Dry Years	65%	35%
Critical Years	60%	40%

12-3  
cont'd

Modeling for Reclamation’s Environmental Assessment for the 2018 COA Addendum showed that the Addendum was expected to provide an additional 122 TAF of exports in dry years, and an additional 106 TAF in critically dry years.<sup>6</sup> This would provide an increase in drought supplies to the Project Partners.

The disparity between the project objectives, the project description in the DEIR, and actual current and future conditions results in an inaccurate and misleading document. The Project Partners must revise the DEIR and recirculate to address these fundamental flaws.

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## **II. The DEIR Violates CEQA Because It Fails To Analyze The Entire Project.**

Pursuant to CEQA Guidelines § 15378, the definition of “project” means “the whole of an action.” The definition of a project is broadly construed in order to maximize protection of the environment. *Nelson v County of Kern*, 190 Cal.App.4<sup>th</sup> 252, 271 (2010.) Additionally, the entire project being proposed must be described in the EIR, and the project description must not minimize project impacts. *City of Santee v County of San Diego* 214 CA3d 1438, 1450 (1989.) Finite project description is indispensable to an informative, legally adequate EIR. *County of Inyo v City of Los Angeles, supra*. In addition, the DEIR fails to analyze possible future expansion or other action related to the project that is a reasonably foreseeable consequence of the project, as required by *Laurel Heights Improvement Ass’n v Regents of Univ. of Cal.* 47 C3d 376, 396 (1988.)

12-4

Page 2-11 in Section 2.3.1, Operations states,

The proposed project operations would be consistent with the Coordinated Operation Agreement and would not affect existing CVP Delta pumping operations. However,

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<sup>5</sup> 2018 COA Addendum, p. 1.

<sup>6</sup> US Bureau of Reclamation, *Environmental Assessment, Addendum to the Coordinated Operation Agreement Central Valley Project/State Water Project*, December 2018. Available at [https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc\\_ID=36503](https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=36503).

12-4  
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certain federal benefits may be achieved should Reclamation choose to pump additional water that could be stored in capacity made available in the San Luis Reservoir by the Project Partners storing water in DPCR, or by shifting pumping to provide additional Delta pumping capacity during periods of peak delivery by pumping water for delivery to the Project Partners during non-peak delivery periods and delivering that water to the Project Partners for storage in DPCR. Any modification of Delta pumping by Reclamation would be evaluated by Reclamation in a separate NEPA document if such pumping is determined to be outside existing certified environmental documentation and/or operating agreements. (Emphasis added.)

In other words, this project could result in additional exports from the Delta, as a possible follow-up to the Del Puerto Canyon Reservoir project. The DEIR violates CEQA because it fails to include discussion of the impact of the proposed project on the Delta and thus fails to discuss the “whole of the action.”

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12-5

The 2018 Addendum to the Coordinated Operations Agreement also increased the Central Valley Project’s share of export capacities. Amendment #2 of the 2018 Addendum to the Coordinated Operations Agreement allocates 65% of the SWP and CVP joint export capacity to the CVP during balanced water conditions, and 60% during excess water conditions.<sup>7</sup> This 2018 change in operations is not included in the 2017 modeling for either the No Action Alternative or the Preferred Project. The Project Partners must revise the DEIR and recirculate to address these fundamental flaws.

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12-6

The DEIR also states that “in coordination with Project Partners, Reclamation is proposing modification of its existing water rights to incorporate restorage of previously stored water in the Reservoir, i.e., water that has been previously stored in Shasta, Trinity, Folsom, and Friant Dams and which has been released for delivery to CVP contractors or for storage in San Luis Reservoir.” (2.3.1) The details of how CVP water would be “released” from storage in Shasta, Trinity, and Folsom for delivery to the Project Partners is not provided. Nor are impacts on Shasta, Trinity, and Folsom reservoirs analyzed. Without this information, the DEIR fails to discuss the “whole of the action.”

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12-7

The DEIR also fails to clearly identify a preferred alternative for water supply to fill the reservoir. CEQA requires that a DEIR identify a preferred alternative. *Washoe Meadows Community v. Department of Parks and Recreation*, 17 Cal.App.5<sup>th</sup> 277, 285-87 (2017.)

The “Need for storage” section states that “DPWD has limited access to storage capacity in San Luis Reservoir associated with its contract with Reclamation primarily during what is called the Rescheduling Period and has a restricted ability to store “non-Project” water (i.e., non-CVP

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<sup>7</sup> 2018 COA Addendum, p. 2.

water) or other developed supplies in the reservoir.” Yet the Project Partners fail to analyze the project in coordination with the San Luis Low Point Improvement Project Preferred Alternative, under which the Santa Clara Valley Water District would expand Pacheco Reservoir.<sup>8</sup>

According to the Draft EIR for the San Luis Low Point Improvement Project, the proposed total storage for the new reservoir is 141,600 acre-feet (AF), with an active storage of 140,800 AF. (p. 2-17.) The Draft EIR for the San Luis Low Point Improvement Project states that Pacheco would free up space in San Luis Reservoir.

12-7  
cont'd

Unlike the San Luis Low Point Improvement Project DEIR, the Del Puerto DEIR does not mention Reclamation’s pending Safety of Dams (SOD) expansion and partial raise of the San Luis embankments, nor does it analyze Reclamation’s proposed project to further raise the San Luis Dam embankments, allowing increased storage, as a CEQA alternative. This is described as Alternative 4 in the San Luis Lowpoint Improvement Project DEIS/DEIR (p. 2-11.) Nor does the DEIR consider the cumulative impact if Del Puerto Canyon Dam, Pacheco Reservoir, and the San Luis reservoir expansion are all constructed and operated. The Project Partners must revise the DEIR and recirculate to address these fundamental flaws.

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### **III. The DEIR Violates CEQA Because It Fails To Provide Adequate Information To The Public About The Potential, Significant Environmental Effects Of The Proposed Project.**

Cal. Code Regs. tit. 14, § 15002, subd. (a)(1) intends that a DEIR contain adequate information to allow the public to reach an informed conclusion about a proposed project. “The ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide decision makers, and the public, with the information about the project that is required by CEQA.” *Santiago County Water District v County of Orange* 118 Cal. App. 3d 818, 829 (1981.) A finite project description is indispensable to an informative, legally adequate EIR *County of Inyo v City of Los Angeles, supra*. An adequate EIR must be “prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.” *Dry Creek Citizens Coalition v County of Tulare* 70 CA 4th 20, 26 (1999.)

12-8

Statements about aspects of the project are part of the project description. Vague and or confusing statements violate CEQA by preventing the public from understanding the full scope

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<sup>8</sup> US Bureau of Reclamation and Santa Clara Valley Water District, *San Luis Low Point Improvement Project, Draft Environmental Impact Statement and Environmental Impact Report*, July 2019. Available at <https://www.valleywater.org/sites/default/files/San%20Luis%20Low%20Point%20Improvement%20Project%20Draft%20Environmental%20Impact%20Statement%20-%20Environmental%20Impact%20Report.pdf>.

of the project. A DEIR's analysis of alternatives must be specific enough to allow informed decision making and public participation. *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal., supra*. The following areas of the DEIR lack adequate information for the public to reach an informed conclusion about the need for the proposed Project or to balance its environmental impact against the stated need for the Project.

12-8  
cont'd

#### **A. Impact AES-1 Staging Areas**

Construction of the project will require staging areas which will be visible from Interstate 5 and other areas. The DEIR does not specify how long such areas will be in use or whether they will be visible from other areas. Without this information the public cannot reach an informed conclusion about the choice of the Preferred Alternative. (p.3.1-8)

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#### **B. Impact AES-1 Reservoir**

12-9

The DEIR states the proposed reservoir will be closed to the public. It does not state what actions will be taken to achieve this end or whether said actions will affect the environment. (p. 3.1-10)

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#### **C. Agriculture and Forestry Resources**

12-10

The DEIR contains several pages discussing crops and farmlands in areas within which the Exchange Contractors will be making use of water from the proposed project and which "would be affected by the project". However, the DEIR does not provide sufficient information as to the amount of water which will be taken by the Exchange Contractors or where it will be used, how much will be available to the DPWD and where it will be used, whether water will be available to areas proximate to the project or for urban use. (pp. 3.2-1 through 3.2-13 and 3.2.14)

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#### **D. Local Policies and Regulations**

12-11

The DEIR contains several references to the impacts of the project on riparian woodlands and wetlands. It describes the areas, but does not indicate the extent of the impacts or what will be done to mitigate the impacts. (pp. 3.4-2, 3.4-5, and 3.4-33.)

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#### **E. Impact BIO-TERR -1a**

12-12

The DEIR does not provide information regarding how Mitigation Measure BIO-TERR-1a and 1d will be enforced. A description of how the project will achieve enforcement of a Mitigation Measure is necessary to assess its effectiveness. (pp.3.4-37, 3.4-38 and 3.4-41.)

## **F. Mitigation Measure BIO-TERR-1e**

The DEIR refers to avoidance and minimization measures of ground disturbance as regards special status amphibians and states an approved biologist will be present during all ground disturbing activities. It does not define “an approved biologist” nor does it describe the authority of this individual. It refers to “limited use of rodenticides ,” but does not identify what will be used, what is meant by “limited use” or who will monitor the use. (p.3.4-43.) 12-13

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## **G. Biological Resources Fish/Environmental Setting/Study Area**

The DEIR discusses the need of white sturgeon for gravel substrates for spawning in the Lower San Joaquin River, and states a primary source of gravel comes from Del Puerto Creek. The DEIR does not specify the extent of the impact the project on this substrate, how it will affect spawning reaches or whether a take will result from disturbance of the spawning grounds. (p.3.5-4.) 12-14

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## **H. Impacts and Mitigation Measures/BIO-Fish-1**

The DEIR states Del Puerto Creek fish will be protected while diversion of Del Puerto Creek is occurring by connecting Del Puerto Creek to the temporary stream diversion structures (e.g., bypass pipes) during the dry season. This suggests there is a season when Del Puerto Creek is dry. Del Puerto Creek can have flows at any time of year; therefore the description of this mitigation measure does not provide sufficient information to the public. (p.3.5-8.) 12-15

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The DEIR refers to a plan which “shall be developed.” This plan is in reference to determining the flow releases for gravel transport. Changes in Del Puerto Creek flow below the dam impact Del Puerto Creek fish as well as the sturgeon that depend on the gravel for spawning. This does not provide adequate information to the public, because the plan is not attached to the DEIR, (p.3.5-15.) 12-16

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The DEIR refers to environmental releases. It does not identify the circumstances or criteria as to when such releases will occur. (p.3.5-16.) In this same vein, because environmental releases are not part of the project description, illustrating flow from Del Puerto Creek without additional information as shown in Figure 2-8, is misleading. (p.2-1.2) 12-17

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Although the modeling for the project analyzes “recession flows” in Del Puerto Creek<sup>9</sup> as a criterion for reservoir releases, it does not tie the proposed recession flows to the needs of the fish that are present in Del Puerto Creek, or other stream-dependent species. For observed fish in the creek, the DEIR states 12-18

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<sup>9</sup> Woodard and Curran, *Technical Memorandum, Del Puerto Canyon Reservoir Operations Analysis*, p.14-15 in Del Puerto Canyon Reservoir Draft Environmental Impact Report Appendices, pdf p. 531-532.



In July 2019, underwater video observations within one of these pools revealed the presence of large concentrations of juvenile pikeminnow (*Ptychocheilus grandis*) and smaller numbers of juvenile and adult suckers (*Catostomus occidentalis*.) Based on general species distributions and associations, other native species that may co-occur with Sacramento pikeminnow and Sacramento suckers include hardhead (*Mylopharodon conocephalus*), California roach (*Lavinia symmetricus*), riffle sculpin (*Cottus gulosus*), and rainbow trout (*Oncorhynchus mykiss*) (Moyle 2002, p. 27.) The presence or absence of these species could not be confirmed.

The UC Davis California Fish Website states that the following species have been recorded in the Pisces database<sup>10</sup> as currently or historically present in Upper Del Puerto Creek<sup>11</sup>:

Sacramento Perch  
Sacramento Pikeminnow  
Sacramento Sucker

12-18  
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The UC Davis California Fish Website states that the following species have been recorded in the Pisces database as currently or historically present in Lower Del Puerto Creek<sup>12</sup>:

Central California Roach  
Coastal Rainbow Trout  
Sacramento Perch  
Sacramento Pikeminnow  
Sacramento Splittail  
Sacramento Sucker  
Southern Green Sturgeon  
Southern White Sturgeon

The EIR also states that “ impacts include the loss of isolated stream segments and pools in Del Puerto Creek that potentially support native fish through the summer based on the presence of juvenile suckers and pikeminnows in July 2019.” (p. 3.5-10.) But the EIR does not explicitly consider reservoir releases necessary to maintain equivalent stream

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<sup>10</sup> According to the Pisces Database website, “PISCES is software and data describing the best-known ranges for California's 133 native fish and numerous non-native fish. [...] PISCES was developed with initial funding from the USDA Forest Service Region 5 and additional funding from California Department of Fish and Wildlife: Biogeographic Data Branch, in collaboration with numerous experts in fish biology and distribution in California.”

<https://pisces.ucdavis.edu/>.

<sup>11</sup> UC Davis, California Fish Website, Fish Species by Watershed, Upper Del Puerto Creek. Available at <http://calfish.ucdavis.edu/location/?ds=698&reportnumber=1293&catcol=4712&categorysearch=%27Upper%20Del%20Puerto%20Creek%2D180400020301%27>.

<sup>12</sup> UC Davis, California Fish Website, Fish Species by Watershed, Lower Del Puerto Creek. Available at <http://calfish.ucdavis.edu/location/?ds=698&reportnumber=1293&catcol=4712&categorysearch=%27Lower%20Del%20Puerto%20Creek%2D180400020302%27>.

segments and pools downstream of Del Puerto reservoir, for both aquatic and stream-dependent species.

12-18  
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## **I. Cultural Resources/Native American Consultation**

The DEIR refers to “communications” with two tribes, Katherine Erolinda Perez, Chairperson, North Valley Yokuts Tribe and William Leonard, Chairperson, Southern Sierra Miwuk Nation 1, and that both had expressed an interest in learning more about the project. There is no indication there was any follow-up. The DEIR is inadequate and incomplete because it fails to provide information as to whether there was follow-up and, if so, the outcome of these communications. (p.3.6-3.)

12-19

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## **IV. The DEIR Violates CEQA Because it Fails to Adequately Inform the Public about Potential, Significant Geological Impacts of the Project**

The DEIR Appendices, page 502, states:

A significant number of landslides are found within and in the immediate vicinity of the reservoir inundation area, the majority of this landslide are located within units of the Cretaceous Moreno formation, upstream from the proposed main dam. At least seven landslides are mapped within the inundation area of the proposed reservoir. It is expected that additional small landslide and movement of existing landslides would occur as a result of reservoir infilling and operations. These landslides would be expected to experience continuous deformation without some form of stabilization mitigation. The rate of movement of the landslides would likely be slow. Stability of the reservoir rim, including the potential for seismically triggered landslides would be required for the design of the Project.

Furthermore, pages 15 and 16 of the DEIR Appendices state:

12-20

The proposed reservoir would inundate areas underlain by the Cretaceous Moreno and Panoche Formations. Landslides are found within and in the immediate vicinity of the Project Area, the majority of which are located within units of the Moreno formation, upstream from the proposed main dam. Movement of these landslides is expected as a result of infilling and seasonal operations of the reservoir. It is expected that additional landslides would form as well. Movement of existing and any newly developed landslides resulting from reservoir operation is expected, any deformation of the landslide would be relatively slow and at a scale that would not form seiche waves of significant magnitude that would overtop the proposed dam. An assessment of landslide potential and impacts to the Project would be needed for final design of the reservoir and dam.

The DEIR states mitigation will be achieved by Mitigation Measure GEO-1, preparing a “design level Geotechnical Investigation and Report” and by following the report. The DEIR provides no geotechnical analysis supporting the conclusion that any landslides would be at a scale that would not form a lake tsunami or seiche wave of significant magnitude. Landslides are a known risk for dam failure, A large slope failure into the Vajont reservoir in Italy caused a large

12-20  
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tsunami which overtopped the dam.<sup>13</sup> Consequently, the analysis on p. 15 and 16 does not provide a “sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences” as required by *Dry Creek Citizens Coalition v County of Tulare, supra*. The analysis on p. 15 and 16 also does not inform the public that there are active slides within the footprint of the Project. There is no discussion of the possibility of a geological event known as a “mass wasting.” This term refers to the downhill movement of rock and debris under the influence of gravity, which may occur when a slide is inundated by water. Slides will be inundated due to the very nature of the Project, creating a reservoir over active landslides. The DEIR does not evaluate the possibility that, in the event of mass wasting, debris may fall into the reservoir which would result in a lake tsunami, which could exceed the dam height, resulting in overtopping of the dam.<sup>14</sup>

The DEIR also does not describe the large slump/earth flow complex, which to the uninformed eye simply looks like a hill, visible to the north from the site of the proposed reservoir, which forms a hummocky topography in the small side canyon. The toe of the slump is eroded by Del Puerto Creek, which has led to continuing reactivation of the slide. The public is not informed that standing at the entry into the canyon one is standing on another large active slump which originated at the south side of the canyon. That it is still active, i.e. moving, is evidenced by repeated road repairs at either end of the slump. (*Id.* at pp.129-131.)

The DEIR does not meet the requirements of Cal. Code Regs. tit. 14, § 15002 (a) (1) in that it fails to provide the public with adequate information to reach an informed conclusion about the potential, significant environmental effects of the Project. The DEIR must be revised and recirculated to address these fundamental flaws.

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## **V. The DEIR Fails to Adequately Consider and Discuss the Potential Alternatives**

12-21

Mitigation and alternatives are the core of an EIR. (*Citizens of Goleta Valley v Board of Supervisors* 52 C3d 553, 564 (1990.)) CEQA requires that the EIR identify both feasible mitigation measures and feasible alternative that could avoid or substantially lessen the project’s significant environmental effects. (Pub. Resources Code §§ 21001, 21001.1(a), 21100(b) (4) and 21150.) An EIR must discuss alternatives even if all the project’s significant environmental impacts will be avoided or reduced by mitigation measures. (*Laurel Heights Improvement Ass’n v Regents of Univ. of Cal., supra.*) The DEIR must make a good faith effort to compare the project with the alternatives. Cal. Code Regs. tit.14, § 15126.6(a) The discussion in the EIR of the alternatives should include sufficient information about each alternative to allow evaluation, analysis, and comparison with the proposed project. Cal. Code Regs. tit.14 § 15126.6(d.)

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<sup>13</sup> Lee Mauney, P.E., CFM., Association of Dam Safety Officials, Lessons Learned from Dam Incidents and Failures, Case Study: Vajont Dam (Italy, 1963.) <https://damfailures.org/case-study/vajont-dam-italy-1963/>.

<sup>14</sup> “Geology of Del Puerto Canyon, Central Diablo Range, California,” Hayes, Garry, (co-authored), as well as *Geology and Cultural History of the Western Colorado Plateau, with Road Guides for Exploring Grand Canyon, Zion and Bryce Canyon National Parks; From the Foothills to the Sky: A Teacher’s Guide to the Geology of the Tuolumne Meadows Region of Yosemite National Park*, 2013.

(Emphasis added.) Alternatives must be able to implement most project objectives but they need not be able to implement all of them. *Mira Mar Mobile Community v City of Oceanside* 119 CA4th 477 (2004.) (Emphasis added.) An alternative that would substantially reduce the project's environmental impacts should not be excluded from the analysis simply because it would not fully achieve the project's objectives. *Habitat & Watershed Caretakers v City of Santa Cruz* 213 CA4th 1277,1304 (2013.) The EIR's analysis should focus on alternatives that can eliminate or reduce significant environmental impacts even if they would impede attainment of project objectives to some degree or be more costly.

12-21  
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The alternatives are given short shrift. Of the 410 pages of the DEIR, 20 pages are allotted to discussion of the alternatives. It is impossible to provide sufficient information for meaningful evaluation, analysis and comparison of each alternative with the preferred alternative within a mere 20 pages in a DEIR of this size. This does not meet the intended purpose of section 15126.6(a) (1) of Title 14 of the California Code of Regulations.

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In Section 4.5.1, "Additional Conservation," the DEIR states that additional conservation is not a feasible alternative "without access to dispatchable storage." (p. 4-3.) But the DEIR fails to provide any substantiating information. from the Project Partners' Water Management Plans for this statement. The San Luis and Delta Mendota Water Authority updated their West San Joaquin Integrated Regional Water Management Plan in 2019.<sup>15,16</sup> Objective F of the 2019 Update to the West San Joaquin Integrated Regional Water Management Plan is to "[p]romote and enhance water conservation, water use efficiency, and sustainable water use." (p. 3-2.) Objective F appears to be inconsistent with the Project Partner's assertion that additional conservation is not feasible.

The DEIR also fails to consider additional conservation in conjunction with alternative water supplies currently available to Del Puerto Water District. These water supplies would supplement additional drought year supplies available because of the 2018 COA Addendum, which is also not analyzed in the DEIR. The West San Joaquin Integrated Regional Water Management Plan states:

12-22

In particular, the NVRRWP [North Valley Regional Recycled Water Program], being implemented by Del Puerto WD and the Cities of Modesto and Turlock (located in the East Stanislaus IRWM Region), will deliver up to 26,000 AFY of recycled water to Del Puerto WD agricultural users by early 2019, when the second component of the project is completed. The Modesto portion of the project was completed in July 2018, and the Turlock portion began construction in late 2018. The project began delivering recycled

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<sup>15</sup> San Luis & Delta-Mendota Water Authority, Westside-San Joaquin Integrated Regional Water Management Plan, January 2019. Available at

[http://sldmwa.org/OHTDocs/pdf\\_documents/Groundwater/WSJ\\_IRWMP\\_2019\\_Final\\_w\\_appendices.pdf](http://sldmwa.org/OHTDocs/pdf_documents/Groundwater/WSJ_IRWMP_2019_Final_w_appendices.pdf)

<sup>16</sup> The San Luis and Delta Mendota Water Authority includes Del Puerto Water District and the San Joaquin River Exchange Contractor Water Districts. *Id* at p. 1-1.

12-22  
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water to Del Puerto WD agricultural customers in 2018. Additionally, both Patterson ID and San Luis WD have put forth projects to capture and recirculate agricultural tail water back into the irrigation systems, and the City of Patterson expanded its non-potable water irrigation system, matching water quality to water demand needs and reducing demands on potable supplies. The recycled and reclaimed water produced by these projects has augmented the currently unreliable CVP supplies in the area. (p. 2-25.)

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Section 4.5.3 on groundwater storage only briefly mentions Del Puerto Water District's Orestimba Creek Recharge and Recovery Project. (p. 4-3.) The West San Joaquin Integrated Regional Water Management Plan states<sup>17</sup>:

The project would receive flood flows from both the San Joaquin and Kings Rivers together with surface water from Orestimba Creek CCID and/or Del Puerto Water District (DP WD).

12-23

The DEIR provides no estimates of the groundwater storage capacity of the Orestimba Creek project. Similarly, section 4.5.3 only briefly mentions the Los Banos Creek Recharge and Recovery Project. (p. 4-3.) The West San Joaquin Integrated Regional Water Management Plan states<sup>18</sup>:

Project flood and surplus irrigation supply would be perked and temporarily stored in the pits/ basin for beneficial use and flood mitigation purposes.

The DEIR provides no estimates of the groundwater storage capacity of the Los Banos Creek project. Without estimates of storage capacity of these projects, the assertion that the projects "would not replace the need for surface water storage" is unsubstantiated. In addition, since these groundwater storage projects are being implemented, and will store some of the same water supplies as Del Puerto Reservoir, the DEIR needs to analyze storage "puts" for both Del Puerto Canyon Reservoir and the groundwater storage projects. "Puts" into the groundwater storage projects will result in less water stored in Del Puerto.

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**A. The DEIR Fails to Disclose Significant Environmental Impacts from the Project's Preferred Alternative**

12-24

Del Puerto refers to "the gate," a water gap cut through resistant sandstone at the mouth of a canyon. Del Puerto Creek runs through just such a gate. It is here the Partners have chosen as the preferred alternative for a dam. CEQA requires that the DEIR accurately assess potential environmental impacts of the proposed project. The DEIR fails this essential function by failing to discuss and evaluate the unique qualities of the canyon beyond "the gate." The project description must not minimize project impacts. (*City of Santee v County of San Diego* 214 Al. App. 3d 1438, 1450.)

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<sup>17</sup> San Luis & Delta-Mendota Water Authority, Westside-San Joaquin Integrated Regional Water Management Plan, January 2019, Appendix D, p. D-2. Op. cit.

<sup>18</sup> *Id* at p. D-4.

Del Puerto is not a typical canyon. Due to the manner of its formation, as one enters the canyon, one is on the ocean floor, atop 25,000 feet of marine sediment, which at one time was the surface of the earth. Proceeding through the canyon, one moves “deeper” into the earth, passing through what was the ocean crust and into rocks, now exposed, formed miles and miles below the surface of the earth, which were part of the earth’s mantle, that part of the planet which surrounds the earth’s core of molten lava. It is the only place in this region where one can study the biology, botany and archeology which results from this unique geology. (Garry Hayes, personal communication.)<sup>19</sup>

12-24  
cont'd

It is noteworthy that the upper part of Del Puerto Creek, where the inundation from the proposed dam will end, bears no resemblance to the rock formations encountered during the first few miles from the gate. In addition, the area of the creek which flows through the gate provides a rare riparian habitat. There are no means of mitigation as it is the one of the very few permanent creeks within an otherwise arid mountain range. Numerous flower species flourish in spring. In addition to the geological conditions, the canyon contains more than 160 bird species, making Del Puerto the third most diverse bird habitat in the entire county. Hundreds of students have been taken to the canyon by local geology teachers. It has been visited by the National Association of Geoscience Teachers, the Geological Society of America and other national organizations. Many geologists have used this location for research. (*Id.*)

12-25

Among numerous archeological sites is a slope just above the proposed inundation zone where the first dinosaur bones were found in California. There are also areas once occupied by the Yokut native tribe and other earlier cultures which have barely begun to be understood or explored. (*Id.*)

12-26

The Project Partners must revise the DEIR and recirculate to address these fundamental flaws.

12-27

***B. The DEIR Violates CEQA by Failing to Thoroughly Evaluate the Ingram Canyon Alternative***

In setting aside the Ingram Creek alternative, the DEIR contains several errors.

**1. Rejecting the alternative due to size:**

The Ingram Canyon alternative may have been rejected based on the claim it would consist of a dam 13 TAF (thousand acre feet) less than sought by the partners. (67 TAF rather than 80 TAF, p.4-16) *Mira Mar Mobile Community v City of Oceanside, supra*, requires the DEIR to thoroughly evaluate this alternative even if it would not achieve all project objectives. In addition, thorough evaluation of the Ingram Canyon alternative shows that while it may not achieve all of the projects objectives, it would eliminate the project’s environmental impact on the irreplaceable geology of Del Puerto Creek. *Habitat & Watershed Caretakers v City of Santa Cruz, supra*. A three page discussion does not constitute a colorable evaluation, much less a thorough evaluation. (p. 4-17&18.)

12-28

<sup>19</sup> Hayes, Garry, MS. Geology, Professor of Geology at Modesto Junior College.

## 2. Rejecting the alternative due to cost:

- 12-29 The DEIR states the Ingram Canyon alternative is more costly than the Del Puerto Creek alternative. Even if this is accurate, it is not a basis for rejecting Ingram Canyon as an alternative. Cal. Code Regs, tit. 14 § 15126(a) requires a thorough evaluation even if the possible alternative would be more costly. (p.4-16.)
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## 3. Failing to adequately analyze the alternative.

- 12-30 Furthermore, the DEIR states “Chapter 3 of this EIR identifies potential impacts associated with the proposed Project for each environmental issue area.” The DEIR briefly lists potential impacts of Ingram Creek, but does not evaluate them with the detail found in the assessment of the preferred alternative. Also, the DEIR does not contain mitigation measures for what is asserts are the potential impacts of the Ingram Creek alternative.
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- 12-31 The DEIR refers to “Biological Resources - Fish and states “Because the impacts associated with dam operation would be similar, this alternative [Ingram Canyon] would have similar impacts as compared to the proposed project.” This is impossible. Ingram Canyon does not dam Del Puerto Creek; therefore it poses none of impacts on fish resulting from the preferred alternative. The DEIR also does not list impacts from the Ingram Canyon alternative on terrestrial resources. Given that the latter would inundate a significantly smaller area, the impacts cannot help but be less than those of the preferred alternative.
- 

- 12-32 As related to the Ingram Canyon alternative, the DEIR contains a sole sentence regarding geology: “4.9.8 Geology and Soils Geotechnical constraints associated with construction of the Ingram Canyon alternative are expected to be similar to those for the proposed project.” (p. 4-14.) However, neither the DEIR nor the Appendices mention earthquake faults in the footprint of the Ingram Canyon alternative such as are found within the footprint of the proposed Del Puerto location. Neither is there is a comparison of whether the geology in the Ingram Canyon area is subject to further slides, and if so, the likelihood of overtopping.
- 

The Project Partners must revise the DEIR and recirculate to address these fundamental flaws.

## VI. The DEIR Fails To Identify and Include Findings of a Responsible Agency

- 12-33 Responsible agencies are agencies, other than the lead agency, that have some discretionary authority for carrying out or approving a project. (Cal. Code Regs. tit. 14, § 15381.) An example of discretionary authority would be issuance of a permit by a city or county planning department. “Although a lead agency is responsible for considering the effects of all activities involved in a project and, if required by CEQA, preparing the draft and final EIR's and certifying the final EIR for a project, a responsible agency typically has permitting authority or approval power over some aspect of the overall project for which a lead agency is conducting CEQA review.” “*Riverwatch v Olivehain Municipal Water District* 170 Cal.App.4th 1186, 1201 (2009)

The DEIR fails to identify the City of Patterson as a responsible agency by not ascribing to the City the discretionary authority contemplated by *Riverwatch v Olivehain, supra*. The water

conveyance system, electrical substation and actual pumping station are all integral and necessary for the operation of the project and would be inside the City limits. (p. 3.12-2) Activity within City limits will involve the discretion and approval of the City, making the City a responsible agency. The DEIR does not include the City in the list of responsible agencies. (p.1-5.)

The City of Patterson's General Plan includes a sphere of influence of 650 acres of mixed use, residential and commercially zoned land. The inlet/outlet structure, main dam, spillway, and the primary saddle dam would be located within the sphere of influence of the General Plan. (p. 3.12-3) 75 acres within the sphere of influence are designated as important farmland. Of these, 73 acres would be affected by the reservoir and dams. (p.3.12-14) The DEIR states "Beginning during construction the land would be converted from agricultural use." This request for conversion is obviously essential to the project, putting it squarely within the discretionary authority of the City. The Project Partners must revise the DEIR and recirculate to address this fundamental flaw.

12-33  
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Finally, the DEIR indicates impacts to the City of Patterson's water supply:

The City of Patterson's Water Master Plan includes a proposed project to capture additional stormwater from Del Puerto Creek for groundwater recharge. This project, as described in the City's Water Master Plan, would produce a yield of up to 1,700 AFY from pumping recharged water under wet, above normal and below normal water year conditions. The yield would be up to 1,275 AFY in dry and critically dry water year conditions and would be assumed to be zero in a dry or critically dry year if the previous year was also dry or critically dry. Implementation of the proposed reservoir would reduce flows in Del Puerto Creek and thus result in a reduction of flows available for the City of Patterson storm water capture and recharge project. (p. 3-11, Emphasis added.)

The DEIR defers consideration of mitigation of this impact to the future, stating:

The Project Partners shall develop an operations manual that describes water delivery to the lower reach of Del Puerto Creek below the proposed dam to make up for lost natural seepage due to the proposed project. The manual shall provide releases, for the City of Patterson's benefit depending on water year type and Del Puerto Creek inflows, of up to 1,700 AFY. Such releases will augment existing/no-project in-stream recharge conditions. (p. 3-11-21.)

12-34

This mitigation measure constitutes impermissible deferral under CEQA, because it fails to specify meaningful standards for the minimum flows released under the operations plan. Furthermore, the modeled operations will not provide sufficient releases for Patterson for 27/82 modeled years (33% of the time)<sup>20</sup>:

In years in which the DPC inflow is not sufficient to supply both environmental releases and Patterson releases as mitigation, environmental releases take priority. There are

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<sup>20</sup> Woodard and Curran, *Technical Memorandum, Del Puerto Canyon Reservoir Operations Analysis*, p. 21 in *Del Puerto Canyon Reservoir Draft Environmental Impact Report Appendices*, pdf p. 538.



12-34  
cont'd

approximately 27 of the 82 modeled years in which there is not sufficient natural DPC flow to meet both environmental and Patterson release requirements. Based on the availability of natural DPC flows, Patterson releases as mitigation average approximately 1,470 AFY in wet, above normal, and below normal years, and 1,070AFY with all year types considered.

We note that use of stored water to provide environmental flows in dry and critically dry years would allow the project to meet both environmental flow needs and the needs of the City of Patterson. The DEIR fails to even consider such an alternative for operations of the Proposed Project. The Project Partners should revise and recirculate the Draft EIR to address these shortcomings.

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## **VII. CONCLUSION**

12-35 As explained above, the DEIR has substantial flaws, fails to disclose significant impacts, and fails to consider reasonable mitigation measures. The DEIR must be revised to address these issues and recirculated for public comment.

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January 27, 2020

RE: Comments on Del Puerto Canyon Reservoir Draft Environmental Impact Report, SCH# 2019060254, December 2019. Submitted via email, January 27, 2020.

Dear Ms. Hansen:

Thank you for this opportunity to comment on the Del Puerto Canyon Reservoir Draft Environmental Impact Report (EIR), SCH# 2019060254, December 2019 (hereafter "Project"). I am commenting as the Wildlife Program Manager with the East Bay Regional Park District (EBRPD) based in Oakland, CA. My comments pertain to Golden Eagle (*Aquila chrysaetos*) and Prairie Falcon (*Falco mexicanus*).

Golden Eagle – Staff and volunteers of the EBRPD have been collaborating on several research projects investigating golden eagle population demography, distribution and movements in the Northern Diablo Range. Most recently, we have been collaborating with J. David Wiens and coworkers of the United States Geological Survey (USGS). Wiens et al. (2015, 2018) have shown that nesting golden eagles are found throughout the Northern Diablo Range, including Del Puerto Canyon. In addition, this population of golden eagles is largely comprised of tree-nesting eagles. Thus, the statement in the Project Draft EIR under *Golden Eagle* (3.4-15) that "*Potential nesting habitat occurs to the west of the study area where there are cliffs and escarpments*" omits mention of the presence of tree nesting golden eagles within Del Puerto Canyon and the footprint, including associated infrastructure and road relocations. This omission results in insufficient calculation in the Project Draft EIR of impacts on, and associated mitigation measures for, Golden Eagles. It is imperative to rectify this issue by consulting with J. David Wiens and co-workers of the USGS to determine the number of Golden Eagle nests/territories that will be affected by the Project in order to assess impacts and appropriate mitigation measures. It would appear that the elimination of Golden Eagle nests and breeding territories meets the definition of "Take" under the Bald and Golden Eagle Protection Act (BGEPA; 16 USC 668) as refined by the final Eagle Permit Rules of September 11, 2009 (74 FR 46836046879; 50 CFR 22.26). To expand upon the statement in the Project Draft EIR "*The project partners will comply with the BGEPA*" (3.4-29), consultation with Heather Beeler, Eagle Permit Coordinator for the US Fish & Wildlife Service (Sacramento) would be advised.

13-1

The population of Golden Eagles in the Northern Diablo Range is subjected to many stressors. These can be direct, such as outright mortality through wind turbine blade strikes in the Altamont Pass Wind Resource Area (APWRA) (Smallwood and Karas 2009) or indirect, such as through drought affecting productivity (Hunt et al. 2018). In fact, the APWRA represents a significant stressor on the Golden Eagle population of the Northern Diablo Range. Hunt et al. (2017) calculated that the reproductive output of 216-255 breeding pairs of Golden Eagles would be required to offset an estimated 55-65 wind turbine blade-strike mortalities in the APWRA each

13-2

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13-2  
cont'd

year. Movement data of Golden Eagles outfitted with satellite transmitters indicate many remain in the Diablo Range (EBRPD, unpublished data). Thus, loss of potential breeding territories in one area, such as the Project area, may have population-wide consequences through cumulative impacts on Golden Eagles of the Diablo Range, especially given high eagle mortality in the APWRA.

13-3

Prairie Falcon. Although this species is on the California Department of Fish and Wildlife "Special Animals List" <https://www.dfg.ca.gov/wildlife/nongame/list.html>, impacts to this species were not included in the Project Draft EIR. Several rock outcrops and cliffs within Del Puerto Canyon and its tributary canyons are known historic nesting sites for this species. This species may also nest on cliffs in or near the Project Alternate – Ingram Canyon – as well as near infrastructure realignments. The EBRPD remains concerned about the status of this species, which may be experiencing local declines in portions of the Diablo Range. Thus, it would be important to assess Project impacts and potential mitigation measures to both nesting habitat (cliffs, rock outcrops) and foraging habitat for this species.

Thank you for your consideration. Please feel free to contact me if you have any questions or require further information.

Sincerely,

*Douglas A Bell*

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January 27, 2020

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**Re: Draft Environmental Impact Report  
Del Puerto Canyon Reservoir Project (SCH# 2019060254)**

Dear Ms. Hansen:

This office represents the Valley Land Alliance ("VLA") with respect to the above-referenced Draft Environmental Impact Report ("DEIR") for the Del Puerto Canyon Reservoir Project ("Project"). We appreciate the opportunity to comment.

The members of VLA and others have submitted comments regarding the Project, and will submit comments on the DEIR. These comments are meant to supplement, not replace, the comments of other members of the public, or of other experts or agencies.

14-1

For a variety of reasons, the DEIR falls short of compliance with the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 *et seq.*). For example, the DEIR inadequately analyzes the impacts of the Project, omits or inadequately specifies feasible mitigation for those impacts, and fails to evaluate a reasonable range of feasible alternatives that would reduce the severity of impacts. The DEIR's analyses of impacts to public safety (including flooding risks), water supply, and ecosystem health are also wholly inadequate.

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This letter focuses on the flaws in the DEIR's analysis and mitigation strategy with respect to potential dam failure from seismic events and/or landslide (soil instability). The DEIR includes other flaws in the analysis of impacts to biological resources, recreation, and other resource areas. The DEIR also fails to consider the water rights and water supply impacts. These areas will be covered by other commenters, and VLA continues to have significant concerns regarding the lead agency's failure to consider the breadth and significance of the Project's impacts, in conjunction with the various feasible alternatives to the Project.

14-2

14-3 There is also deep concern in the community regarding the private control of water storage resulting in benefits to some, while the citizens of Patterson bear the safety risks, and the increased cost of insurance and reduced land values that will result. Patterson is home to over twenty thousand people. The reservoir will be near a fault, and the DEIR acknowledges that the Project *will* be subject to seismic activity and soil instability in the future. There is no evacuation plan. There is no evidence in the record that the risk of dam failure will somehow be reduced to zero, so it is troubling to say the least that the DEIR does not even address the injury and death that could (and would) occur if the dam fails.

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**A. California Environmental Quality Act Requirements**

14-4 "The foremost principle under CEQA is that the Legislature intended the act "to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. It is, of course, too late to argue for a grudging, miserly reading of CEQA. The Legislature has emphasized that 'It is the intent of the Legislature that all agencies of the state government which regulate activities . . . which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage. ... The Legislature has made clear that an EIR is an informational document and that the purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project. ... Before approving the project, the agency must also find either that the project's significant environmental effects identified in the EIR have been avoided or mitigated, or that unmitigated effects are outweighed by the project's benefits.'" (*Laurel Heights Improvement Association v. University of California* (1988) 47 Cal.3d 376, 390 – 391 [citations and internal quotes omitted].)

An EIR is an environmental alarm bell whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action. Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. The EIR process protects not only the environment but also informed self-government. (*Id.* at 392.) These principles must guide the EIR in order for it to be legally valid. Specifically, the EIR must analyze (a) significant environmental effects of the proposed project, (b) significant environmental effects which cannot be avoided if the proposed project is implemented, (c) significant irreversible environmental changes which would be involved in the proposed project should it be implemented, (d) growth-inducing impact of the proposed project, (e) the mitigation measures proposed to minimize the significant effects, (f) alternatives to the proposed project.

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**B. The Draft EIR fails to adequately analyze impacts**

A draft EIR must discuss “*all* significant effects on the environment.” (Public Resources Code [“PRC”] § 21100(b)(1), emphasis added.) Both direct and *indirect* effects “shall be clearly identified and describe, giving due consideration to both the short-term and long-term effects . . . including relevant specifics of the area, the resources involved, physical changes, and alterations to ecological systems.” (Guidelines §§ 15126.2(a) and 15064(d).)

**1. Failure to adequately analyze impacts to geology and soils**

The DEIR sets significance criteria for impacts to geology and soils as follows:

- Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
  - 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.
  - Strong seismic ground shaking.
  - Seismic-related ground failure, including liquefaction.
  - Landslides.
- Result in substantial soil erosion or the loss of topsoil.
- 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.
- Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property.
- 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.
- Directly or indirectly destroy a unique paleontological resources or site or unique geologic feature. (DEIR, p. 3.8-12.)

14-5

As noted in detail below, the mitigation strategies proposed for impacts to geology and soils fail to meet the need for specific performance criteria, and ignore the remaining impact: the potential inundation of the City of Patterson.

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The DEIR discloses that the Project will be subject to earthquakes and the entire Project area is also prone to landslides. (DEIR, p. 3.8-13.) The only analysis of the risks to life and property that would result from the failure of the dam during an earthquake or as a result of soil expansion or landslide is contained in the Hydrology and Water Quality section of the DEIR, which is also inadequate. (See Section B.2, below.)

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14-6

14-7 The Project is also inconsistent with County General Plan policies regarding placing structures within areas that are subject to flooding, landslide, faulting or any natural disaster to minimize loss of life and property. (See DEIR, p. 3.8-11.) General Plan Goal Five, Policy Sixteen requires that the CEQA process be used to “ensure that development does not occur that would be subject to natural disasters.” It also requires that development in areas identified as having unstable soils “shall” include mitigation measures to reduce the possible hazards. (*Id.*)

The Project is inconsistent with the General Plan because it does not ensure that development does not occur in areas subject to natural disasters, and because it fails to include mitigation measures that would reduce the impacts. Reducing, but not eliminating, the possibility of dam failure does not relieve the District from mitigating for the impacts that will occur in the event that the dam does fail.

14-8 Similar to the inconsistency with the County General Plan regarding areas subject to natural disasters, comments will be submitted regarding the Project’s impacts on archeological and historical resources. Goal Eight, Policy Twenty-Four requires the County to support preservation of Stanislaus County’s cultural legacy of archeological, historical, and paleontological resources for future generations. This Policy requires that the CEQA process be used to protect archaeological, historic, or paleontological resources. The handling of these resources in the DEIR falls short of this Policy.

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## **2. Failure to adequately analyze impacts to hydrology and water quality**

14-9 The DEIR does not set a significance standard for impacts from flooding, but does include a section regarding the potential for a dam breach. (DEIR, p. 3.11-22.) The section discusses the possibility of dam failure, noting that the “estimated flow velocity at Patterson would be 2-8 feet per second and the maximum depth would be approximately 6 feet.” (*Id.*) There is no discussion of whether or not a person would be likely to drown or be injured if the City experienced these flood flows.

The gist of the “analysis” is that the facilities will be designed to meet California Department of Water Resources Division of Safety of Dams (“DSOD”) standards, and so there is “an extremely low probability of dam breach.” (DEIR, p. 3.11-23.)

What this means is that there is *some* risk of a dam breach. The DEIR makes no effort to quantify this remaining risk, nor is there any discussion of mitigation measures that could be implemented to reduce the potentially deadly damage in the event that this purportedly unexpected event were to occur. Saying that the catastrophic failure is unlikely does not relieve the lead agency from developing mitigation measures for the remaining, potentially deadly possibility.

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## **C. The Draft EIR fails to adequately analyze mitigation measures**

14-10 In addition to assessing a project’s significant and cumulative impacts, an EIR is also required to set forth and analyze mitigation measures to eliminate or minimize each significant impact. (PRC §§ 21002, 21002.1(a) and (b); CEQA Guidelines §§ 15126(e) and 15126.4.) Mitigation measures must be designed to minimize, reduce, rectify, or

compensate for the project's impacts. (CEQA Guidelines § 15370.) Analyzing "the manner in which [the] significant effects can be mitigated or avoided" is one of the main functions of an EIR. (PRC § 21002.1(a).) As with all aspects of an EIR, the discussion of mitigation measures must be "prepared with a sufficient degree of analysis to provide decision makers with information which enables them to intelligently take account of environmental consequences...The courts have looked ... for adequacy, completeness and good faith effort at full disclosure." (CEQA Guidelines § 15151.)

14-10  
cont'd

The DEIR fails to analyze or articulate a performance standard for Measure GEO-1. This Measure applies to risks associated with seismic events, and also to landslides. The Measure states that these are potentially significant risks, and goes on to describe how future studies will result in some action that would reduce the risks to a level of insignificance. There is not sufficient commitment or stated performance criteria to make this Measure sufficient under CEQA standards.

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### **1. Lack of mitigation for inundation risks**

With respect to seismic risks, if a performance standard is even hinted at, it is stated in the DEIR as follows: "If the results of the geotechnical investigations indicate the presence of hazards, appropriate support and protection measures shall be designed and implemented." (DEIR, p. 3.8-14.) The District may claim that the performance standards are implied in the regulations and requirements of the State, as the following is included at the end of the DEIR's discussion of GEO-1: "Recommendations provided in the Geotechnical Investigation and Report shall be incorporated into the final construction plans and specifications and shall augment the design and construction requirements of the California Department of Water Resources Division of Safety of Dams (DSOD) dam safety guidelines. Design of the project shall comply with all measures required by DSOD." (*Id.*)

While a lead agency may use compliance with regulatory programs as part of a mitigation strategy, in this case, the potential impact from seismic damage is not simply collapse of a structure, it is the resulting flooding and inundation of the City of Patterson that must also be addressed.

14-11

There is nothing in the DEIR describing what level of risk is left after the safety guidelines of DSOD are followed. If there is still a risk that the dam could collapse as a result of an earthquake (and it is reasonable to assume that there is still some level of risk), the DEIR must also provide for mitigation measures designed to reduce loss of life and property when Patterson is inundated.

The DEIR fails to describe what remaining risk of seismic damage would be left after the somewhat vague compliance with DSOD requirements. Would the risk of seismic damage be zero? That is unlikely, and if that is the case, then the DEIR must describe the reduction of risks in more detail, and how that would be measured.

If the seismic risk is not reduced to zero, then there *is* a risk that the City of Patterson could be inundated. There is not even discussion in the DEIR of how the City would be warned of such a risk, how the citizens would be evacuated. The risks to



14-11  
cont'd property may be difficult to mitigate (and would largely be borne by the residents themselves in the form of higher insurance rates and lower property values), but the risks to life and safety are profound, and the DEIR give short shrift to these risks. This approach violates CEQA.

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## **2. Failure to adequately mitigate for landslide risks**

14-12 The DEIR states that landslides are common in the area where the reservoir is proposed, and that "the proposed project facilities lie in an area susceptible to seismic activity, landslides, lateral spreading, subsidence, and collapse. At least seven landslides are mapped within the inundation area of the proposed reservoir." (DEIR, p. 3.8-16.) The mitigation proposed to address this potentially significant impact is also GEO-1. "The design of the proposed project would use the design and construction measures from the Geotechnical Investigation and Report to mitigated potential on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse...." (*Id.*)

Once again, is the risk associated with landslide reduced to zero by this mitigation strategy? There are no performance criteria, nor analysis of what the residual level of risk would be, and whether there would be additional measures that should be included to mitigate for the remaining level of impact.

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## **3. Failure to adequately mitigate for risks of expansive soils**

14-13 The mitigation strategy for expansive soils is similarly flawed, and simply states that a geotechnical evaluation will occur, and "measures" would be taken to "ensure that structures are not damaged by expanding and contracting soils." (DEIR, p. 3.8-15.) These "measures" are not identified. There is no regulatory scheme that would be complied with that the lead agency can point to as providing a guarantee that if the "measures" are employed, the risk will be less than significant. This mitigation strategy also falls short of CEQA's requirements.

For the citizens of Patterson, these are not idle questions, but important questions about potentially life-threatening events. It would be disconcerting to say the least if the EIR for this Project relied upon the notion that a lead agency can use compliance with regulatory programs as a mitigation strategy, and is then free to ignore any remaining risk. In this case, the remaining risk after compliance with DSOD requirements is a risk that could result in tremendous destruction of property and death or injury to area residents. The analysis of these impacts and the mitigation strategy do not pass muster under CEQA, and from a public policy (and moral) standpoint, are woefully inadequate.

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## **D. Failure to identify an environmentally superior alternative**

14-14 With respect to alternatives, the DEIR fails to adequately analyze a range of reasonable alternatives that truly provide feasible options that could be approved by the decision makers. CEQA requires an EIR to evaluate the "comparative merits" of a range of reasonable alternatives to the proposed project and/or the location of the project. (Guidelines § 15126(d)(1) and (5).) The alternatives selected for analysis must

focus only on those that would avoid or substantially reduce the project's significant environmental effects, even if these alternatives would impede to some degree the attainment of project objectives or would be more costly. (Guidelines § 15126(d)(1) and (5).) The range of alternatives selected must "foster meaningful public participation and informed decisionmaking." (Guidelines § 15126(d)(5).)

One of the alternatives analyzed must include the "no project" alternative. (Guidelines § 15126(d)(4).) The EIR must describe the rationale for selecting the alternatives to be discussed, and identify any alternatives that were rejected as infeasible during the scoping process and why. (Guidelines § 15126(d)(2).) The EIR's alternatives analysis must include "sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed project." (Guidelines § 15126(d)(3).) If an alternative would cause one or more significant effects in addition to the proposed project, the EIR must evaluate these impacts but in less detail than those of the proposed project. Finally, the analysis must select an "environmentally superior" alternative. (Guidelines § 15126(d)(4).)

14-14  
cont'd

In this case, the DEIR does not identify an "environmentally superior alternative." (See DEIR pp. 4-16 to 4-18.) The DEIR simply concludes: "None of the action alternatives is thus considered to be clearly environmentally superior to the proposed project." (DEIR, p. 4-18.) To be meaningful, the alternatives analysis must include feasible alternatives to the preferred project that would reduce or eliminate some of the environmental impacts. The DEIR in this case fails to do so.

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## E. Conclusion

Because of the issues raised above, and the myriad issues raised by members of the public and other agencies, we believe that the DEIR fails to meet the requirements of the California Environmental Quality Act and that the Project is inconsistent with applicable planning documents. For these reasons, we believe the proposal should be denied, pending appropriate environmental review and a revised Project and DEIR.

14-15

Very truly yours,



Marsha A. Burch  
Attorney

cc: Valley Land Alliance

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January 27<sup>th</sup>, 2020

Anthea G. Hansen  
Del Puerto Water District  
17840 Ward Av./PO Box 1596  
Patterson, CA 95363

**RE: Save Mount Diablo Comments on the Del Puerto Canyon Reservoir draft  
Environmental Impact Report – SCH # 2019060254**

Dear Ms. Hansen,

Save Mount Diablo (SMD) is a non-profit conservation organization founded in 1971 which acquires land for addition to parks on and around Mount Diablo and monitors land use planning which might affect protected lands. We build trails, restore habitat, and are involved in environmental education. In 1971 there was just one park on Mount Diablo totaling 6,778 acres; today there are almost 50 parks and preserves around Mount Diablo totaling 110,000 acres. We include more than 8,000 donors and supporters.

Thank you for the opportunity to comment on the draft Environmental Impact Report (dEIR) for the proposed Del Puerto Canyon Reservoir (Project). We became aware of the Project through several partner organizations that are concerned about the negative impacts it could have on biological resources, cultural resources, wildlife habitat, views and recreational opportunities associated with birding. Having reviewed the dEIR, we are concerned that some proposed mitigation measures for biological impacts lack enough detail to determine if significant impacts would be mitigated to a less than significant level by applying them. This and other issues render the dEIR inadequate. We elaborate on our concerns about Project impacts on listed wildlife species, sensitive habitats and wildlife corridors below, but list our main issues here:

1. Mitigation measures for several sensitive species lack specific mitigation ratios for impacted habitat and do not specify multiple protocol-level surveys to determine absence;
2. On-site habitat preservation in Del Puerto Canyon should be considered.
3. More detail related to potential Project benefits to wildlife refuges is required if water to refuges from the Project is being discussed as a potential benefit;
4. The dEIR seems to mischaracterize golden eagle nesting habitat;
5. Impacts and proposed mitigation for San Joaquin kit fox is vague and insufficient as stated in the dEIR;
6. Greater detail should be disclosed on potential alternative sites for the Project.

*Mitigation Measures for Sensitive Species Lack Important Detail*

Section 3.4.3 of the dEIR describes impacts and proposed mitigation measures for several sensitive plant and animal species and habitats. Mitigation Measures BIO-TERR-1f and 1g, which deal with California Tiger Salamander (CTS) and California red-legged frog (CRLF), respectively. The impact analyses for these species calculates the permanent and temporary acreage impacts on the various kinds of habitat types for these species, including aquatic habitat, yet the mitigation measures do not include key details.



15-2  
cont'd

These mitigation measures state that if protocol level surveys for these species determine that they are not present then no compensatory mitigation would be required. However, determining the absence of a species is difficult, since the absence of target individuals in any one survey may simply be because they survey missed the individuals that are present. Repeated surveys are necessary to determine absence, but the dEIR does not clarify if absence could be determined after just one survey. If protocol level surveys for each species state that it is necessary to conduct several surveys to determine species absence, then the dEIR should state that. Or if protocol surveys for these species do not detail how to determine absence, the dEIR should state how many times surveys would be repeated to determine CTS or CRLF absence from the Project site. It is entirely possible that surveys would have to be conducted over several consecutive years to determine the likely absence of these species.

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In addition, BIO-TERR-1f and 1g do not detail mitigation ratios for different CTS and CRLF habitat types. They only state that permanently impacted habitat will be mitigated at a minimum 1:1 ratio. Since both species require scarce aquatic habitat to breed, impacts to breeding habitat types are typically mitigated at a higher ratio than 1:1, such as 3:1.

15-3

For example, the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan (ECCC HCP/NCCP; <https://www.contracosta.ca.gov/depart/cd/water/HCP/archive/final-hcp-rev/pdfs/ch05constrat.pdf>) covers permitting for a range of activities that would impact sensitive species by requiring conservation actions to compensate for impacts. It uses habitat type preservation and restoration ratios as a basis for achieving species mitigation and conservation actions. CTS, CRLF, foothill yellow-legged frog (FYLF) and western spadefoot toad (WST, which is on a 12 month status review for potential listing at the federal level) all rely on aquatic habitat and are evaluated as a part of the Project impact analysis, with known occurrences of FYLF and WST being present near the Project site. The ECCC HCP/NCCP specifies preservation ratios of 2:1 for riparian woodland/scrub, 3:1 for seasonal wetlands and 2:1 for perennial streams. Restoration ratios are 1:1 for riparian, 2:1 for seasonal wetland and 1:1 for perennial streams.

15-4

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The dEIR states that a “generally perennial stream” (dEIR pg. 3.12-4) that flows through the Project site would be drowned by the proposed reservoir site. The Project study area includes, and the proposed reservoir would impact, more than 40 acres of riparian woodland and wetlands, 3 acres of seeps and seasonal wetlands and more than a half-acre of pond habitat. The dEIR should specify separate protection and restoration ratios that are greater than 1:1 for these habitat types that support so many rare species.

To summarize:

1. The dEIR should specifically state if protocol-level surveys would be repeated to determine species absence. If they would not be repeated, that is inadequate;
2. Specific mitigation ratios should be stated in the dEIR for each listed species habitat type;
3. Mitigation measures for sensitive habitat types, such as wetland areas, require greater detail and high ratios.

15-5

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#### *Protection of Upper Del Puerto Canyon as Mitigation*

Grassland, oak woodland, coastal scrub and riparian habit would all be destroyed by the proposed Project. The upper reaches of the Project Study Area contain most of these habitat types, as reflected in dEIR Figure 3.4-1. The dEIR also shows that the proposed Project would basically cut off part of a wildlife corridor in the Mount Diablo – Diablo Range Linkage identified in Penrod et al. 2013 (i.e., Bay Area Critical Linkages Report) as being important for the movement and population connectivity of American badger (a state Species of Special Concern), and also meant to serve populations of San Joaquin kit fox (SJKF), northern harrier, white-tailed kite, burrowing owl, loggerhead shrike, San Joaquin coachwhip, coast horned lizard, CRLF and WST.

Oak woodland, coastal scrub and riparian habitats are present above and around the area that would be flooded by the proposed reservoir. In order to protect part of the remaining wildlife corridor and the remaining diverse habitats in Del Puerto Canyon, on-site habitat preservation and restoration should be included as a component of the Project’s mitigation requirements, as well as the mitigation via easements and mitigation banks already described in the dEIR. Though flooding of the Project area would undoubtedly destroy the value of much of the designated wildlife corridor for the above-mentioned species, protecting the rest of it around the Project site would help to protect the value of the remaining corridor and its potential use by wildlife.

To summarize:

1. The proposed Project site would destroy a designated American badger wildlife corridor that could also be used by many other sensitive species; 15-5 cont'd
2. Mitigation for impacts to this corridor should include preservation of upper Del Puerto Canyon which would protect sensitive habitat types impacted by the Project.

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#### *Insufficient Information on Potential Wildlife Refuge Water*

The dEIR states that the Project could provide water to "Level 4" wildlife refuges south of the Sacramento-San Joaquin Delta. However, the dEIR does not include information on which refuges could receive water from the Project, which species inhabit the refuges, and most importantly, details related to the certainty that the Project would deliver water to the refuges. While the Project proponents have touted water going to wildlife refuges as one of the benefits of the Project, no specific agreement guaranteeing that such deliveries would occur are presented. If Project proponents are stating that increased refuge water is a benefit of the Project, information that demonstrates that such benefits would actually occur should be included for analysis, including a discussion on if any species that would benefit at the refuges are sensitive species, or just gamebird or waterfowl populations targeted for sport hunting. 15-6

To summarize:

1. Much more detail on potential benefits the Project would provide to wildlife refuges should be included in the dEIR;
2. If there are no water agreements or concrete plans to deliver water to refuges, then this should not be touted as a potential benefit of the Project.

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#### *Golden Eagle Nesting Habitat Mischaracterization*

Pages 3.14-15-16 in the dEIR seem to infer that golden eagle primarily nest on cliff faces. This is not true, as the great majority of eagle nests in the Diablo Range are in trees. The dEIR should clarify that golden eagle could be nesting in the proposed Project site if suitable trees are present, such as those in the riparian and oak woodland habitats that would be impacted by the Project. 15-7

To summarize:

1. Golden eagles present in the region nest primarily in trees;
2. The Project could impact nesting eagles by removing oak woodland and riparian habitat. The dEIR should clarify and analyze this, as well as propose mitigation measures for golden eagle nesting habitat.

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#### *Impacts on, and Mitigation for, San Joaquin Kit Fox (SJKF)*

The importance of the mouth of Del Puerto Canyon west of I-5 is to serve as part of the movement corridor linking eastern Contra Costa and Alameda Counties, and western San Joaquin County, with occupied SJKF habitat to the south, in the vicinity of San Luis reservoir. The further west you go up Del Puerto Canyon the less suitable the habitat is for this purpose. The best lands are the flat to rolling grasslands immediately west of I-5.

While the dEIR acknowledges the potential of orchards to be used by SJKF, it also discounts the possibility of the orchards that would be flooded by the Project as being useful to SJKF, instead focusing on the potential for protection and restoration of properties along I-5/California Aqueduct to serve as SJKF mitigation. However, the dEIR fails to describe how many acres of conservation easements would be obtained along I-5/California Aqueduct and the area that would undergo restoration to improve SJKF dispersal potential. As such, Mitigation Measure BIO-TERR-1p is inadequate as written. It is far too vague and needs to specify the location and amount of mitigation. 15-8

The dEIR states that 197 acres of SJKF habitat would be permanently lost and 82 acres would be temporarily affected. Given that SJKF is federally listed as Endangered and state listed as Threatened, the dEIR should specify a 3:1 mitigation ratio for impacts to SJKF habitat. Since part of a designated wildlife corridor (discussed above) would be

destroyed as useful habitat for a number of sensitive species, restoring a large amount of degraded habitat for species such as SJKF is an appropriate mitigation action.

In addition, any new road built should incorporate new or retrofit/enlarge large under-crossings to facilitate wildlife movement. Related to this, "Impact BIO-TERR-1n Impact on San Joaquin Kit Fox" on dEIR pg. 3.4-59 should include roadkill as a potential impact on SJKF as well as American badger. A study in Contra Costa County found a surprisingly high number of badger deaths due to being run over on roads, and two of the three CNDDDB records for SJKF are roadkills.

15-8  
cont'd

The dEIR states less than 200 acres of SJKF habitat would be permanently lost, yet also states that more than 800 acres of badger habitat would be permanently impacted by the Project. Since both are grassland-dependent species, the reason for this large discrepancy is unclear. The dEIR should clarify this and increase modeled impacts to SJKF habitat to be on par with impacts to modeled badger habitat as appropriate.

To summarize:

1. Proposed mitigation for SJKF impacts is vague and lacks detail on amount and location of SJKF habitat restoration and protection;
2. The dEIR should include specific mitigation ratios for SJKF habitat impacts;
3. Roadkills should be listed as an impact for SJKF and badger, and appropriate mitigation measures, such as wildlife crossings, should be implemented;
4. The large discrepancy between badger and SJKF modeled habitat impacts should be discussed and clarified.

---

#### *Greater Consideration of Alternative Sites*

The dEIR and associated appendices discuss Ingram Canyon and other site as potential alternative Project locations. However, the main reason for the disqualification of the Ingram Canyon site is not described in detail. While energy costs associated with a longer water conveyance system to higher elevations is mentioned as a reason for Ingram Canyon's infeasibility as an alternative site, there does not seem to be any financial data presented in the appendices that details why this is so. It should be noted that since the reservoir for this location would be smaller than the one proposed for Del Puerto Canyon, mitigation costs could also potentially be lower, which would help cancel out greater costs associated with conveyance infrastructure.

15-9

To summarize:

1. More detail, including financial analysis, should be included as to why the Ingram Canyon site is infeasible.
- 

Regards,

Juan Pablo Galván  
Senior Land Use Manager

**Anthea Hansen**

---

**From:** Isabel Garcia <isabelg379@gmail.com>  
**Sent:** Thursday, December 12, 2019 2:34 PM  
**To:** dpcrinfo@woodardcurran.com  
**Subject:** Del Puerto Canyon Reservoir

Will frank Raines Park/ Campsite still exist after this project?

16-1



# Del Puerto Canyon Reservoir

## Draft DEIR Public Comment Form

Thank you for participating in today's public comment meeting. This meeting provides a way to provide comments on the Draft Environmental Impact Report (EIR). You may provide your comments either orally by filling out a speaker card and waiting to be called upon to come to the microphone or in writing by using this form. All comments on the draft EIR must be submitted by January 27, 2020. You may leave your completed comment form at the sign-in table or submit as described on the reverse side.

### Please Print as Clearly as Possible

Name: Horiano Sabori - Lopez

Address: 241 Heartland Ranch Ave., Patterson

Affiliation: Resident

Email (to be added to the project email list): peas2for99@yahoo.

### Comments on the Draft Environmental Impact Report

I've lived here 20 years with my family and we regularly visit the Canyon to hike and spend family time there. Teens here in town visit the Canyon to also spend time in nature and get out of the city. You're taking that away from us if the dam is built. 17-1  
 You're forcing us to spend money for flood insurance that I can't afford and you're jeopardizing my family's safety. 17-2  
 I will do whatever I can to fight the plans for this dam and I will continue to get our community involved in fighting it as well and I will continue to get the word out to our community about this dam who know nothing about this. You are wanting to destroy the wild life and history and we will not accept that. 17-3  
 I want to continue to live here with my family and not forced out because of this dangerous dam. 17-4

<b>Meeting:</b>	Del Puerto Canyon Reservoir, Draft Environmental Impact Report Public Comment Meeting		
<b>Date:</b>	Wednesday, January 15, 2020	<b>Location:</b>	Hammon Senior Center, 1033 W. Las Palmas Avenue, Patterson, CA



**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:44 PM  
**To:** Sandra Watts  
**Subject:** FW: Del Puerto Dam

-----Original Message-----

**From:** Adriane Sabori-Lopez [mailto:peas2for99@yahoo.com]  
**Sent:** Monday, January 27, 2020 4:39 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Del Puerto Dam

Hello,

My name is Adriane and I have been a Patterson resident for over 21 years where I have created and raised my family with my husband. We came here as a small, young family to get away from the hustle and bustle of a big city to a small town where we believed we could give our children a better way of life. We fell in love with this small town, the people, and these beautiful country surroundings. We have always gushed over our town and over the years on social media I have been proud to post the most beautiful Canyon photos I have taken up there and have wanted to share with countless friends and family. We have always felt fortunate to have found Patterson and to have been able to raise our children in a town that is so family oriented and that has always cared about their residents and our safety. That is, until recently. I was heartbroken and upset when I learned of this plan to ruin our beautiful Del Puerto Canyon that we have learned to love. We raised our children around this canyon. The hundreds of visits to the canyon to sight see, hike, explore the nature and wild life, and visiting Graffiti Rock. My teen boys grew up there at the rock with their friends where they explored and took photos and hung out together at a place where they felt like it was the coolest place to visit. And a place where I always hoped my daughter would one day explore with her friends 18-1 when she comes of age. A place where both my boys included in their senior pictures because it was a place full of good memories for them and a big piece of their childhood. As soon as I informed my children of this plan for a dam, they both jumped into action and signed the online petition as well as did their friends who are away at college, but who still love the canyon and never want to see it ruined. This is a horrible plan for so many reasons. Not only will this financially affect my family as we will absolutely need to pay homeowners insurance due to this dam, but this project will steal away a huge piece of history and treasured memories for my family and thousands of others. You are risking the safety of my family if that dam breaks and 18-2 you are risking our health during the construction of the dam. We all have heard the pollution that will be contaminating our air 18-3 and that is unacceptable that we are being put in the middle of a health hazard because of this reservoir. This not only upsets me to hear that the safety and the health of our Patterson residents are not being taken into consideration but it also upsets me that we will then be forced to move from this town that we have grown to love and the only place my children know. There is no way my family will stay here if this dam project is approved. So you are stealing so much more from us than memories; you are taking away our life here as I will not put my family's lives in danger to stay here. Not to mention the dam is sure to hit us hard 18-4 when it comes time to sell our home as no one wants to buy a home right next to a dam. This is a selfish project and a dangerous one at that! This dam will not benefit our town, it only hurts it. The moment we heard about this plan, I jumped in to see what I could do to help stop it in it's tracks. We have gained countless signatures of residents who feel the same as I do and who do not want to see this plan approved. We are spreading the word on social media about this dam and all the risks that are involved by it's existence. So many had no clue this plan even existed. It's down right horrible to learn how this plan has been kept hush hush so no one could try to fight it. I'm disgusted by this actually and completely disappointed in our city council that this information was not distributed to every resident in this town as it affects us all. I will continue to stand with my neighbors and 18-5 do all I can to fight for this town and our neighbors if the city counsel will not. We care about one another here and we care 18-6 about our canyon and we want to save every little inch of beauty and history that the canyon provides us. I have learned so much about the canyon this past month or more and the fact that dinosaur fossils, several sacred Native American cemeteries, 18-6 and endangered species were and are present in our canyon makes this plan all the more a horrible idea when it will disrupt and

18-6

cont'd

disgrace such a huge part of history. This canyon deserves to be preserved and our safety also deserves to be kept a high priority. We will not back down when it comes to keep our town and the canyon safe and we will do whatever we can to make that happen.

---

Thank you for your time.

Adriane Sabori-Lopez

Sent from my iPhone

**Anthea Hansen**

---

**From:** Erlinda Perez <elvirabonita82@gmail.com>  
**Sent:** Sunday, January 12, 2020 6:31 PM  
**To:** Anthea Hansen  
**Cc:** shivaugnmaureen@gmail.com  
**Subject:** regarding reservoir in Del Puerto canyon

Greetings,

As a multi decade Patterson resident I have been following the reservoir issue closely. It brings me great pain to know that myself, like MANY others, will not be able to attend this critical meeting due to scheduling. Working people typically get off at 5:00pm. The meeting is scheduled at 4:00pm. Do you intend on truly providing access for all people to share their opinion on the matter or just aim to make it impossible. Timing of these meetings are unjust and unfair for the working class people of Patterson. I am appalled that the water district would aim to limit the community's voice at this time, we have a right to fight against this decision for financial and moral reasons! 19-1

Disgusted and on Behalf of myself and MANY other residents.

Erlinda Torres

Sent from my iPhone

**Anthea Hansen**

---

**From:** Jane Fawke <laragna.web@gmail.com>  
**Sent:** Tuesday, January 14, 2020 9:12 AM  
**To:** Anthea Hansen  
**Subject:** Diablo Canyon dam

I am writing to protest the building of this new dam in the Diablo range, the Del Puerto dam.  
How can you think of destroying this prime ecological area, the only one with access to the public in that range.  
It's a horrible idea, please don't do it.  
Thank you for your attention.  
Jane Fawke

20-1



# Form Submissions

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ⓘ When downloading attachments, please be careful to scan them for viruses before opening.

Date	Submitted On	Form Data
Thu, Jan 16, 2020 7:57 AM	contact-us (/contact-us)	<p><b>Your name:</b> Jacinto Cantu IV</p> <p><b>Your email:</b> jc_iv20g@hotmail.com</p> <p><b>Subject:</b> Del Puerto Dam</p> <p><b>Message:</b></p> <p>I was Born and Raised here and am planning to raise my kids here as well but if we're at risk of dying because of a catastrophic event of it flooding then you bet i'm moving out of town.. Please move 21-1 dam to an Alternate area that won't affect us as much Thank You.</p> <p><b>Attachment:</b></p>

Load More

**Anthea Hansen**

---

**From:** Donald Hess <dghess52@gmail.com>  
**Sent:** Thursday, January 16, 2020 1:59 PM  
**To:** Anthea Hansen  
**Subject:** Del Puerto Dam  
**Attachments:** FEMA.pdf

Hi, Anthea Hansen

I was at the January 15, 2020 meeting held at the Hammon Senior Center. It was a very informative meeting for me. We need water, farmers need water. When I moved to Patterson, many years ago, there was only 5000 people in this town. Now there is five times as much, with more moving in. The City Council has approved housing for 15000 homes. This will easily double the population of Patterson.

I moved to Livermore and lived by the airport. It was my fault, and wasn't proper to complain. However, I have misgivings about the placement of this dam. I am afraid that this dam could fail as the ones that have failed in Los Angeles and in California:

1. San Francisquito Dam on March 12, 1928; concrete dam
2. Baldwin Hills Dam on December 14, 1963, built on the Newport-Inglewood Fault; earthen dam
3. Lower Van Norman Dam, which cracked after the 1971 San Fernando earthquake;
4. Oroville Dam in 2017, with its spillway issues

22-1

---

I am in favor of a dam to protect the city from a flood like the one in 1993. The building of a dam to hold back a large portion of water for fluctuating usage is dangerous because of erosion of the dam, which will flood the town.

22-2

---

What will happen to the economy of California if the Del Puerto Dam is breached and wipes out Interstate 5?

22-3

---

The citizens of Patterson shouldn't be forced to buy flood insurance because of the building of this dam. I know that animals, insects, and plants are impacted by human activity. However, when human lives are impacted, I have concerns.

22-4

---

I contacted FEMA about the building of this dam. I have attached their response to me.

I went to this meeting supporting the dam, but now, not so much.

Thanks, Donald Hess

Sent from Mail for Windows 10

**From:** FEMA Map Specialist (FMIX)  
**Sent:** Thursday, January 16, 2020 9:30 AM  
**To:** Donald Hess  
**Subject:** Inquiry #2825092 - [FMS] - Potential Flood Zone change for Patterson, CA 96363

We are responding as a representative of the Department of Homeland Security, Federal Emergency Management Agency (FEMA), to your email message sent to [FEMAMapSpecialist@riskmapcds.com](mailto:FEMAMapSpecialist@riskmapcds.com).

As a participant in the National Flood Insurance Program (NFIP), your community has agreed to adopt and enforce basic floodplain management regulations. FEMA works closely with States and local communities to identify flood hazard areas. The floodplain management requirements are designed to prevent new development from increasing flood risk and to protect new and existing buildings from future flooding events.

FEMA identifies areas of high risk as Special Flood Hazard Areas (SFHAs). These are areas subject to inundation by the base (1-percent-annual-chance) flood. Per NFIP regulations, a participating community requires floodplain development permits for all development in the SFHA and ensures that construction materials and methods will minimize future flood damage. Permit files must document how buildings meet local floodplain regulations. In return, the Federal Government makes flood insurance and disaster assistance available in that community.

The floodplain management criteria established under the NFIP applies to construction in the SFHA, but not to development outside the SFHA or to local drainage issues. Any community can use its permit process to ensure sound floodplain management, and that local drainage issues do not affect other properties. State and community officials, based on their knowledge of local conditions and in the interest of safety, may set higher standards for construction or may limit development in SFHAs. If your State or community has adopted more restrictive or comprehensive floodplain management criteria, those criteria take precedence over the minimum NFIP requirements.

If you would like to speak with someone knowledgeable about local floodplain management, you can contact your community Floodplain Administrator (FPA). According to our records, Ms. Maria Encinas is the FPA for the City of Patterson, California, and she can be reached at [\(209\)895-8061](tel:(209)895-8061). Her office is located at 1 Plaza, 2nd Floor, Patterson, CA, 95363.

We hope this information has addressed the concerns raised in your email. If you need additional information or assistance, please reply to this message. You may also contact the FEMA Mapping and Insurance eXchange (FMIX) Customer Care Center by telephone, toll-free, at [\(877\)336-2627](tel:(877)336-2627), option 1, or by chat at [http://www.floodmaps.fema.gov/fhm/fmx\\_main.html](http://www.floodmaps.fema.gov/fhm/fmx_main.html).

----- Original Message -----

From: "Donald Hess" <[dghess52@gmail.com](mailto:dghess52@gmail.com)>  
Received: 1/15/2020 5:38 PM (Eastern Standard Time)  
To: "Fema Map Specialist" <[FemaMapSpecialist@riskmapcds.com](mailto:FemaMapSpecialist@riskmapcds.com)>  
Subject: [FMS] - Potential Flood Zone change for Patterson, CA 96363

Hi,

There is a proposal by the Del Puerto Water District and the San Joaquin River Exchange Contractors Water Authority to construct an earthen dam across the Del Puerto Creek, west of the City of Patterson. We need water for our farmers, but at what cost?

Will my home be in a potential flood zone, if this dam fails?

I live at 530 Sunflower DR, Patterson, CA 95363

Thanks, Donald Hess

Sent from Mail for Windows 10



**Anthea Hansen**

---

**From:** mcross1089@gmail.com  
**Sent:** Friday, January 17, 2020 1:47 PM  
**To:** dpcrinfo@woodardcurran.com  
**Subject:** Del Puerto Canyon Reservoir inquiry

Hello!

I'm a homeowner in Patterson, CA and I recently heard about your project. I'd like to learn more about it, but I wasn't able to make it to the recent public meeting due to my work hours. Do you have any resources that can help me understand the possible flood insurance impact to homeowners? I've looked through the EIR but it left me a little confused about the specific areas that could be impacted and what those specific impacts would be. I might have just missed something.

23-1

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Do you have any simple graphics that you could share with me that show "areas impacted" and expected insurance costs for those areas? I feel that this some level of misinformation/alarmism floating around on social media, and I don't want to get swept up in all of that. I'd appreciate any clarification on this that you could provide.

---

23-2

Thanks,

M

Sent from my iPhone

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**Anthea Hansen**


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**From:** Nicole Angeles <nicolekangeles@yahoo.com>  
**Sent:** Saturday, January 18, 2020 4:14 PM  
**To:** Anthea Hansen

To the Del Puerto Water District Director and board members,

I'm opposed to the damming of Del Puerto creek and the resevoir that would cover the first five miles of Del Puerto Canyon Road. The environmental impact report noted a number of things that are very concerning to me about how the wildlife would be negatively impacted, how there is still a strong probability that there are fossils of significance near the 3 mile marker, the Native American burial caves near the 4 and 5 mile marker that have not been considered of sacred importance to the Yukot tribe here in California, and the loss of history when the old Hammon Homestead and other early settled properties would be lost to flooding. I have many other concerns such as that with a fault line that runs right under where the dam would be built, the landslide evidence that is near where the dam would be built, and the need for flood insurance by the residents in Patterson. I was also informed that the City of Patterson had intentions of making the lower Del Puerto Creek a recreational area for the residents of Patterson so that the nature and unique geological features could be enjoyed by all. All of these reasons have informed my position in opposition to the dam being built. I would ask that you halt the forward motion of a dam in Del Puerto Canyon and look at more environmentally responsible options to provide agricultural water to our local farmers. Please consider the opposition that the residents of Patterson are presenting in these emails during the public comment period and the negative impact it will have on our community between those of us who are consumers of local agriculture and those who are on the board who represent local farm and agricultural entities that we have always otherwise supported. We want to continue to support them but cannot do so in good conscious if they are disregarding our grave concerns about how they intend to acquire water for their entities. We support ag, we love our local farmers but we are asking them to not pursue water at all costs including the cost of isolating them from their fellow residents here on the west side. We know the names of all who are on the board and value their families in our communities but it is on them now to value our concerns. We would not want a situation where we pay hundreds every month in flood insurance while their businesses prosper. I am confident that we can find an alternative option to bring water to their entities that doesn't include ruining a local treasure. Let's not divide our community like that. Once this is done it cannot be undone. Let's end the pursuit of a dam in Del Puerto Canyon now while our community is still in tact and not drive a wedge between a town with such rich history of support for one another and concern for fellow citizens. That's what makes Patterson such a special town...and that's one of the biggest concerns I have. I am asking the director of Del Puerto Water District Anthea Hansen, and all who are on the board, many of whom own agricultural business here in Patterson: Bill Koster, Ivan Hayes, Zach Maring, Kyle Perez, and James Jasper to consider all of my concerns and to put an end to any furtherance of the project of damming Del Puerto Canyon.

Sincerely,

NicoleAngeles

[Sent from Yahoo Mail for iPhone](#)

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Wednesday, January 22, 2020 2:25 PM  
**To:** Sandra Watts  
**Subject:** Fwd: Risk of wild fire to the Del Puerto Reservoir

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Jeremy Angeles <nicolekangeles@yahoo.com>  
**Date:** 1/22/20 12:49 PM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Risk of wild fire to the Del Puerto Reservoir

I have read quite a bit of the EIR now but I'm still looking for an area that addresses the threat of wildfire to the infrastructure of the dam such as the loss of power, back up generators, pumps that control the flow of the dam, risk of mudslides due to lack of vegetation from fires along the shoreline of the reservoir that could cause a breach or a wave that would topple the dam? In the last year or two we have had multiple fires along the first five miles so Del Puerto Canyon and Fire is a very real risk. Can you send me information or the section of the EIR that addresses risk of wild fire to the integrity of the dam? 25-1

Thank you,

Nicole Angeles

[Sent from Yahoo Mail for iPhone](#)

**Anthea Hansen**

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**From:** Susan Clark <sierrasue10@gmail.com>  
**Sent:** Sunday, January 19, 2020 5:34 PM  
**To:** Anthea Hansen  
**Subject:** NO Del Puerto Dam!

I'm opposed to the damming of Del Puerto creek and the reservoir that would cover the first five miles of Del Puerto Canyon Road. The environmental impact report indicated that wildlife would be negatively impacted, 26-1  
 26-2 fossils of significance near the 3 mile marker could likely be damaged, Native American Indian (Yokut) burial 26-3  
 sites could be adversely affected (near the 4 and 5 mile marker), the Hammon Homestead, a historic landscape 26-4  
 could adversely affected, California and the loss of history when the old Hammon. Local geologists claim that 26-5  
 there are potential seismic hazards at proposed dam site, with evidence if unstable ground at site indicated by 26-6  
 recent landslides. The residents downstream from proposed dam site would be in harms way due to potential  
 seismic activity and flooding . Flood insurance may required by lenders and some may not afford this  
 (environmental justice issue)

The City of Patterson had intentions of making the lower Del Puerto Creek a recreational area for residents of 26-7  
 so that the natural, cultural, and unique geological features could be enjoyed by all. I ask that you halt the  
 proposal for a dam in Del Puerto Canyon and look at more environmentally responsible options to provide  
 agricultural water to our local farmers. Please consider the opposition that the residents of Patterson are 26-8  
 presenting in these emails during the public comment period and the negative impact it will have on our  
 community between those of us who are consumers of local agriculture and those who are on the board who  
 represent local farm and agricultural entities that we have always otherwise supported. I support ag, but believe  
 that there are alternatives to adequately managing crop/orchard water needs without building more dams

To the director of Del Puerto Water District, Anthea Hansen, and all board members: Bill Koster, Ivan Bays,  
 Peter Lucich, Zach Maring, Kyle Perez, and James Jasper consider my concerns and to reject this dam proposal  
 In Del Puerto Canyon.

**Anthea Hansen**

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**From:** Eric Mello <ethemello1@gmail.com>  
**Sent:** Sunday, January 19, 2020 3:41 PM  
**To:** dpcrinfo@woodardcurran.com  
**Subject:** Del Puerto Canyon Reservoir inquiry

Where are you getting the water from? This Dam probably isn't going to happen.

27-1

**Anthea Hansen**

---

**From:** G C <gcnotary08@yahoo.com>  
**Sent:** Monday, January 20, 2020 7:18 PM  
**To:** Anthea Hansen  
**Subject:** Del Puerto Reservoir

Hello,

I live directly in the line of the path of the potential reservoir. I currently pay an extra \$200 a month for Mello Roos. I am very unhappy with the idea of a reservoir being built in an area which will require me to get flood insurance. Which will 28-1  
cause my mortgage payment to be raised even higher. When I chose to live in Patterson 28 years ago was due to the  
safety. This reservoir is just another bad choice by the city in the name of the almighty dollar. Unfortunately, I have 28-2  
watched our beautiful little town be turned into mess, all for the money. Please help us citizens put a stop to this  
ridiculous decision. Highway 5 provides plenty of land that wouldn't put citizens as well as their property in danger.  
These areas make more sense to prevent the lose of lives, property, native animals, and plants.

---

Thank you,  
Genevieve

**Anthea Hansen**

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**From:** RITA GILL <gillrita10@comcast.net>  
**Sent:** Monday, January 20, 2020 7:23 PM  
**To:** Anthea Hansen  
**Subject:** Del Puerto Reservoir

Hello,

I live directly in the line of the path of the potential reservoir. I am very unhappy with the idea of a reservoir being built in an area which will require me to get flood insurance. Which will cause my mortgage payment to be raised even higher. When I chose to live in Patterson 27 yrs. ago was due to the safety. This reservoir is just another bad choice by the city in the name of the almighty dollar. Unfortunately, I have watched our beautiful little town be turned into mess, all for the money. Please help us citizens put a stop to this ridiculous decision. Highway 5 provides plenty of land that wouldn't put citizens as well as their property in danger. These areas make more sense to prevent the lose of lives, property, native animals, and plants. 29-1

Thank You,  
Bernardino & Rita Gill  
845 Mackilhaffy Dr.  
Patterson, Ca.

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Wednesday, January 22, 2020 2:23 PM  
**To:** Sandra Watts  
**Subject:** Fwd: Dam

Letter 30

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** KANDACE KISER <kandacekiser@gmail.com>  
**Date:** 1/22/20 12:37 PM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Dam

I oppose the dam.

Is there going to be money set aside from the funding that Del Puerto Water District is using to build the dam to provide maintenance to the dam over the next 20, 40, even 80+ years? That budget will have to take inflation into account. Unless long term maintenance is included in the original budget we may wind up in the situation this southern CA town is facing presently. Everyone wants to build build dams because there is money in that but our state and private entities behind these dams have a proven track record of not up keeping them. I was on a FEMA website last night about dam failures and they have special flood insurance rates for cities who have worked with FEMA to develop emergency action plans. Our city council has not informed us of what they are doing to create an emergency action plan or any future plans to practice that plan with the community. If they are not proactive in creating that plan then we would not be eligible for the reduced flood insurance rates. Their silence on taking a stand on the dam project shows us that they are not proactive at all so I suspect we would not be in a position, if there was a reservoir built, to take advantage of the FEMA program to have access to lower flood insurance rates. I want to hear from them about what our emergency action plan would be. Where would we evacuate to? Where would we consider safe high ground? What will the alert system in place be?

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Sent from Gmail Mobile



**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Wednesday, January 22, 2020 2:24 PM  
**To:** Sandra Watts  
**Subject:** Fwd: Del Puerto Reservoir Comment

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** John Chamorro <john.chamorro1@gmail.com>  
**Date:** 1/22/20 12:44 PM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** Dave Cortese <dave.cortese@bos.sccgov.org>, demartiniJ@stancounty.com  
**Subject:** Del Puerto Reservoir Comment

**Hello,**

As a long established resident of the Canyon I have seen many "improvements" come and go in the last 35 years. This project however is detrimental to the residents. Several aspects of the "road realignment" will cause great harm, inconvenience and will be catastrophic to the safety of the Canyon Community. It will be inconvenient in the simple fact that it will take much longer to get to town for the day to day <sup>31-1</sup> trips. (Added time, fuel, pollution etc.)

It will take much longer for the children to get to school. The children already need to be ready to catch the bus at 5am and don't return until after 4pm. That's a very long day for a small child already.

The biggest concern will be for emergency services. Cal Fire is our ONLY emergency service we have. During fire season the Sweet Water Station #25 is fully staffed with fire fighters, engineers and most <sup>31-2</sup> importantly, medical personnel. When fire season ends usually by November or December there are NO EMERGENCY SERVICES until the beginning of fire season usually around May or as late as June. That means that we have NO EMERGENCY SERVICES available potentially for 6-8 MONTHS. At the VERY BEST it takes over an hour for HELP TO ARRIVE! The added time for first responders to arrive is unacceptable. Until these issues are remedied the can be NO ROAD REALIGNMENT.

Respectfully,  
John Chamorro  
209-552-5650  
11005 Del Puerto Canyon Rd.

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Wednesday, January 22, 2020 2:26 PM  
**To:** Sandra Watts  
**Subject:** Fwd: Del Puerto Canyon Dam Project

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** jazmingwynne@gmail.com  
**Date:** 1/22/20 12:56 PM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Del Puerto Canyon Dam Project

I wanted to let you know that as a Patterson homeowner I oppose the building of this dam. I feel there are too many instances where the dam would do more harm than good. I also don't feel safe having my home in a flood zone if the dam were to have a malfunction. Please consider an alternate location for this dam away from so many homes. 32-1

Thank you,  
Jazmin Ortega

Sent from my iPhone

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Wednesday, January 22, 2020 8:44 AM  
**To:** Sandra Watts  
**Subject:** Fwd: Opposed to Del Puerto Reservoir after review of EIR Public Comment

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Ben Sierra <bsierra85@gmail.com>  
**Date:** 1/22/20 8:27 AM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Opposed to Del Puerto Reservoir after review of EIR Public Comment

My name is Ben, a resident of Patterson, CA for over 30 years and I'm opposed to Del Puerto Reservoir. The environmental impact report noted a number of things that are very concerning to me about how there is still a strong probability that there are fossils of significance near the 3 mile marker, the Native American burial caves near the 4 and 5 mile marker that should be considered to be of historical significance, the fact that this reservoir sits on bed rock which puts a risk of landslides/instability to the area, how damage from a earthquake can weaken or destroy the dam, the use of pest control and how that could be deadly to the ecosystem of animals, the construction debris polluting our air and harming the respiratory system of humans/animals. Also the risk of Algal Boom, which has been a problem with the San Luis Reservoir down the road, can cause a bad odor in the community of Patterson and risk of illness to the animals that will drink the water. I also will not appreciate paying for "flood insurance". I love my city, my family has called Patterson home since the early 1900's. I am proudly raising my children in Patterson, and we enjoy our trips driving up Del Puerto Canyon for it's beauty and escape from civilization. Overall, alternative location or other water conserving methods should be considered.

I am confident that we can find an alternative option to bring water to their entities that doesn't include ruining a local treasure and putting the residence of Patterson in danger. Let's work together to find an alternate location for this project. I am asking the director of Del Puerto Water District Anthea Hansen, and all who are on the board: Bill Koster, Ivan Bays, Peter Lucich, Zach Maring, Kyle Perez, and James Jasper to consider all of my concerns and work with the citizens of Patterson, to find another site for this reservoir. This project is all risk and no reward!

Sincerely,

Benjamin Sierra

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Wednesday, January 22, 2020 7:01 AM  
**To:** Sandra Watts  
**Subject:** Fwd: Del Puerto Canyon Dam Objection

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Nikki B <srt10love@gmail.com>  
**Date:** 1/22/20 3:46 AM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Del Puerto Canyon Dam Objection

01.22.2020

Nikki Barstow  
 144 Dowitcher Dr  
 Patterson, CA 95363  
 925-918-0285

My name is Nikki and I live in a beautiful California town, in Patterson, CA.

34-1

I am very upset that the town of Patterson and her citizens were not properly informed about a dam being built right above our heads. Literally a dam of 260ft tall looming over Patterson (which is almost as tall as the statue of liberty).

I have lived in California my whole life and Patterson for over 6 years. I am completely heartbroken that your company would propose the del puerto canyon dam.

34-2

This dam would absolutley pose a risk to all of the residents of Patterson, CA. One strong earthquake, landslide, or faulty install could destroy Patterson.

If your dam fails it would kill people, wipe out I5 and destroy most of the homes in Patterson.

We are a poorer community so maybe thats why you are trying to dump your dam here. But the people of Patterson will not sit by idle and watch their town be stolen from them.

34-3

#savedelpuertocanyon already has over 2k signatures opposing this dam.

Please do the right thing and move the dam to a location that won't put the people of Patterson or any other people for that matter, in harms way!

Thank you,  
 Nikki Barstow

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Thursday, January 23, 2020 2:22 PM  
**To:** Sandra Watts  
**Subject:** Fwd: Reservoir

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Samuel <sammlewis89@gmail.com>  
**Date:** 1/22/20 11:19 AM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Reservoir

As a resident of Patterson, I have many concerns regarding the planned Del Puerto Canyon Reservoir. This seems like something that is unfair to the residents of Patterson. This is our backyard and we are all being put at risk by this 35-1 reservoir. While I understand the need for water for Ag, I don't think it's a good idea to put 22,000 people at risk. This will be so close to us, that there will be virtually no time for people to evacuate in the case of a breach. There is another area 6 miles to the north that is viable to be used as an alternate location. This northern location will remove tens or 35-2 thousands of people from a flood zone.

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Another concern of mine is that it will be privately owned. Because of this, will it still be subject to state inspections? Will the owners be held responsible in case of a failure, resulting in water damage and loss of life? 35-3

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Sent from my iPhone

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Wednesday, January 22, 2020 2:26 PM  
**To:** Sandra Watts  
**Subject:** Fwd: Del Puerto proposed Dam

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Sharon Miceli <miceli\_sharon@yahoo.com>  
 Date: 1/22/20 12:52 PM (GMT-08:00)  
 To: Anthea Hansen <ahansen@delpuertowd.org>  
 Subject: Del Puerto proposed Dam

Is there going to be money set aside from the funding that Del Puerto Water District is using to build the dam to provide maintenance to the dam over the next 20, 40, even 80+ years? That budget will have to take inflation into account. Unless long term maintenance is included in the original budget we may wind up in the situation this southern CA town is facing presently. Everyone wants to build build dams because there is money in that but our state and private entities behind these dams have a proven track record of not up keeping them. I was on a FEMA website last night about dam failures and they have special flood insurance rates for cities who have worked with FEMA to develop emergency action plans. Our city council has not informed us of what they are doing to create an emergency action plan or any future plans to practice that plan with the community. If they are not proactive in creating that plan then we would not be eligible for the reduced flood insurance rates. Their silence on taking a stand on the dam project shows us that they are not proactive at all so I suspect we would not be in a position, if there was a reservoir built, to take advantage of the FEMA program to have access to lower flood insurance rates. I want to hear from them about what our emergency action plan would be. Where would we evacuate to? Where would we consider safe high ground? What will the alert system in place be? 36-1

Patterson tax paying citizens/homeowners have a right to fight this and or better understand what exactly is going on. Patterson's demographics should NOT BE a play in this and I wonder hmmm is it !!!!! 36-2  
 Because that's not fair n demographics has changed some PATTERSONS citizens WANT a cleaner better town. The CITY OF PATTERSON ITSELF needs to step it up. It starts there. Show some leadership !!!! Clean up this place do we can be proud. Possibly use this place to picnic fish etc and bring in some revenue!!!! 36-3

Sincerely,  
 SMiceli

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Wednesday, January 22, 2020 7:01 AM  
**To:** Sandra Watts  
**Subject:** Fwd: Proposed site for Del Puerto Canyon Reservoir

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Mary Brummel <maryberrye@comcast.net>  
**Date:** 1/22/20 12:52 AM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Proposed site for Del Puerto Canyon Reservoir

Dear Ms. Hansen,

I am emailing on behalf of my friends who reside and/or are business owners in the City of Patterson, and as a concerned resident of Stanislaus County. The DPWDs preferred site for the Del Puerto Canyon Reservoir poses an unnecessary risk/threat to the City of Patterson due to the proximity of said site to a fault line, the City of Patterson, and the potential flooding should the Dam fail due to an earthquake or an engineering malfunction. Building a dam above the City of Patterson will mean that flood insurance becomes a prerequisite for homeowners and businesses. Homeowners will be burdened with an unwieldy increase in Homeowner's insurance which many will struggle to afford. Landlords and businesses will pass their new expense to their renters or patrons which will also detrimentally affect people who live on the Westside, many of whom live at or below the poverty level. I support the Del Puerto Canyon Reservoir being completed at the alternate site above Howard Rd., where it will not endanger life and property.

Regards,

Mary Brummel  
1210 Cattail Ct  
Newman, CA 95360

Sent from Mail for Windows 10

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Thursday, January 23, 2020 2:09 PM  
**To:** Sandra Watts  
**Subject:** Fwd: Del Puerto Canyon Dam

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Emma Keller <emma.keller@ymail.com>  
**Date:** 1/23/20 1:40 PM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Del Puerto Canyon Dam

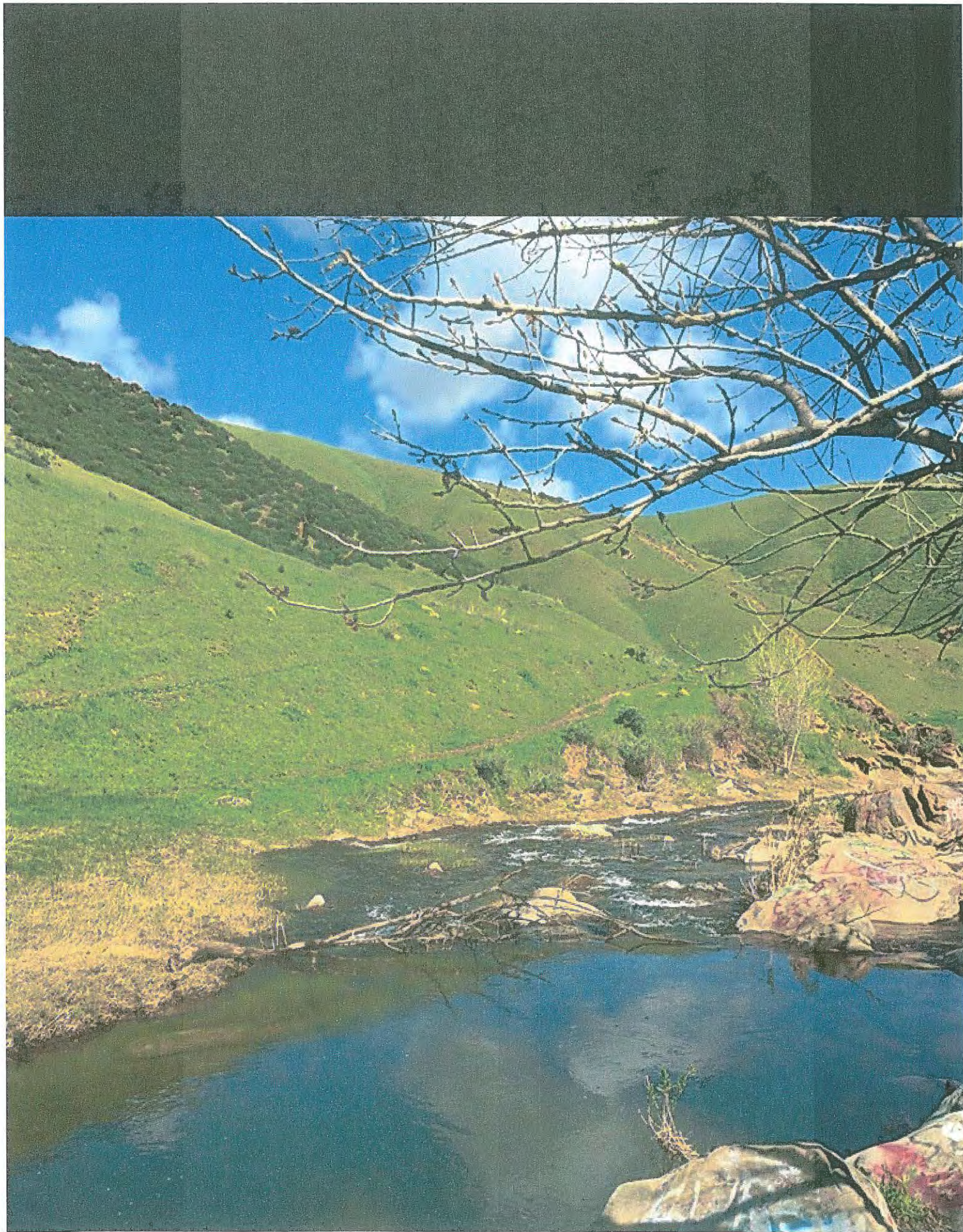
Hello there,

I'm writing to you in hopes that you will reconsider your project for a Dam in Del Puerto Canyon. I realize you may be getting quite a few emails so I will keep mine short. I grew up in Patterson, as did my mother and father. I currently live in Santa Cruz but Del Puerto Canyon is of huge sentimental value to me, as it is many Patterson residents. I usually visit at least twice a year, despite 38-1 not living in Patterson now. If you haven't been able to experience the beauty in Del Puerto Canyon, I encourage you to take a drive. I've attached some photos I took last spring while the water was abundant. This is a special and mostly untouched area with a lot of potential for scientific discovery and Native American history. Placing a dam here would be proactive in erasing Native American culture and history. The Stanislaus County has one of the worst air qualities in California, and the construction of this 38-2 dam would only put us in further danger. Many valley residents struggle with asthma and valley fever already. If you desire to help our farmers, please protect our air quality as well.

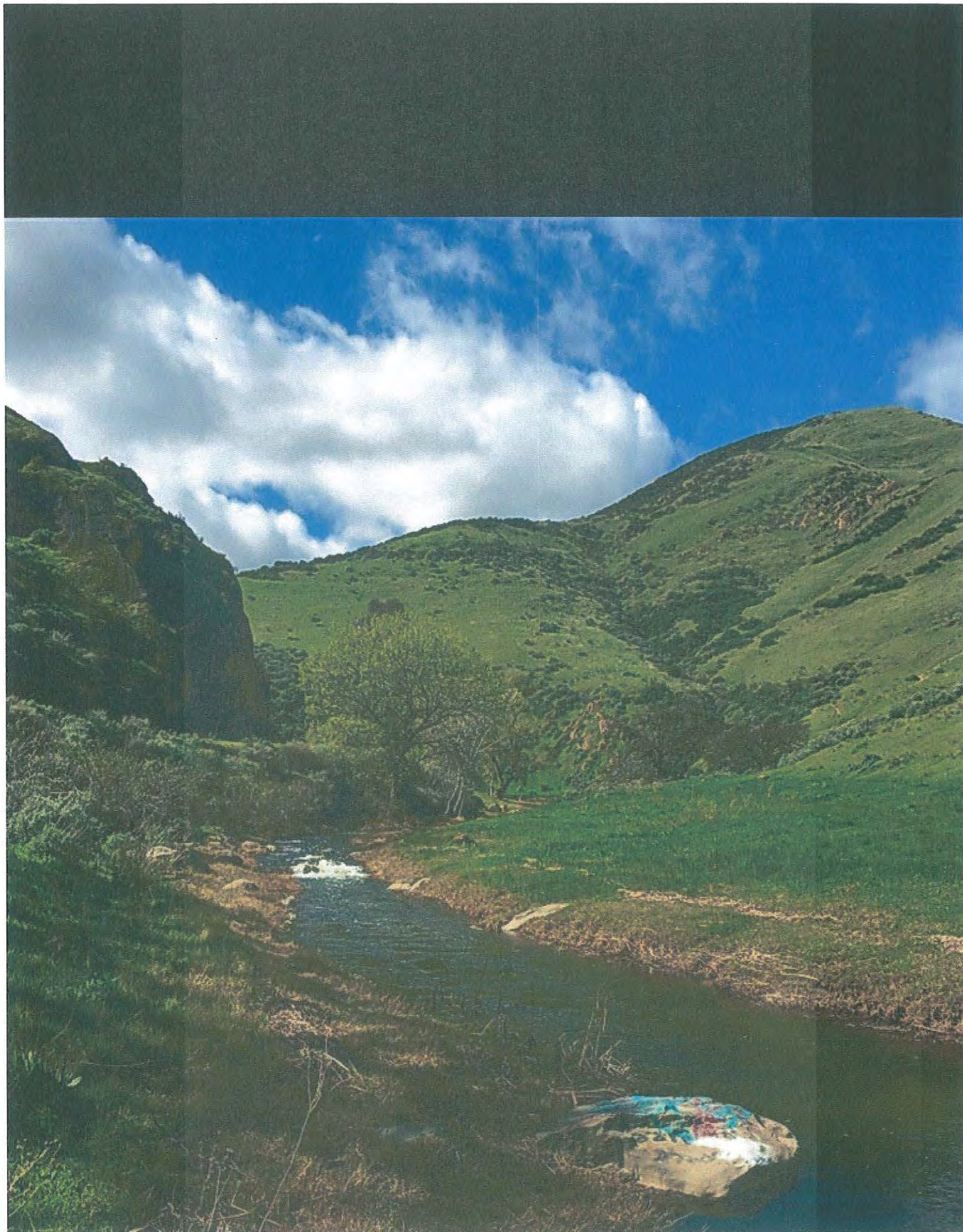
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Thank you for your time,  
Emma Keller  
Graduate Student, UCSC

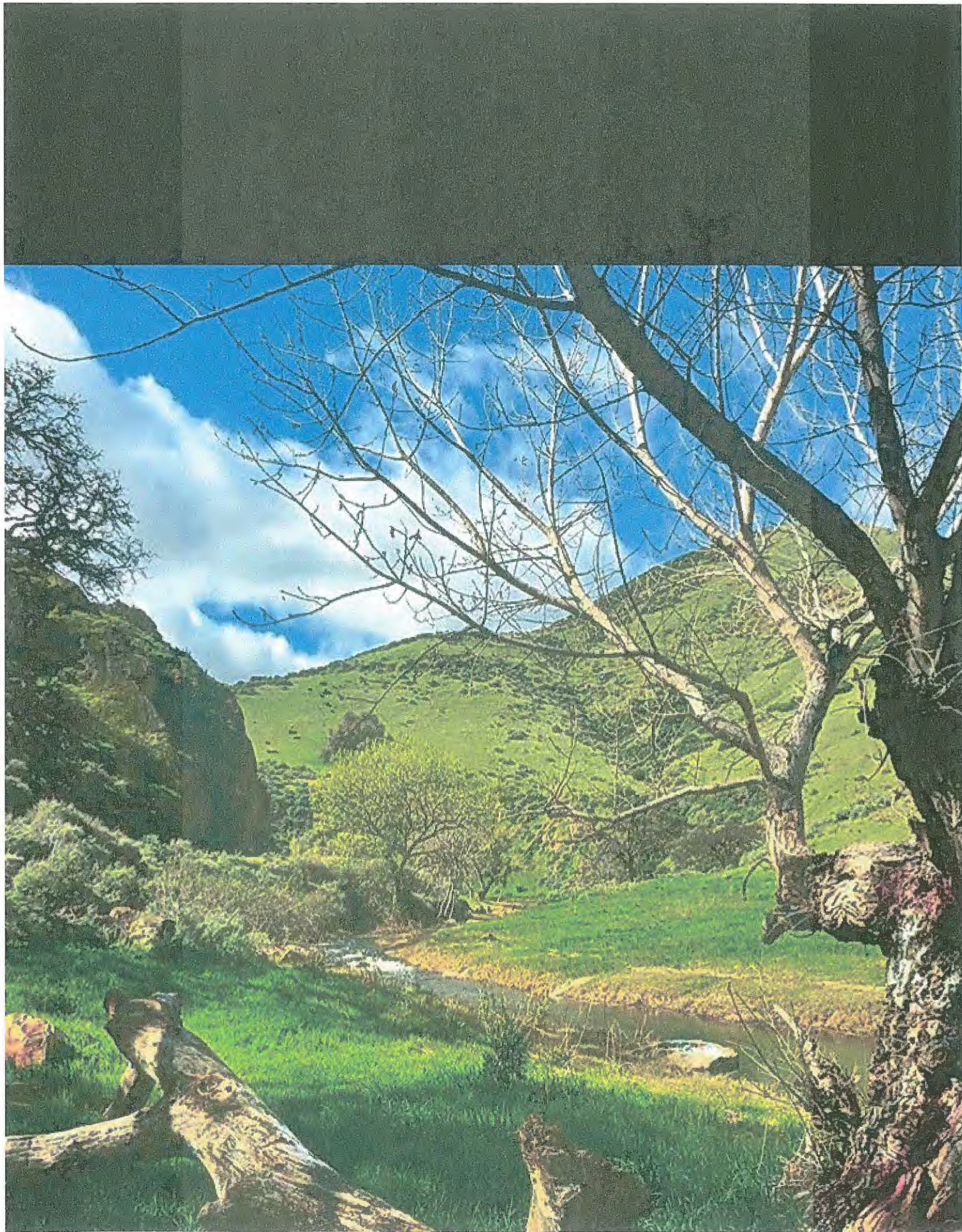














**Del Puerto Canyon Reservoir dEIR Comments  
Delivered 01-23-2020**

Hand Delivered by David Keller to:

Del Puerto Water District  
17840 Ward Avenue  
P.O. Box 1596  
Patterson, CA 95363

Re: SCH# 2019060254 Draft Del Puerto Water District Project; Proposed Del Puerto Canyon Reservoir Environmental Impact Report

Dear Del Puerto Water District:

As the lead agency, I am providing you three pages of my comments on the proposed Del Puerto Canyon Reservoir, Draft Environmental Impact Report. The report was circulated on December 12, 2019 with a public comment period closing Saturday, January 25, 2020.

1. **Introduction 1-4 & 1-5 Table 1-1 Responsible and Trustee Agencies and Coordination Page 31 & 32** The City of Patterson is omitted as a responsible or trustee agency, though the DPWD would need permits from the city. Because of this error, no comments were solicited or received by the City of Patterson in the initial study. This is a fatal flaw and the dEIR should be recirculated, including the City of Patterson as a responsible and/or trustee agency. 39-1

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2. **Conveyance & Pipeline Alignment-Electrical & Pumping Stations: Page 41 Figure 2-4** The proposed water conveyance system, electric substation and pumping stations are located within the Patterson city limits and would need permits from the city. This fact creates a nexus requiring the city to be included as a responsible or trustee agency in the dEIR. The project cannot be bifurcated into two elements. The project instead stands alone on its merits as one reservoir; one project, including all necessary components and appurtenances to operate same. 39-2  
Though, alternate routes are listed in the dEIR appendices, the primary location for water conveyance, electric and pump stations are identified in the dEIR and are within the city limits of Patterson. This fact creates a nexus requiring that the City of Patterson be listed as a responsible and/or trustee agency in the dEIR. As such, public noticing and public hearings with the Patterson Planning Commission & Patterson City Council for the purpose of receiving public comments and input from the citizens of Patterson are required. This is a fatal flaw.

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3. **Hydrology and Water Quality HYD-3 Page 321** The proposed project will create a brand new man-made natural hazard, producing new liabilities for sellers and agents in Patterson, selling real estate. A new real estate disclosure of being within a dam inundation zone will be required under the **California Natural Hazard Disclosure Act, California Civil Code 1103**. It will devalue property by creating new and substantial risks to property and human life within the City of Patterson. The Del Puerto Water District dEIR Impact does not analyze the danger of exposing the citizens of Patterson to a new Natural Hazard and creating a Flood Inundation Zone that cannot be mitigated. The report is silent on this issue and therefore a fatal flaw. 39-3

39-4	<p>4. <b>Environmental Justice Section 3.16.1 Page 372</b> states that the project is not comprised of a minority population exceeding 50%. The dEIR states that 88% of county <b>Census Tract 33</b>, west of the project self identifies as white. The dEIR deliberately skews the ethnic makeup of the population impacted by the project, by omitting City of Patterson <b>US Census tracts 32.2 32.1</b>. The latest US Census estimates from 2018, show that 60.7% of Patterson residents identify as being of Hispanic or Latino origin. This creates a nexus for the dEIR to perform a complete analysis of the impact of the project on our minority community; including but not limited to, impacts on Air Quality and all other environmental impacts studied in the dEIR. The fact that the dEIR excludes impacts on the minority population of the City of Patterson is a violation of <b>Government Code Sections; 65040.12, subd.(e), Government Code section 11135, subdivision (a), Pub. Res. Code, section 21002, 21083, sub. (b) (3), CEQA Guidelines; section 15126.2., Pub. Res. Code, section 21000, subd. (a), Pub Res. Code, section 21083, subd (b) (3), section 15064, subd. (e), 15131. Section 15064 sub.(e), section 15131, subd. (a)</b>. The lack of consideration as to the impacts of the project on the minority population of the citizens of Patterson is a fatal flaw.</p>
39-5	<p>5. <b>Reservoir Alternatives Considered: 4.4</b> No fiscal analysis is provided to substantiate the claim that the <b>Ingram Reservoir</b> alternative site is not viable. It meets the DPWD District's (20,000) AF requirements and provides substantially for the objectives of the Contractors Exchange Authority. Any extra water in the Del Puerto Canyon Reservoir Project that would be used for offsite wildlife mitigation purposes would pale in comparison to the preservation of Del Puerto Canyon itself; a natural, unique and important California landscape. Page 390 states that the Ingram Creek Alternative is not considered to be cost effective. No fiscal analysis has been provided to substantiate this claim. What is the cost of the project? What is the projected income &amp; expenses used to determine the fiscal viability of the project? Not providing this information, in the dEIR is a fatal flaw.</p>
39-6	<p>6. <b>Cultural Resources Section 3.6-5 page 232:</b> cites the loss of a prehistoric bedrock milling station and habitation sites, including <b>Site P-50-344</b>, which consists of four bedrock mortars identified as containing information important in prehistory, specifically to the prehistoric inhabitants of the local area; qualifying it as eligible to be listed on the National Register of Historic Places and the California Register of Historic Places. The destruction of this site also conflicts with <b>Stanislaus County General Plan Policy Twenty-Four, Page 235</b> which states that the County will support the preservation of Stanislaus County's cultural legacy of historical and archaeological resources for future generations. The inundation of this important California archaeological site cannot be replaced or mitigated; therefore, it is a fatal flaw of the project.</p>
39-7	<p>7. <b>Tribal Cultural Resources 3.14-4</b> states that an <b>AB52 consultation</b> has not been requested and tribal cultural resources have not been identified; therefore, impacts would not occur. This conflicts directly with the identification of site <b>50-P-344 listed in section 306 page 232</b> above and therefore is an insufficient analysis and a fatal flaw.</p>
39-8	<p>8. <b>Section 2.33 Maintenance:</b> This section does not include reporting to the City of Patterson with regards to ongoing and periodic maintenance of the project. The City of Patterson has no representation on the Del Puerto Water District Board to ensure that proper maintenance is being performed to protect its citizens. There are no assurances that money will be set aside by</p>

the DPWD to ensure that the project can be properly maintained in a manner that guarantees the safety of the citizens of Patterson. This is a fatal flaw.

39-8  
cont'd

- 
9. **Land Use & Recreation 3.12-3, Figure 3.12-2 City of Patterson General Plan Map (page 330)** 650 acres of **Hillside** mixed use commercial & residential land is included in the 2010 City of Patterson General Plan Final EIR study area and a great deal of this land would be under water if the dam is built. In this case, The DPWD dEIR directly conflicts with the City of Patterson General Plan Final EIR 2010 and a fiscal study should be performed to assess the potential loss of property and sales tax base. The lack of a fiscal analysis on this issue is a fatal flaw.

39-9

- 
10. **Aesthetics 3.1-9, Figures 3.1-4 & 3.1-5** show a visual simulation of the Main Dam as seen from I-5 and the City of Patterson. This represents a visual and aesthetic blight that cannot be mitigated and will destroy an important natural California landscape, Del Puerto (The Door). The aesthetic issues in the dEIR omit the visual blight to the residents of Patterson. This proposed abhorrent scar on the California landscape cannot be mitigated and therefore is a fatal flaw.

39-10

- 
11. **Biological Resources 3.4 page 136** This section of the dEIR identifies several special areas of concern. It states that contained within the proposed reservoir is the second-largest known occurrence of the Big Tarplant in California. it would be destroyed. (**page 172 & 3.4-7 & 3.4-37**) One natural community of special concern, riparian woodland classified as Fremont cottonwood forest (**3.4-6**) will be **extirpated. (killed)** Habitats for the San Joaquin Valley Kit Fox, Amercian Badger, Western Pond Turtle, California Red Legged frog, Elderberry longhorn beetle, vernal pool tadpole shrimp and many other native California animal & plant species call Del Puerto Canyon their home. The cumulative effects of destroying this important special, threatened and endangered species habitat cannot be mitigated through relocation, habitat replacement, land offsets or conservation easements. This is a fatal flaw.

39-11

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Respectfully submitted;

1-23-2020

David Keller  
729 North Third Street  
Patterson, CA 95363

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Thursday, January 23, 2020 7:27 AM  
**To:** Sandra Watts  
**Subject:** Fwd: Canyon Reservoir

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** patterson resident <nodpwdr@yahoo.com>  
**Date:** 1/22/20 7:45 PM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Canyon Reservoir

Dear Ms. Hansen and Members of the Del Puerto Water District Board,

As a resident of Patterson for 8 years, I am strongly opposed to the plan of the Del Puerto Water District Reservoir Plan (DPWDRP) for Del Puerto Canyon. 40-1  
 Besides the striking beauty of the canyon, it holds priceless significance for this area. After reading the Environmental Impact Report (EIR), I am even 40-2  
 more concerned. It seems the District is aware of the potential for catastrophe. The reservoir is near fault lines, with soil that is at risk for landslides and movement. It seems to be a poor choice of location. I understand your need for water and better water storage and usage, however the DPCRCP is not it. 40-3  
 Evaluating the impact to the environment, historical significance, and recreation the DPCRCP would have, I'm quite frankly shocked it has proceeded this far. Our area is historically underserved and suffers economically. One 40-4  
 very special treasure that the westside of the county has, is gorgeous Del Puerto Canyon. It is wrong for populous of Patterson to suffer in creating such a hazard while destroying a gem of theirs, for a few farmers to benefit from. People from the Bay Area to the Sierra Foothills come to enjoy Del Puerto Canyon for many different reasons that I know you are aware of. Scenic 40-5  
 bicycling, bird watching, ATV and Frank Raines park usage, and simply driving through the canyon to enjoy the beauty are a few of these things. With the reservoir, these things will be irreversibly destroyed. The EIR mentions many 40-6

40-6  
cont'd things that are of grave concern to myself and other citizens. The destruction of habitat for wildlife, flora, and fauna, the potential smell when the water is low, rodent abatement, and the inherent risk to wildlife that comes with abatement to name a few. If the reservoir is built, damage is irreparable and irreversible. We owe our future generations as well as the Earth enough respect to leave Del Puerto Canyon alone.

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40-7  
40-8 Of course, flood risk is a concern and I have read your response that the risk is low. However, how many times must we push Mother Nature to prove us wrong? Dam failures can and do happen. This is a privately funded project, and I have serious concerns about funding and meeting safety criteria in the future. In addition, I can only begin to think of the consequences of being directly below a reservoir. Given the choice, I'm sure many potential residents would choose to live in a different community if the DPWDRP goes forward. The risk is too great to attempt the project. This is not a decision that can be undone. Please do the right thing.

---

40-9 I support farmers wholeheartedly and understand their need for reliable water... but this plan is not it. I know you've invested a lot of time and money thus far but please end this now. I have read the articles in the Irrigator with DPWD answering questions and providing information, listened intently to geologists and biologists reasons for opposing the reservoir project, and read the EIR. I do not claim to be an expert in any of these matters but I can make an educated decision. You do not have the support of residents of Patterson and beyond in this project and it is wrong to continue with this since it will greatly affect them IN PERPETUITY.

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Respectfully,  
Patterson Resident



**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Thursday, January 23, 2020 4:32 PM  
**To:** Sandra Watts  
**Subject:** Fwd: Proposed Del Puerto Dam

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Julie Angeles <dajaview55@gmail.com>  
**Date:** 1/23/20 4:30 PM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Re: Proposed Del Puerto Dam

On Sat, Jan 18, 2020 at 8:22 PM Julie Angeles <[dajaview55@gmail.com](mailto:dajaview55@gmail.com)> wrote:

I want to take this opportunity to let you know I read your testimony to the congressional subcommittee and it was really eye opening. There's so much I am trying to learn about our water needs, storage & distribution I'm reading from many sources. I appreciate your hard work on behalf of our community. However, I do not favor the placement of the proposed Del Puerto Reservoir, for several reasons. I am intrigued by all I am learning about the geological uniqueness of Del Puerto Canyon, & feel there are many others who are of the same mind. Much of this information is recently flowing freely from various media sources about the history, geology, & other natural resources including water in our region! I am concerned about the future safety of our city as well. After reading as much as I can in this little bit of time, I just don't feel Del Puerto Canyon is the right place for this project. I am very interested in the recharging aquifers projects, & I am certain there must be a more suitable place for the reservoir. Please talk the the board & other "powers that be" & reconsider your options! Thank you for your time.

---

Sincerely,

Julie Angeles  
 944 Arambel Dr  
 Patterson

**From:** Tyler Claxton <[TClaxton@propertyid.com](mailto:TClaxton@propertyid.com)>  
**Subject:** Del Puerto Canyon Reservoir inquiry  
**Date:** January 23, 2020 at 9:58:04 AM PST  
**To:** "[dpcrinfo@woodardcurran.com](mailto:dpcrinfo@woodardcurran.com)" <[dpcrinfo@woodardcurran.com](mailto:dpcrinfo@woodardcurran.com)>

Good Morning,

I'm writing to find maps and/or GIS data depicting the potential dam failure inundation areas/scenarios as mentioned in the Dam Breach Inundation Analysis section on page 3.11-17 of the Draft EIR, and also on page 3.11-22 in the Dam Breach Analysis section. Could you please help me in obtaining this data for review?

42-1

Thank you, and please let me know what you might need on my end, or if you have any questions on my request.

**Tyler Claxton**  
Senior GIS Analyst/Team Lead  
**Property I.D.**

1001 Wilshire Blvd., 2<sup>nd</sup> Floor  
Los Angeles, CA 90017  
(800) 626-0106 Ext. 270  
[tclaxton@propertyid.com](mailto:tclaxton@propertyid.com)



Please consider the environment before printing this e-mail

*This message contains information that may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in or attached to the message. If you have received the message in error, please advise the sender by reply e-mail to [tclaxton@propertyid.com](mailto:tclaxton@propertyid.com), and delete the message.*

*Horseshoe L Ranch*  
 16831 Sycamore  
 Patterson, CA 95363

Del Puerto Water District  
 17840 Ward  
 Patterson, CA

Submission of my thoughts / preference regarding the construction of the proposed Del Puerto Canyon Reservoir -

Del Puerto Creek provides water for aquifers to the East of the hills, allowing farmers, as well as the City of Patterson, to extract water for farming and city / personal use. Damming off this resource will affect much of available water now being utilized. Del Puerto Creek, even in high water years - which is not actually high enough to flood Del Puerto Creek as far as Highway 33, immediately flows underground in aquifers and only occasionally floods orchards currently growing immediately East of the I-5.

43-1

Due to the fact presented during the public hearings, most of the water stored behind the proposed reservoir would be delivered from the Delta Mendota Canal. Several canyons, other than Del Puerto, could be used for storage and release to farming as needed. Alternative locations were listed during Public hearings.

Water is currently available and is pumped from an artesian well site at the Diehl ranch, about the 3 mile marker in the canyon, for watering cattle in the higher areas primarily to the South of the existing road. Cattle / beef production is an important function of the grasslands of Del Puerto and without water, much of this resource would be eliminated. This water source will be eliminated by the proposed reservoir.

43-2

Regarding geological importance / value of the canyon, over the years I have run cattle in the lower portion of the canyon, and have granted permission to several high school and college groups to visit geological sites important to their studies and understanding of geology. Availability of such a geological example is nonexistent at any other location. These sites will be covered and unavailable in the future if the proposed reservoir is constructed.

43-3

Other important concerns regarding the effect on wildlife nesting and reproduction were brought before the groups during public hearings, which may or may not be overcome through changes in the course of nature which will be influenced by the construction of the reservoir. These nesting and reproductive areas are not an issue with other alternative sites, due to their unavailable natural elements for inhabitation as is the Del Puerto Canyon and better suited for the alternative use of water storage.

43-4

Therefore, I go on record as being opposed to the use of Del Puerto Canyon as the reservoir site and recommend an alternative site be selected.

43-5



Doug Murdock  
 209-892-3626  
 horseshoeLranch@frontier.com

1-24-20

TO WHOM IT MAY CONCERN,

I AM VEHEMENTLY OPPOSED TO THE DEL PUERTO RESERVOIR/DAM PROJECT. I OWN PROPERTY IN STANILAUS COUNTY THAT MY FAMILY HAS OWNED FOR ALMOST 80 YRS. WE HAVE ALWAYS BEEN GOOD STEWARDS OF THE LAND, & HAVE WITNESSED SO MUCH AMAZING WILDLIFE, WHEN WE HAVE VISITED THE CANYON, IT'S ALWAYS TAKEN MY BREATH AWAY WITH SUCH BEAUTY & AWE. WE DON'T NEED A DAM, DESTROYING ALL THAT.

THANK-YOU  
Cecilia Santos 209 604 7221  
348 ORCHARD RD VERNACLS

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Saturday, January 25, 2020 11:27 AM  
**To:** Sandra Watts  
**Subject:** FW: Public comment on the proposed Del Puerto Canyon Reservoir Project

-----Original Message-----

From: Tom Gill [mailto:tgill@igc.org]  
 Sent: Friday, January 24, 2020 8:14 PM  
 To: Anthea Hansen <ahansen@delpuertowd.org>  
 Cc: cwhite@sjrecwa.net  
 Subject: Public comment on the proposed Del Puerto Canyon Reservoir Project

To: Anthea Hansen, ahansen@delpuertowd.org and Chris White, cwhite@sjrecwa.net  
 From: Thomas E. Gill, Ph.D., P.G., F.R.G.S., tgill@igc.org  
 Date: January 24, 2020  
 Re: Proposed dam and reservoir in lower Del Puerto Canyon

Dear Project Manager Hansen and Executive Director White,

This message serves as a formal public comment on the proposed Del Puerto Canyon Reservoir Project. Although I affirm that I file this comment solely in my private, personal capacity, in order to state my qualifications, I am a Professor of Geological Sciences at the University of Texas at El Paso, a Fellow of the Royal Geographical Society, a Professional Geologist in the state of Texas, and I earned a Ph.D. in Earth Sciences and Resources from the University of California at Davis. I lived the first 34 years of my life in Northern California- 18 years in the East Bay and 16 years in the Central Valley. I am highly aware of water resources issues in California and am personally familiar with Del Puerto Canyon, having visited it dozens of times.

45-1

I would like to formally state my opposition to the Del Puerto Canyon Reservoir Project. I believe the proposed location is inadvisable from a geological, natural resources, and public trust standpoint, and that other alternative locations would be preferable options for any reservoir on the east side of the Diablo Range in the San Joaquin Valley to serve the needs of the District. My opposition is based on these personal opinions as a geoscientist familiar with the preferred reservoir site.

(1) Lower Del Puerto Canyon is characterized by many slopes of questionable stability and active or potentially reactivated landslides. As the environmental impact report states, there are many known and obvious active landslides in the Moreno Formation within the footprint of the proposed dam. This mass wasting has been well known for decades: in the 1980s and/or early 1990s I attended a field trip for UC Davis Environmental Geomorphology graduate seminar class to Del Puerto Canyon Road above I-5 where the professors used the canyon to demonstrate mass wasting processes and landslide susceptibility of the Diablo Range. All reasonable projections of future California water supply indicate that even though California is likely to become drier and water will become scarcer, at the same time the frequency of extreme events including heavy and prolonged rains is likely to increase. This will increase the power of Del Puerto Creek to undercut existing slides and increase the likelihood of heavy precipitation to infiltrate and reactivate slide deposits, not to mention certainly initiating new ones. Thus, I am concerned that the risk of potentially catastrophic, and at the minimum counterproductive, landsliding events into the reservoir may be understated. Other potential reservoir locations characterized by the Panoche or other geological formations are likely to have less risk of sliding and/or if mass wasting does occur, there will be less risk of damage to downstream infrastructure, property, and persons.

(2) The entire Del Puerto Canyon is an extremely valuable scientific and cultural natural resource. The lower canyon, site of the proposed reservoir, contains elements of a rare riparian ecosystem influenced by waters and sediments flowing out of the

45-3

45-3  
cont'd

ophiolitic terrains above, likely giving the waters and the sediments they carry an unusual chemistry compared to those of other drainages which may be considered for a reservoir. Given that the flows of Del Puerto Creek makes it quasi-permanent, the uniqueness and ecological importance of the riparian oasis ecosystem along this creek is almost certainly much higher than that of canyons draining other areas of the Diablo Range to the north or south. The area has already been known for many decades (since my childhood) as an important biogeographical boundary and outpost for plant and animal species typical of the semidesert canyons of the San Joaquin Valley West Side to the south and the more temperate drainages of the Coast Ranges to the north. Simply put, due to its location, and the unique topography, biology, and geology of the mountains the Del Puerto Creek watershed drains, it is a unique natural resource and site of scientific and environmental importance in itself, more so than the drainages to the north or south, a meeting point of desert species from the south and coastal-empire species from the north. Other drainages which may be considered as candidates for a proposed reservoir do not drain such unusual geological, topographical, and climatic zones as those of Del Puerto Creek, and thus other creek canyons will not have the biological diversity sacrificed if lower Del Puerto Canyon is dammed.

45-4

(3) Due to the reasons above and others, the entire Del Puerto Canyon including the lower part of the canyon is a natural and economic resource that would be harmed and lost if it is dammed without first providing continued road access from I-5 through to Mount Hamilton or San Antonio Valley Road. Del Puerto Canyon's important geological and biological significance to the public, students, and those seeking unique recreation activities on the West Side is increased by it being the only canyon traversed by a public paved road crossing the high part of the Mount Hamilton Range: it is the only route cutting across the mountains between Altamont and Pacheco passes, the highlands above and to the north being site of a proposed large new state park. Thus, public access to the scenic viewsheds and natural resources of the east slope of the high part of the Diablo Range is possible only through Del Puerto Canyon Road. Tourists and day trippers from San Jose and the San Francisco and Monterey Bay areas regularly traverse the canyon to appreciate its scenery and terrain, while nature and earth and environmental science enthusiasts are attracted to this canyon from throughout California and the US and beyond. Many of these persons stop and spend money in Patterson and other West Side communities. Del Puerto Canyon Road, while not constructed as a state highway, is a legal portion of California State Route 130, and must be reconstructed and relocated at high cost with great care (given the aforementioned lack of geological stability in many sites) before dam construction could be initiated. I am concerned that the effort and expense to reconstruct the road may be seriously underestimated. These costs and losses could only be mitigated in part by developing recreational and natural history interpretation facilities at the proposed reservoir, which are not foreseen in the planned Project. Constructing a reservoir in a different site would require an access road that would be less of an engineering challenge and not needing to be constructed to such requirements as one in Del Puerto Canyon, creating unnecessary expense and delay in a reservoir project.

45-5

For these reasons and others, I oppose the Del Puerto Canyon Reservoir Project's preferred alternative, and urge the District and the County to choose a location other than Del Puerto Canyon for the reservoir if such a reservoir is deemed necessary. Thank you for your attention to my concerns.

Sincerely,  
Dr. Thomas E. Gill



# Del Puerto Canyon Reservoir

## Draft DEIR Public Comment Form

Thank you for participating in today's public comment meeting. This meeting provides a way to provide comments on the Draft Environmental Impact Report (EIR). You may provide your comments either orally by filling out a speaker card and waiting to be called upon to come to the microphone or in writing by using this form. All comments on the draft EIR must be submitted by January 27, 2020. You may leave your completed comment form at the sign-in table or submit as described on the reverse side.

### Please Print as Clearly as Possible

Name: David Piecyk  
 Address: 303 Wolfpack Ct  
Patterson CA 95363  
 Affiliation: None  
 Email (to be added to the project email list): dpiecyk@comcast.net

### Comments on the Draft Environmental Impact Report

I attended the meeting to find out what the proposed rerouting of Del Puerto Canyon Road would be, but was unable to find that out. I gave my verbal comments on what I think the road should do, basically asking to keep the entire road within Del Puerto Canyon and not to take a path down Diablo Grande Pkwy into Salado Creek Canyon then trying to create a mountain pass deep in that canyon. I believe that the existing Del Puerto Canyon Road should not be completely abandoned. I think it should veer west into the hills before the 1 mile marker and take a path around the shoreline on the south side of the reservoir joining back to the existing road around the 6 mile marker. The road would be carved into the hills at least 100 feet above the highest water level if not higher, which would allow recreational drivers, such as myself, to be able to finally view the hidden peaks such as Mount Oso and the numbered peaks of 2991, 1893 and 1612 with the box building on top.

46-1

<b>Meeting:</b>	Del Puerto Canyon Reservoir, Draft Environmental Impact Report Public Comment Meeting		
<b>Date:</b>	Wednesday, January 15, 2020	<b>Location:</b>	Hammon Senior Center, 1033 W. Las Palmas Avenue, Patterson, CA

Why don't these peaks have names?

46-1  
cont'd

That would allow generations to come the best experience in the canyon if no recreational facilities are going to be built. During my short speech, I gave the example of the Calaveras Reservoir and Calaveras Road to the east of Milpitas, which is also a few ridges west of Patterson.

That reservoir doesn't allow for recreation, however Calaveras Road is widely used by weekend drivers giving them awesome views of the reservoir and the ridges to the east. I think that can be accomplished with the new reservoir.

46-2

While trying to find a map with the reservoir overlay so that I can give you a visual, I found the one attached and drew my proposed route in red, but it's hard to see with the brown mountain images, however that is attached.

While researching further on the EIR website, I finally found your proposed rerouting and I am happy to see you are proposing the southern route that I'm proposing, which negates my plea initially. But upon viewing that map, I see that the new road would still go down Diablo Grande Pkwy for about a mile before beginning. I still think that the beginning of the existing road should still be used. Therefore, I drew a red line of where I think the road should be routed through what appears to be another flat section, where people would know that the road is still alive. Granted your path will probably have signs directing drivers from I-5 to the new entry. But if it's feasible, I would like you to consider what I call "Alternative 2 Road Alignment", which is also attached. Thank you for your consideration.

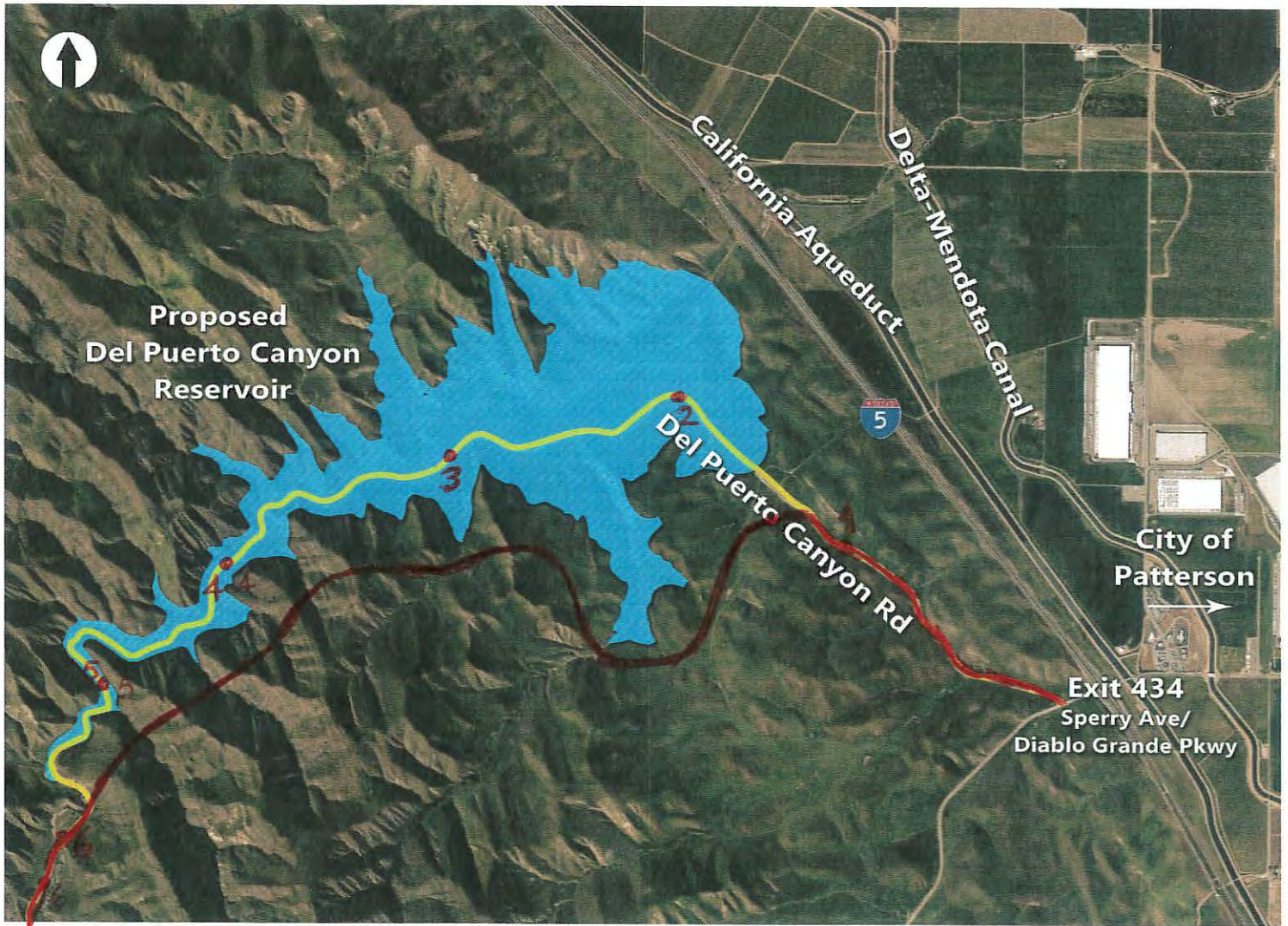
Also, I think I was the only commentor on the proponent side as everyone was commenting against, at least up to 5:20pm when I left.

Please leave your written comment sheet at the designated location at the sign-in table. You may also mail or email them to: Anthea G. Hansen, Del Puerto Water District, 17840 Ward Avenue/P.O. Box 1596, Patterson, CA 95363 or email: [ahansen@delpuertowd.org](mailto:ahansen@delpuertowd.org) by 5 pm on January 27, 2020. Please note that all comments received, including names and addresses, will become part of the official public record.

<b>Meeting:</b>	Del Puerto Canyon Reservoir, Draft Environmental Impact Report Public Comment Meeting		
<b>Date:</b>	Wednesday, January 15, 2020	<b>Location:</b>	Hammon Senior Center, 1033 W. Las Palmas Avenue, Patterson, CA

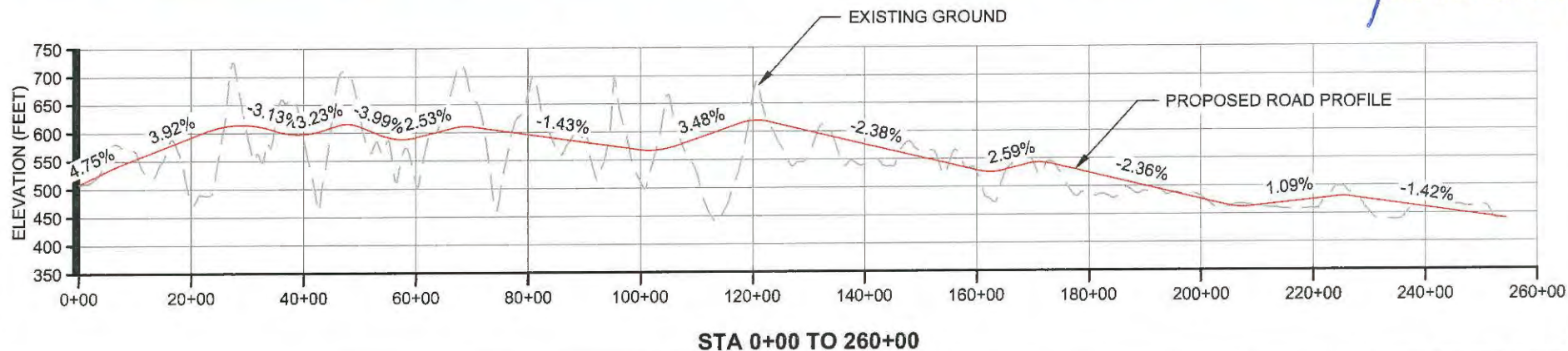
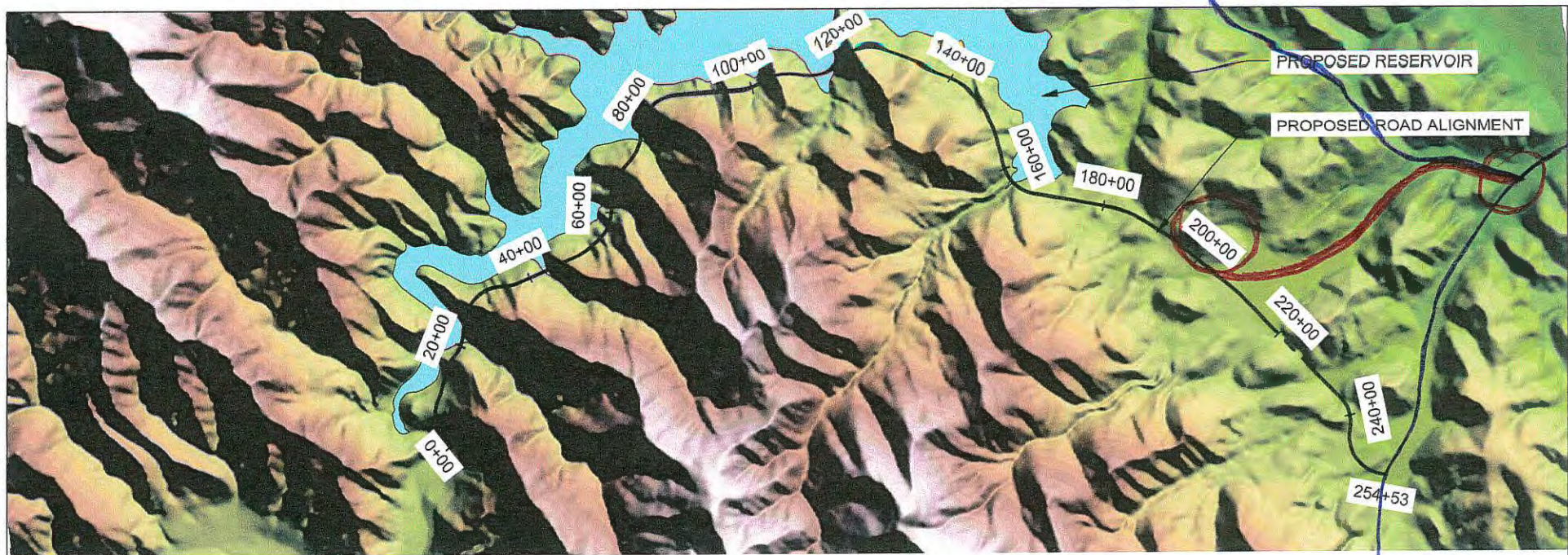
*David Acuña*





This is just a rough draft of the route that I believe the road should take using the first mile of the existing road then veering up into the hills going around the southern side of the reservoir. My idea is to keep the initial roadway intact to preserve the aesthetics of Del Puerto Canyon Road.





Del Puerto Reservoir  
Alternative 1 Road Alignment

Alternative 2  
Road Alignment

My change to this proposed route would start at the existing intersection, then veer into the hills along what appears to be a flat path and joining up to your proposed path around 200+00. Is this feasible? The preservation of the aesthetics of Del Puerto Canyon Road.

January 26th, 2020

Del Puerto Water District  
17840 Ward Ave./P.O. Box 1596  
Patterson, Ca 95363

Attention:  
Anthea G. Hansen

I wanted to share my opinion on the proposed Del Puerto Canyon Dam/Reservoir. Reading the dEIR I am very concerned with the following issues:

- |   |       |
|---|-------|
| 1. The amount of pollution a project like this will create.                                 | 47-1  |
| 2. The environmental impact of the feeding the meet industry weighs on our green house gas. | 47-2  |
| 3. Traffic at an already over loaded Hwy. Exit.   | 47-3  |
| 4. The loss of a Natural Habitat.   | 47-4  |
| 5. Being so close to an Earthquake fault line.  | 47-5  |
| 6. Historical artifacts being buried under the water.                                       | 47-6  |
| 7. The ugliness of a big dam blocking the view of our beautiful hills.                      | 47-7  |
| 8. Accessibility to go into the canyon for recreation parks like Frank Raines.              | 47-8  |
| 9. The dangers of moving/relocating a oil pipeline.   | 47-9  |
| 10. The potential loss of wild life.  | 47-10 |
| 11. The cost of having to have flood insurance and be labeled an inundation zone.           | 47-11 |

The idea of this project is very worrisome and upsetting that we are not being given a chance to vote on a project like this as a community. Even though it is not in our city it greatly affects our city and community. It also goes against the 2010 General Plan which our tax dollars have already paid for.	47-12
---	-------

I strongly encourage you and the entire district to reconsider this project in the proposed location and find another solution for the saving of water for farming. I am sure there are a lot of other ideas to combat this need. Re-Flooding our wet lands is a great way to replenish our aquifer. We don't need to feed or water orchards that don't feed us.	47-13
--	-------

Sincerely,

Stuart Presley  
595 Marisa Dr  
Patterson, Ca 95363



- 1) What most people seem to be upset with is the COMPLETE lack of input to the decision making process on things that affect their lives, safety, and homes. Then when they asked questions in the scoping meeting the questions were not answered but were simply deflected by a statement that the question would be "addressed" in the draft EIS (with no input from any key stakeholders concerned except those pushing the project). Finally as a final insult in all cases to these deflected questions a simple LTS determination was made with no justification for such a determination. In many cases the determination of LTS was made in direct conflict with the CEQA law definition of significant. This is negligent at best as there is no way that flooding an area that is currently bone dry with several (hundred) feet of water can honestly be considered Less Than Significant under any form of logic. Please justify this. 48-1
- 
- 2) In the draft EIS report the scope of the report and project seems to only concern itself with areas from the dam and and completely ignore affected citizens and areas upstream and downstream of the reservoir completely ignoring upstream impacts (i.e., to residents of Del Puerto Canyon) and almost completely ignoring the downstream impacts (e.g., temporarily flooding Patterson in the event of failures) why, because we are primarily negative stakeholders? 48-2
- 
- 3) The draft EIS only mentions possible (and then dismissed them) effects of creating more mosquito breeding areas but does not address the effects of so much standing water has on increased humidity which significantly affects the mosquito and tick population in Del Puerto Canyon. This canyon is a very delicately balanced environmental area and the standing water and humidity would greatly affect it for many miles from the dam (humidity here is often single digits in the summer). This of course can only be studied if one takes a reasonable time period to do so possibly spanning several years. Again this seems to be lacking and deliberately rushed, why? 48-3
- 
- 4) This area, Del Puerto Canyon, is an almost unique location on the planet yet you chose to do the majority of the botanical study simply by looking at databases, many of which which do not include the canyon (or you would have found additional information) and only had two botanists in the field for at most three days yet you cannot even walk the reservoir area let alone the several proposed road realignments in less than a month. Justify this! 48-4
- 
- 5) The botanical study was only conducted in late summer and anyone with a lick of sense knows the majority of the special plants are early spring/summer bloomers and often die off before late summer and disappear, why, this sounds like sloppy and negligent work not being completed in order to meet some deadline, facts be damned. When I mentioned this to a biologist friend of mine he simply laughed at the absurdity of the study. 48-5
- 
- 6) What is the seismic design basis specification? Do not answer this by trying to send me 48-6

48-6 cont'd to a document by some agency concerning earthquakes and dams, you have a number that you have designed to, what is it?

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48-7 7) I have asked what was going to be done to ensure that the entire area does not become a homeless encampment since it will now be public property (which means under current rulings you cannot remove them) and close to "freebie" services and all you did was provide lip service in the form of another deflection that did nothing to answer the question, are you going to put up barbed wire or some other control or deterrent measures to make unauthorized access difficult. Simply stating that you will defer to law enforcement is not an answer other than "not a damn thing" as they cannot do anything without your action first.

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48-8 8) Why was the del puerto site chosen over the ingram canyon site and quinto canyon site and why was all of this process kept from local residents?

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48-9 9) Several feasibility studies have been performed over the last several decades for water storage locations along the I5 corridor and all have listed Del Puerto Canyon as one of the poorer sites based upon a multifaceted scoring system on multiple aspects of suitability. The ingram canyon site was graded better in several aspects than Del Puerto in the 2011 report, actually is was better in most ways, efficiency of storage, size, risks and yet you suddenly chose Del Puerto Canyon as the prime location hiding that entire decision making process. When asked in public the question was simply brushed away stating that it has been made. Why, why, and why?

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48-10 10) What is the estimated cost of the project and what measure have you taken to ensure that the taxpayers are not left holding the bag to complete a partially finished project. Are you going to sell bonds and how will the debt be serviced. It has been stated several times that no taxpayer dollars will be used but that is incorrect as you are already using taxpayers dollars up to this point and seeking a 25% funding from the federal government, again taxpayers dollars only serving the few who receive them.

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48-11 11) Who actually approves projects like this, it is not in your district and it certainly affects many thousands of people who have no say it yet are deeply affected by it. How is this so and is it even legal?

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48-12 12) How are you going to mitigate the many environmental impacts? You cannot mitigate something that is unique somewhere else by purchasing some distant mitigation tracts that have already been sold 10x over (as most are) as that is not mitigation, it swindling the ignorant public and making them feel good while benefiting some swindlers who are often heavy political donors.

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- 13) Is it safe to assume there is someone smart enough in your organization to ensure that the outflow pump going to have generation capability or at least be gravity flow to offset operating costs? 48-13
- 
- 14) This is a pumped storage facility (less than 1 percent of volume coming from del puerto creek) but in your (june 13, 2019 house hearing) report you state that you have not had 100 percent allocations in over 20yrs and you stated at a DPWD board meeting I attended that it will be filled with excess allocations. Please enlighten us how you will fill the reservoir as these two statements currently you only have the creek water to do so. 48-14
- 
- 15) Your current water sources have been sufficient for many years and only have come into question in the last few decades because of insufficient allocations. Why have you not spent your money wisely to ensure that your allocations were not given to others such as the case of sending the water to SoCal, this would be far less expensive and destroy no natural resources? 48-15
- 
- 16) In a public meeting I have asked for whatever project plan you are working to and you simply got a dumb look on your face asking "what do you mean?" Do you actually have one? If you have one must we make a public records request to see it? If you do not have one how can you be so irresponsible with the taxpayers dollars? 48-16
- 
- 17) Appendix C page 201 "Appendix C Error! Reference source not found." more evidence of negligence and sloppiness in the preparation of the document and studies. If you have not done even a modest error check (they are automatic in most word processors) or proofreading we have to assume the same level of [in]competence in the actual studies used for the writing of this report. 48-17
- 
- 18) Appendix C page 202 "Much more archaeological work is needed at ephemeral and peripheral sites located away from the larger habitation sites." yet you want to flood/inundate/destroy several of these sites with this project, why? You do not even seem to want to somehow mitigate the loss. If these sites are to be destroyed they should at least be studied for several years to gain whatever knowledge we can from them before it is too late to do so! 48-18
- 
- 19) It appears that appendix D is very incomplete containing very little useful information including page 225 (12/127) containing made up numbers from incomplete tables prior. Why? What are these numbers based on. If they are indeed real (estimates) then you must actually have a project plan of some sort that I asked for and was denied/deflected, again why? 48-19
- 
- 20) Appendix page 521 demonstrating uses of reservoir. Building a reservoir and destroying a unique natural resource and historical sites to temporarily hold water to help a politically created shortfall of water for an artificially designated refuge seem counter productive economically and environmentally. This project would be much less damaging to the natural 48-20

48-20 resources and historical sites as well as much less damaging in the event of a failure if it  
cont'd were much (10TAF total) smaller, it would be less costly as well.

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48-21 21) Appendix page 22 item c) Potential zoning conflicts, should this actually be a LTS as  
opposed to no impact as I do not believe that reservoirs are included in the normal A-2-xxxx  
zoning. While this is a simple change why is it listed as no impact?

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48-22 23) Appendix page 52 in a letter from the Stanislaus County Department of Environmental  
Resources dated August 6, 2019 states "The County concludes that the project would not  
have a significant effect on the environment" Several questions here 1) How could the  
county possibly make that determination in August 2019 several months before the studies  
were complete and before much of the minimal field work that was performed? 2) Did the  
county do their own environmental study, did it comply with the CEQA laws? 3) How can a  
conclusion of no impact be made when the CEQA defines **"Significant effect on the  
environment" means a substantial, or potentially substantial adverse change in the  
environment** this is an obvious violation of the CEQA law as one cannot equivalence bonr  
48-23 dry land with land under several feet of water. Your agency and others would do well to  
remember that this will set precedent. 4) If in fact that the County department conducted a  
study or was privy to advance information concerning the results of your study why was it  
withheld from the public, there seems to be a lot of that going on with this project.

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48-24 24) You stated earlier that you could not contract or negoitate with landowners until the  
project was approved yet you are making many borings without any considerations to the  
landowners. Recent events brought to light indicate that you have indeed negotiated and  
contracted with landowners so that you (your agency and contracted firms) were not  
trespassing while you were conducting you studies however one land owner was left out and  
you ended up trespassing and had to "settle". What financial arrangements were made to all  
landowners involved, and remember all information is subject to the CA public records act?

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48-25 25) Are the existing roads and fencing going to be removed from the inundation zone?

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48-26 26) Yes you have reached out to the California Native American Heritage Commission and  
there are no local existing tribes in existence but have you even reached out to all existing  
San Joaquin Valley tribes for their input? Additionally it is obvious that you were in such a  
rush to meet your self imposed deadline that you obviously did not even proofread the  
appendix document as many of the pages are UPSIDE DOWN, even an unskilled and  
illiterate in the English language worker would catch that. Is this the kind of quality control  
and general sloppiness that we can expect from you on the rest of this project?

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48-27 27) It was asked before how much land is involved in this project and the somewhat vague  
answer was 800-1000 acres yet in several places in you appendix it has numbers 2000

acres and above, which is it?

48-27  
cont'd

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28) Main document, page 21, section 2.3.1 seems to indicate that you do not need the full capacity of the proposed project which lead to the question why make it that large, smaller does less damage to the historical, cultural and natural resources as well as safety in the event of a failure and cost, why in detail (not a deflected answer) make it that large?

48-28

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29) Main document, page 20, second bullet point, you are hung up on the idea that storage must be local, why, if you have competent and enforceable contracts the storage could be anywhere and the DMC is long giving you many choices for locations so why are you so hung up on destroying a unique location, it is no way near the best location by any of the scoring systems used in past studies so why here?

48-29

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30) Main document, page 20, bullet point six, you claim a benefit of regional self reliance and economic benefits from agricultural production. Why have you not fought hard to prevent the conversion of so much prime farmland into urban areas and industrial logistical centers, preserving such areas should be a prime focus of your agency?

48-30

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31) Main document, page 20, bullet point seven. At half a Billion dollars this is hardly cost effective, maybe somewhat to the few landowners who benefit from the subsidizing by the taxpayers of 25%. Would not a better use of all this money (or actually only a small fraction of it) be to develop better sources, contracts, and contracts for storage that better meet your needs? Also this project can only increase the cost of water as it is simply pumped storage and not a new source of water and pumping costs money. One would do well to remember that the water-districts are the single largest users of power in the state.

48-31

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32) Main document, page 20, bullet point eight. You state you want to avoid displacement of homes and businesses well you certainly will be displacing them in the event of a failure. Remember that dam failure is more than just a remote possibility it is a fairly frequent occurrence even in this country with a sizable death toll every year, so again where here in a unique geologic and ecologic area as well as one of the largest population centers in the path of failure? In addition there would be less impact if it were not flooding a state highway, adding significant travel time for nearly all canyon road users and increasing emergency services response time which is already very long.

48-32

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33) Main document, page 21, ES.1.3, you state that a "portion of the existing Del Puerto Canyon Road" would be inundated, that "portion" in reality is more like 25%, how would you feel if someone permanently flooded 25% of your main transportation route and replaced it with a seasonal mud-hole?

48-33

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- 48-34 34) Main document, page 22, ES.2, **No Project Alternative:**, while this option might not generate as much income for farmers it would indeed be a very cost effective means in the long term of maintaining good farmland allowing for a more relaxed rotation of fields and when coupled with not having to pay half a Billion dollars for the project. I would think that working hard to maintain agriculture in the long run would be more important to the "Agency" (DPWD) than increasing the payroll of same. This alternative would allow other easily fallowed crops (e.g., non-tree crops) to be grown in those in those areas. Sure you would not be able to have the highest profit crops in the ground at all times but then those farmers knew that when they bought the place.
- 
- 48-35 35) Main document, page 22, ES.2, **Ingram Canyon Reservoir site:** While this is a smaller project this document (and appendices) already demonstrates that the capacity would be more than enough, the conveyance facilities might actually be smaller and less disruptive to existing homes/businesses than the Del Puerto Canyon site and as an added bonus in the event of a failure a much smaller population would be affected. I think it might even be possible to have the dam(s) located further from the fault-lines as well.
- 
- 48-36 36) Main document, page 23, **Table ES-1 DPCR Impact Summary, 3.2 AG-1** Converting farmland is rated as LTS. How is this possible as it will not be able to be farmed while underwater and this by the CEQA definition of Substantial would make the rating SU as it is simply unavoidable if the project is built.
- 
- 48-37 37) Main document, page 23, **Table ES-1 DPCR Impact Summary, 3.2 AG-2** Conflict with zoning, etc. the project lands will be taken off the tax rolls either reducing tax revenues to the county and state or will cause an increase in taxes by the same amount.
- 
- 48-38 38) Main document, page 23, **Table ES-1 DPCR Impact Summary, 3.4 Biological Resources** In order to be in compliance with the CEQA laws this impact must be changed to SU (as well as the after mitigation as there can be none) and most of the individual impacts cannot be mitigated as the area is geologically and ecologically unique!
- 
- 48-39 39) Main document, page 24, **Table ES-1 DPCR Impact Summary, 3.4 Biological Resources, BIO-TERR-2** In order to be in compliance with the CEQA laws this impact must be changed to SU (as well as the after mitigation as there can be none) and most of the individual impacts cannot be mitigated as the area is geologically and ecologically unique!
- 
- 48-40 40) Main document, page 24, **Table ES-1 DPCR Impact Summary, 3.4 Biological Resources, BIO-TERR-3** In order to be in compliance with the CEQA laws this impact must

be changed to SU (as well as the after mitigation as there can be none) and most of the individual impacts cannot be mitigated as the area is geologically and ecologically unique!	48-40 cont'd
41) Main document, page 24, <b>Table ES-1 DPCR Impact Summary, 3.4 Biological Resources, BIO-TERR-4</b> Change the "after mitigation rating to PS as it is common knowledge that signage does little to nothing to preserve wildlife survival by avoiding collisions.	48-41
42) It is odd that when a resident of the canyon is going to do some minor work such as repairs on a bridge crossing Del Puerto creek we are held to a different standard and must account possibly disturbing migratory fish 10 miles further up the creek and you choose to ignore them.	48-42
43) Main document, page 24, <b>Table ES-1 DPCR Impact Summary, 3.6 Cultural Resources, CULT 3</b> In order to be in compliance with the CEQA laws this impact must be changed to SU as when the reservoir is filled some human remains will now be underwater.	48-43
44) Main document, page 25, <b>Table ES-1 DPCR Impact Summary, 3.8 Geology and Soils, GEO-1</b> The rating after mitigation for seismic events need to change to PS as you simply cannot mitigate them. Additionally you cannot mitigate the effects of a dam failure with your current project design.	48-44
45) Main document, page 25, <b>Table ES-1 DPCR Impact Summary, 3.8 Geology and Soils, GEO-5</b> Change the rating for after mitigation as you have the potential of inundating the resource with no real way to mitigate that other than reduce the water level... permanently.	48-45
46) Main document, page 26, <b>Table ES-1 DPCR Impact Summary, 3.13 Traffic and Transportation TR-4</b> Change the after mitigation rating to PS as the traffic scenarios listed in your appendices document will permanently increase emergency response times unacceptably (we, the residents are the ones who can decide what is acceptable not you). During construction the response times would greatly increase the dangers to residents as well as the responders.	48-46
47) Main document, page 26, <b>Table ES-1 DPCR Impact Summary, 3.14 Tribal Cultural Resources TRIB-1</b> Change the ratings before and after mitigation to PS as there at least 3 known sights that will be placed underwater and permanently erased from history. These sites need to be studied in detail to determine if they are less significant.	48-47
48) Main document, page 26, <b>Table ES-1 DPCR Impact Summary, 3.14 Tribal Cultural</b>	48-48

48-48  
cont'd **Resources TRIB-2** Change the ratings before and after mitigation to PS as there at least 3 known sights that will be placed underwater and permanently erased from history. These sites need to be studied in detail to determine if they are less significant.

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48-49 49) Main document, page 28, **Introduction** The fact that the DPWD is the lead agency making all of the decisions for a project of this scope which affects so many people who have no say in what happens in with this project is a conflict of interest. Those who do not live in the district and yet are greatly affected by it during and after construction have no say, no vote in the make up of the DPWD. I would wager that all those residents in the District are for the project while it is not even in the district and affects many more people than are. This project is a plan by a unaccountable (to the general public) government agency seeking to massively grow in size at taxpayer and the local residents expense to profit the few who live in and control the district. I think that the Agency would have a completely different outlook on this project if everyone in the affected areas was able to vote and control the makeup of the Agency itself.

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48-50 50) Main document, page 30, **Water to be Stored in the Proposed Project.** The water flowing in Del Puerto Creek in inconsequential to the water stored in the proposed reservoir.

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48-51 51) Main document, page 30 Section **1.3 Compliance with CEQA**, Once again the Agency DPWD is lying or misleading the public. You have repeatedly stated that no taxpayers dollars will be used yet in this section you blatantly state that you will apply for federal funding, what do you think federal government grant monies come from. I expect an answer on this question as I would like to see how stupid or arrogant the agency is.

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48-52 52) Main document, page 30 Section **1.3 Compliance with CEQA**, In order to comply with the CEQA laws you must use the definition of Substantial as contained therein it is **"Significant effect on the environment" means a substantial, or potentially substantial adverse change in the environment** and will you agree that flooding/inundating dry land is a substantial adverse change to the environment?

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48-53 53) General question, when and where will your answers to these questions be provided?

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48-54 54) Main document page 36, Section **2.1, Project location**, You neglect to add that the project also requires the rerouting of Del Puerto Canyon road which will make travel time for residents significantly longer and put them at risk with longer emergency response times.

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48-55 55) Main document page 36, Section **2.1, Project location**, You state at the end of this section that you will not anticipate acquiring water for storage other than your existing CVP and Del Puerto Creek, how on earth do you expect to fill it?

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- 56) Main document page 36, Section **2.1, Dams**, You state that you are using zoned earthfill dams because they have greater resilience and ability to safely deform than concrete dams but this does not directly translate into increased safety only that you can more cheaply have a deforming dam that might not fail while a more robust and more expensive concrete dam will not fail until a higher design basis level than an earthfill dam. So what you are actually saying is that you will build a much cheaper dam that will probably not fail as opposed to a concrete dam that while more costly will be highly unlikely to fail. Why is this not reflected in your safety analysis of the project? 48-56
- 
- 57) Main document page 36, Section **2.2.2, Conveyance Facilities**, You have "... and would withdraw water from the proposed..." I hope you actually mean "...release water... as withdrawing implies pumping which is inefficient and expensive, gravity is free. 48-57
- 
- 58) Main document page 43, Section **2.2.3, Roadway Relocation** Your relocated Del Puerto Canyon Road will be both longer and slower to travel, why did you not contact a significant number of the regular users of this road? Increasing the response time of emergency services to the served area is simply unacceptable, this should not be your decision as the served area is not your district. 48-58
- 
- 59) Main document page 43, Section **2.2.3, Roadway Relocation** From this section it appears that you have been working on this project, spending many tax payer dollars on this project for at least three years now without notification to the affected public from the initial decision. This type of treatment is yet another reason most of the public distrusts your organization and are fighting for answers before you destroy a precious public resource to benefit such a select few. Most people in this area have to use most all of their time to work and just survive and have to trust unaccountable officials making three times the local median salary to do the right thing and **yet you instead try to shove projects such as this by with the barely legal notice**. The decision making process on this project needs to be reconsidered as well as the entire agency as they have been completely self serving on this project. 48-59
- 
- 60) Main document page 43, Section **2.2.3, Roadway Relocation** At the end of this section you state that over ½ mile of retaining walls would be needed. Are this retaining walls above or below (water side) road grade and what is their construction type? 48-60
- 
- 61) Main document page 43, Section **2.2.3, Operation and Maintenance**, By stating that the project will free up storage in San Luis Reservoir you are admitting that you really do not need all of the storage of this project so why not a smaller project in a different less damaging location? 48-61
- 
- 62) Main document page 50, Section **2.3.3, Maintenance**, From this section (likely shown elsewhere as well) it appears that there will only be one pipeline with which to fill/empty the 48-62

48-62  
cont'd reservoir. If this is true it appears that you have increased the risk to those in the flood plain in the case the reservoir level must be lowered due to an emergency of which several are plausible, why? This seems to be yet another example of lack of consideration of local residents safety and just being "cheap" overall when it comes to those who will not benefit from the project.

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48-63 63) Main document page 50, Section **2.4.1 Construction Timing and Sequencing**, While cost seems to be a sensitive issue when it involves those who will not benefit from this project it doesn't seem to be an issue for construction running multiple long shifts which will entail significant amounts of overtime and nighttime differentials. This high amount of brightly lit nighttime construction will adversely affect the wildlife of the canyon which includes several listed endangered ones. This is yet another example for you near complete disregard of this rare and natural resource.

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48-64 64) Main document page 50, Section **2.4.7 Utility Relocation**, I have a question concerning what is not quite a utility but a local FM radio station(s) of which at least one is located in close proximity to the reservoir. Have they been contacted so that they can conduct a revised interference study, you are greatly changing the ground characteristics in close proximity to the transmitting antenna and will possibly require a partial interference study or revision to their current one.

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48-65 65) Main document page 72, Section **3.1.1 Environmental Setting**, While considering aesthetic visual impacts of the project it states that close up of the dam area are only available briefly due to the 70mph speed limit. While this theoretically is true most of the traffic exiting the area is waiting in line directly in front of the dam area for tens of minutes on a normal work day and will be waiting even longer, much longer when the project is underway due to the additional excessive traffic. These interchanges are currently well over capacity and this project will only make them worse, much worse for many years!

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48-66 66) Main document page 80, **Impact AES-2 New Sources of Substantial Light or Glare**, Mitigation Measure AES-2 is complete lip service to the public unless there is a way for the public to get involved when the use of lighting with shields that all a spread of more than 30 degrees is used. The excess light 24x5 will seriously affect the local wildlife as well as some of endangered species located there are nocturnal.

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48-67 67) Main document page 86, **Regional Setting**, While the DPWD's CVP allocations have been reduced due to pumping restrictions I would like to suggest that it would take a lot less money to get those restrictions changed. Also you got along just fine with no storage before 1967 and San Luis. May I suggest that you spend taxpayer monies wisely fight the fight you should be fighting (pumping restrictions) and don't pick a new fight.

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68) Main document page 99, second paragraph, first sentence, **Impacts and Mitigation Measures**, The reservoir will destroy some undeclared amount of UNIQUE farmland. Unique anything cannot be mitigated, this is a significant impact. 48-68

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69) Main document page 99, first sentence, **Conveyance Facilities**, The conveyance facilities will destroy some undeclared amount of UNIQUE farmland. Unique anything cannot be mitigated, this is a significant impact. 48-69

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70) Main document page 136, **Biological Resources – Terrestrial**, You indicate that only a very limited botanical study and that was conducted at such a time when several unique species found nowhere else are in bloom and easily identified. Also no animal studies were conducted while there happen to be several known endangered animal species residing in the project area, why? Most people would consider this gross negligence and if an individual landowner attempted to do something similar would be fine and end up in court. Why do you continue to ignore the unique and delicate natural resources you are going to destroy with this project? 48-70

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71) Main document page 151, *San Joaquin Kit Fox*, Surveys and studies are best done in the field over long periods of time especially with nocturnal species. Del Puerto Canyon is a unique place and living in the mid to upper canyon I spend a lot of time here and have traveled the canyon constantly much of it at night for a couple decades now. I have personally witnessed these kit foxes in the lower reaches of the canyon. While mountain lions are not endangered they are protected (at least in California) and they are there as well but generally only at night. 48-71

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72) I would suggest that to determine if certain animals are present in unique areas (there is that word again that you simply do not seem to understand) that you look well beyond GIS habitat databases, while they may be a good starting point they do not cover the unique areas unless specifically entered. 48-72

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73) Main document page 163, **Endangered Species Act**, second paragraph, I request that you add the Fresno Kangaroo Rat to the list as it is present from approximately the mid canyon to the lower canyon, it requires lots of patience, luck or both plus your presence in the canyon during summer night time hours. They are there if one is willing to look. Additionally the Blainville's horned lizard should be added as well (these are easier to find or at least get pictures of since they are out during the daylight and move slowly compared to the rats. 48-73

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74) Main document page 170, **Thresholds of Significance**, Add, from the latest version of the CEQA law the definition **"Significant effect on the environment" means a substantial, or potentially substantial adverse change in the environment**. This definition seems to have been overlooked throughout this EIS. 48-74

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- 75) Main document page 171, **Table 3.4-2: Summary of Impact Discussion Locations**
- 48-75 Add under **Sub-Impact Number** Impact BIO-TERR-1p and q for the Fresno Kangaroo Rat and Blainville's horned lizard respectively as both of these species are in fact present in the project area.
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- 76) Main document pages 172-197 Impact BIO-TERR-1 Make sure that table 3.4-2 and the text agree as they currently do not.
- 
- 77) Main document pages 172-197 Impact BIO-TERR-1 add from the CEQA law the definition ***"Significant effect on the environment" means a substantial, or potentially substantial adverse change in the environment.*** One should remember that flooding and destroying ones home is a significant effect on the environment and likely will kill the species involved.
- 
- 78) Main document pages 172-197 Impact BIO-TERR-1, Explain to the public the scam of buying government sanctioned credits and how it really works. It is a scam and everyone in the environmental industry knows it. Don't think pollution credits either as they too do not work as intended.
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- 79) Main document page 200 **Impact BIO-TERR-4c Roadway Wildlife Signage**, I really cannot believe that you think signage does anything to reduce wildlife collisions except for large animals (like elk) and even few drivers slow. A flashing light for a crossing would actually only serve to harass the wildlife that live in the area and if I'm not mistaken earlier in this document you state that is illegal. As for stating "The signs shall engage drivers by providing explicit instructions." Just what are these instructions supposed to be, how many options does a driver have, we cannot say "engage hover drive for next 3 miles" or can we? And the if you think the "Significance after Mitigation" changes to "less than significant" "because they would avoid and minimise vehicle collisions" you need to be drug tested!
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- 80) Main document, page 203 **Mitigation Measures** , Change the document so that Table 3.4-2, pages 172-197 , and this section all agree as the currently do not.
- 
- 81) Main document page 214 **Thresholds of Significance** add from the CEQA law the definition ***"Significant effect on the environment" means a substantial, or potentially substantial adverse change in the environment.*** One should remember that flooding and destroying ones home is a significant effect on the environment and likely will kill the species involved.
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- 82) Main document page 230 **Other Interested Parties Consultation**, Were any

universities with archaeology or anthropology programs contacted as these are typically the folks who "dig" into this stuff? 48-82  
cont'd

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83) Main document page 233 **CEQA Historical Resources** Was the list compiled by the Stanislaus County CoC for the West Side Drive consulted for it's list of historical resources of importance in Del Puerto Canyon? (this meshes with the numbered gold stars on the canyon road) 48-83

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84) Main document page 321 **Dam Breach Analysis**, While it is true that "if" the dam(s) are designed properly the probability of a failure is low yet the cost of that failure is imense. With most any homeowners insurance if you do not have earthquake insurance as well you will get nothing in the unlikely event of a strong earthquake, the same holds true for flood damage to your home you get nothing without the extra insurance. Many people in Patterson are struggling just to survive and now you put them at risk of losing everything in the event of a failure and have decreased home values of all homes in the area. While this does not affect me I still find it unacceptable. 48-84

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85) Main document page 384 **Table 4-6: Cumulative Ranking of Alternatives**, The results and rankings of the alternate site do not agree with at least two of the feasibility studies performed by other agencies over the last 20+ years. Please explain why your seem to disagree even on some of the same rated characteristics. 48-85

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86) General comment. It is obvious that no reptile, amphibian, or mammal study was done in the field or there would be listed many species that you do not and a good way to avoid any endangered species or any wildlife in general. This is not a correct way to perform an environmental impact survey. 48-86

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87) General comment/question: Why was the public not informed of this project years ago? 48-87

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88) General comment/question: Why was the draft EIS, all 1100 pages of it just before the holidays and only a modest 45 days for the public to review and comment on it. You (the Agency) could have made good use of time by delaying the release of it to correct the multitudes of careless errors in the documents. This would have gone a long way to not undermine the public's confidence in your agency and project it is obvious that not even a simple proofread was performed as evidenced by the many sections and pages that were incomplete (graphics) and upside down pages. But instead you rushed it giving the public the impression that this project seems to adopt a policy of see no evil, hear no evil, speak no evil and rush it through, nothing to see here, move along attitude. 48-88

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**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 11:10 AM  
**To:** Sandra Watts  
**Subject:** FW: Public Comment - Del Puerto Canyon

**From:** Heather Vasquez [mailto:heather@theinsightfulpath.com]  
**Sent:** Monday, January 27, 2020 10:24 AM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Public Comment - Del Puerto Canyon

Dear Anthea,

I am writing to oppose the Del Puerto Canyon Dam Water Project. This is incredibly rich land that goes beyond just a recreation area to enjoy it's beauty but it is home to endangered species, other wild life that need to be preserved as well as an amazing geological study site and home to Native history and archeological artifacts. With there being alternative sites that can serve the purpose of this water storage project The Del Puerto Canyon should be preserved as is! It would be taking away so much from our land, our earth, our culture and our communities to use for water storage!

To list a few concerns from EIR. It says that rodent control will be required around the dams and reservoir to prevent damage and seepage. There are many species, such as Bald Eagles, Golden Eagles, Kestrels, Red Tailed Hawks, and 49-1 others hunting ground squirrels, rabbits, mice, etc. throughout the lower canyon reservoir impact area. If poison is used, it will inevitably kill and injure these birds, and many other animals in the area. Is there any information about how spraying these chemicals will affect the ground water

Another area of concern is that there will be maintenance that will require vegetation control around the dam and reservoir. 49-2  
Will Roundup and other herbicides be used? [Also, water 49-3  
 bodies around the Central Valley attract migratory and local

waterfowl. With the fluctuations in level, danger of toxic algae blooms, which would require no water be released, etc.,

49-3  
cont'd

How will these birds or other wild life be protected??

---

Please consider what is at risk by building a damn over the precious Del Puerto Canyon and do not follow through with this project!

Love & Blessings,

Heather Vasquez

*"Guiding you on the insightful path to love, healing and ultimately finding your authentic self"*

Love & Blessings,

Heather Vasquez

*"Guiding you on the insightful path to love, healing and ultimately finding your authentic self"*

January 27, 2020

**From: Chuck Marble**

452 Darpino Court, Patterson CA, 95363

**To: Del Puerto Water District**

17840 Ward Ave, Patterson, CA 95363

Dear Del Puerto Water District Managers and Representatives:

I am writing you as a citizen of the City of Patterson California regarding significant concerns over your proposed Del Puerto Canyon Reservoir project. My wife and I moved to Patterson 27 years ago, bought a home and decided to raise our family then retire here because of the beauty and recreational activities the Del Puerto Canyon represents, the potential for our home to increase in value as the city grew, and the relative safety from natural disasters that the City of Patterson has represented until now ... including no requirements, (and related costs), for carrying flood insurance.

50-1

Due to the three pages of known unavoidable negative impacts of this proposed project, (as documented in your incomplete/draft EIR), and the additional clear and present dangers this project poses for our community of twenty five thousand people which are not currently specified in the draft EIR, **I respectfully implore you to reconsider the location for your proposed reservoir project.**

---

Unfortunately, dams can fail. There are many examples where they have failed, including several recent examples. And when they are located near populated areas and fail, the effects can be nothing short of devastating, (including wiping out entire towns). Additionally, when a new dam is built near an already populated area, it reduces property values and the ability to sell such property.

50-2

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That said, no-one I've spoken with on this project is opposed to having water available for our farmers. Agriculture is vital to the economy of the Central Valley and to the well-being of our country. However, many people far more knowledgeable about water resources than I am have stated that replenishing our underground aquifers is a far better and longer-term solution for our agricultural needs than building this proposed reservoir.

50-3

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However, if your reservoir *must* be built, there are many other canyons up and down the I-5 corridor in the Central Valley that are also located in proximity to the aqueducts that could be used for this project that are not in close proximity to a large population that would be clearly be adversely impacted by the many currently documented unavoidable negative impacts – and even more so by the currently *undocumented* risks -- that this proposed project presents to nearby communities.

---

50-4

50-5 I attended the public meeting you held on January 15, 2020. In spite of the meeting being held on a work day during working hours, (which prevented many people from attending), there was a standing-room only turnout, including people lining the hallways and extending out the back door. Many speakers expressed their strong concerns over this risk-filled project, and not one person spoke in favor of the project.

I also attended a packed meeting of the Patterson City Council last Tuesday evening. Two different speakers specifically asked the attendees who live in Patterson to raise their hands if they opposed this project and nearly every attendee raised their hand. Then when asked who in attendance supported the project, not one hand was raised.

---

50-6 Additionally, please consider your fellow human beings here. Many of the good people of Patterson struggle from paycheck to paycheck to make ends meet and simply cannot afford to add flood insurance to their already stretched budget. Also note that your proposed project has added significant worry and stress to many of the people of our community. I can personally attest to the fact that both of our daughters are literally distraught over the potential dangers to them and to our community that your currently proposed project represents.

---

Given all of the above, unless you have already decided it would be best to move the location, I respectfully request that you;

50-7 1) Add the City of Patterson to the list of agencies who have a say in whether the project is approved. *NOTE: Since this proposed dam is literally located on the edge of the City of Patterson, I believe most reasonable people would agree that the city should have an official say on this project.*

---

50-8 2) Complete the EIR with detailed and accurate information regarding the additional dangers and unavoidable negative impacts to the people and businesses of Patterson related to the flooding of the community that would surely result should the dam be built in the currently proposed location then partially or completely fail.

---

50-9 3) Ensure the completed EIR fully documents the potential reduction in property values resulting from the extremely close proximity to such a tall earthen dam.

---

50-10 4) Ensure the completed EIR fully documents the additional estimated costs to homeowners and business of obtaining flood insurance.

---

50-11 5) Provide the community with a comprehensive recap of the aforementioned "detailed and complete EIR" in English and Spanish, once the fully-loaded is EIR is completed. *NOTE: Spanish is the primary language for a large percentage of our community.*

---

- |  |       |
|--|-------|
| 6) Post the comprehensive recap and the full EIR on your website once it has been completed. <i>NOTE: Many people in Patterson are still not even aware of this proposed project!</i>  | 50-12 |
| <hr/>  |       |
| 7) Schedule another open public meeting on this proposed project once the EIR has been completed and communicated to the community, and ensure it is scheduled on a date/time that is not on a standard work day during normal business hours.                             | 50-13 |
| <hr/>  |       |
| 8) Extend the period of time for public comment on this proposed project until <i>at least</i> one month after the full EIR has been completed and made available to the public, (in English and Spanish), and after the aforementioned open public meeting has been held. | 50-14 |
- 

Thank you for the opportunity to express our strong concerns over your proposed Del Puerto Canyon reservoir and to provide suggested alternatives. I truly hope that you will reconsider the significant negative impacts this proposed project represents to every resident and business in the City of Patterson and either decide on another water management option or a new location which does not pose such a huge risk to so many people.

Sincerely,



Chuck Marble

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 11:10 AM  
**To:** Sandra Watts  
**Subject:** FW: Comment on Draft EIR on Del Puerto Canyon reservoir project

**From:** Mike Smith [mailto:mike.sm64@gmail.com]  
**Sent:** Monday, January 27, 2020 10:39 AM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Comment on Draft EIR on Del Puerto Canyon reservoir project

Ms. Hansen,

Please include the following comment:

Topic 3.11.3 regarding thresholds states the following hydrologic threshold:

"Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin;"

51-1

Comment

Prior to approving the project, it would be necessary to review the applicable filed and proposed Sustainable Groundwater Plans to ensure that Agencies are not including these "excess" flows in their groundwater recharge plans.

Thank you.

Mike Smith  
[mike.sm64@gmail.com](mailto:mike.sm64@gmail.com)  
PO Box 445  
North San Juan, CA 95960

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:46 PM  
**To:** Sandra Watts  
**Subject:** FW: EIR Del Puerto Water District Proposed Dam

**From:** Naomi [mailto:naomi@gregnunes.com]  
**Sent:** Monday, January 27, 2020 4:45 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** olsenk@stancounty.com; vito.chiesa@stancounty.com; withrowt@stancounty.com; berryhillt@stancounty.com; James DeMartini <demartinij@stancounty.com>  
**Subject:** EIR Del Puerto Water District Proposed Dam

Hello Anthea,

I am writing in regards to the EIR and proposed dam in Del Puerto Canyon.

When I first heard about a proposed dam in the canyon for a reservoir, my first thought was "that could be a good thing". Extra water for our farmers and recreation close by.

Now that I have been to two meetings regarding the dam and reviewing the EIR, I am not so sure that it is "a good thing" in "that" location for the following reasons:

- 1) The endangered species that live there -Patterson and developers mitigated years ago so the endangered species would have a place to live when Keystone was developed. If we continue to wipe out endangered species, we are in fact slowly wiping out the human race. 52-1
- 2) The geological significance and history. This is big! The discoveries in the canyon and the natural class room, that once it goes under water is gone forever. 52-2
- 3) Goes against Patterson's General Plan - a plan that was meant to save and preserve the area. I was on the Planning Committee when it was made. 52-3
- 4) Putting Patterson in a flood inundation zone. As a home owner and a Realtor in Patterson, this one really concerns me. From Jan 2005 through June of 2013 there were 173 dam failures in the US and 587 "incidents", meaning dams do fail. Putting a dam that close to Patterson could potentially cause wide spread damage if the dam were to fail, not only affecting the City of Patterson, but I-5 freeway as well. 52-4

On the economic side of the City, it will cause damage as well. FEMA may say flood insurance is not necessary, but if you do not have flood insurance and the dam fails, you are out your home/possessions and potential loss of life. As a Realtor we have to advise our clients that they have to provide full disclosure when selling their homes. In the Property ID Natural Hazard Report, it now discloses the potential of the dam/reservoir. This can lower property values, make it harder to sell and overall stall the local economy, not only homes but commercial and industrial and well. My concerns are the benefits of the dam in that location do not outweigh the negative impact that the dam would bring. 52-5

Thank you for allowing me to comment on the proposed project and I hope that the correct decision is made for the benefit of all of the people of Patterson.

Naomi Jacobson  
Greg Nunes Realty  
44 N Third St.  
Patterson, CA 95363  
209-892-2000 office  
209-892-4950 fax  
209-985-6234 cell  
DRE#00947491



**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 7:44 AM  
**To:** Sandra Watts  
**Subject:** FW: Del Puerto Canyon reservoir

**From:** Clyde Crashcup [mailto:ralphwiggums16@gmail.com]  
**Sent:** Saturday, January 25, 2020 3:59 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** ralphwiggums16@gmail.com  
**Subject:** Del Puerto Canyon reservoir

Thank you in advance for reading my email.

I have COPD, I'm very concerned about my lung health during the construction of this project and the long term decline of my future lung capacity after being subjected to the project. This pollution will cause stress on those who have LUNG issues, breathing difficulties and can lead to the exacerbation of existing problems and the onset of many others. 53-1

We and our 4 Sons with their families, our 6 grandchildren reside in Patterson. This project is a huge concern for us. If, there were a crisis, my ENTIRE family would be affected.

It could cripple us, as a clan, tear us from one another, displace the families in other towns and pull us apart from the life we built here. In a crucial, critical time when we would need one another the most, we would all be affected and the effects would be something we may never recover from, especially for our grandchildren. 53-2

Our sons have chosen to stay in Patterson and made commitments here, I want to move my aging Mother here, with this proposed plan this is very concerning for us.

There are many other families, just like ours that have these same family dynamics, folks who have chosen to stay and raise their families in this community. This could mean re-writing our family stories, changing of history, uprooting us, when we have chosen to stay near one another.

I'm opposed to the damming of Del Puerto creek and the reservoir in Del Puerto Canyon. 53-3

The City is a disadvantaged community according to Cal EPA Environ Screen. The additional pollution is a serious concern and should not be allowed. 53-4

I oppose the dam based on the natural habitat that will be lost. 53-5

I oppose the dam based on the FAULT line that near the location of the proposal. 53-6

I oppose flooding of the canyon based on geological concerns. 53-7

I oppose because of the Native American heritage lost. 53-8

I oppose based on the California Department of Fish and Wildlife lists two species that nest in the lower canyon, Burrowing Owl and Grasshopper Sparrow, as Species of Special Concern. 53-9

I oppose because total of 9 threatened, endangered, or candidate species on this species list. 53-10

Please consider other modes of storage and do not dam the Del Puerto canyon. 53-11

I am asking the director of Del Puerto Water District Anthea Hansen, and all who are on the board, Bill Koster, Ivan Bays, Peter Lucich, Zach Maring, Kyle Perez, and James Jasper to consider and to put an end to any furtherance of the project of damming Del Puerto Canyon.

Sincerely, Shawn Froats



**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Saturday, January 25, 2020 11:44 AM  
**To:** Sandra Watts  
**Subject:** FW: Del Puerto Canyon Dam

**From:** denise gonzales [mailto:dkeup2@yahoo.com]  
**Sent:** Thursday, January 23, 2020 7:00 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Del Puerto Canyon Dam

Hello,

My name is Denise Gonzales and I reside at 546 Tarland Lane, Patterson, Ca 95363.

As a resident in this community I'm letting you know that I do NOT support this potential dam because of its proximity to our community, the potential dangers it could bring, ie, safety, 54-1 flooding, landslides and air quality, as well as the cost to me as a resident with a mortgage, the possibility of mud stench and not to mention the RUIN of geological, cultural and historical artifacts and lastly what it do to the native species' habitat.

Please let me know that you have received this and it is documented.

If I need to include anything else or attach something to validate it please let me know.

thank you,  
Denise Gonzales  
209-505-7452

January 27th, 2020

Del Puerto Water District  
17840 Ward Ave./P.O. Box 1596  
Patterson, Ca 95363

Attention:  
Anthea G. Hansen

I wanted to share my opinion on the proposed Del Puerto Canyon Dam/Reservoir. Reading the dEIR I am very concerned with the following issues:

- |   |       |
|---|-------|
| 1. The amount of pollution a project like this will create.                       | 55-1  |
| 2. Traffic at an already over loaded Hwy. Exit.                                   | 55-2  |
| 3. The loss of a Natural Habitat.   | 55-3  |
| 4. Being so close to an Earthquake fault line.                                    | 55-4  |
| 5. Historical artifacts being buried under the water.                             | 55-5  |
| 6. The ugliness of a big dam blocking the view of our beautiful hills.            | 55-6  |
| 7. Accessibility to go into the canyon for recreation parks like Frank Raines.    | 55-7  |
| 8. The dangers of moving/relocating a oil pipeline.                               | 55-8  |
| 9. The potential loss of wild life.   | 55-9  |
| 10. The cost of having to have flood insurance and be labeled an inundation zone. | 55-10 |

The idea of this project is very worrisome and upsetting that we are not being given a chance to vote on a project like this as a community. Even though it is not in our city it greatly affects our city and community. It also goes against the 2010 General Plan which our tax dollars have already paid for.	55-11
---	-------

I strongly encourage you and the entire district to reconsider this project in the proposed location and find another solution for the saving of water for farming. I am sure there are a lot of other ideas to combat this need.	55-12
---	-------

Sincerely,

Laura Presley  
595 Marisa Dr  
Patterson, Ca 95363

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 7:44 AM  
**To:** Sandra Watts  
**Subject:** FW: Del Puerto  
**Attachments:** Del Puerto.jpg

-----Original Message-----

From: Rhonda Chamorro [mailto:rhonda.chamorro@gmail.com]  
Sent: Sunday, January 26, 2020 2:38 PM  
To: Anthea Hansen <ahansen@delpuertowd.org>; dave.cortese@bos.sccgov.org; demartinij@stancounty.com  
Subject: Del Puerto

I oppose changing and moving Del Puerto Canyon Road to accommodate the Del Puerto Reservoir which serves no purpose to the residents of the Canyon. As a resident at the top of Del Puerto Canyon Road my concerns are the added distance and time it is going to add for all emergency aid to come into the canyon. Residents as well as the public that travels this road are going to be affected in order to get any all Emergency response in as well as out. Added time is a big factor when it comes to fires and medical emergency's we already face.

56-1

This is a very high danger fire area with over grown dry grass, weeds, and brush standing taller then fences and extending onto the sides of the road for the Hwy 130, Del Puerto Canyon Road. In 2019 there were at least 6-7 grass fires in Del Puerto alone and there is new growth starting on top of the present which is adding more fuel to the problem we have already. Attached is a recent photo of one small area showing the over growth and dangerous situation we face now. The entire state is in High Fire alert with many extreme measures put into place. There is minimal to no fire mitigation projects in the Canyon. With the total lack of maintenance and ongoing neglect to safety concerns any added response time for emergency responders can not happen.

Thank You,

Rhonda Chamorro

11005 Del Puerto Canyon Rd.

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 7:45 AM  
**To:** Sandra Watts  
**Subject:** FW: DelPuerto Dam

-----Original Message-----

From: Thomasina Cordero [mailto:tommiegirl58@att.net]  
Sent: Sunday, January 26, 2020 3:03 PM  
To: Anthea Hansen <ahansen@delpuertowd.org>  
Cc: olsenk@stancounty.com; vito.chiesa@stancounty.com; withrowt@stancounty.com; berryhillt@stancounty.com; demartinij@stancounty.com  
Subject: DelPuerto Dam

What is the purpose of this Dam? Do we actually need it. It sounds like it's going to do more harm than good. Is it going to improve our polluted water? Why has no one answered these questions? No to the Damn Dam!!! 57-1

Sent from my iPad

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 7:45 AM  
**To:** Sandra Watts  
**Subject:** FW: NO DAM PLEASE...

**From:** California/İ Anne Deniz [mailto:denizolcan@gmail.com]  
**Sent:** Sunday, January 26, 2020 8:52 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** NO DAM PLEASE...

Dear Anthea,

I would like express my feelings about the Del Puerto Canyon Reservoir as a resident of Patterson. As a mother of two and resident, I have heard so many negative impact about this reservoir to Patterson where my kids grew up here and we chose Patterson as our home. If you ask me what are those negative impacts, I would list a few of them.

- |  |      |
|--|------|
| 1. Flooding up to ten feet high across our city.               | 58-1 |
| 2. Homes sold with a hazardous "inundation zone" warning.      | 58-2 |
| 3. Insurance may raise to off-set risk.                        | 58-3 |
| 4. Tons of air pollution debris.                               | 58-4 |
| 5. Destruction of rare geology, ancient artifacts and habitat. | 58-5 |

There is no public benefits and only benefit will be in private companies.

I am opposing this DAM and I would like you to consider this as my comment. Please stop this DAM to be build. 58-6  
 Science never lie about anything. I would like to quote a great leader Mustafa Kemal ATATURK as my motto for this project. "If my ideas and thoughts against science, choose science." Please put your ego aside and make a wise decision as a head of Del Puerto Water District and choose science to stop this DAM.

---

Thank you for considering my comment and take it under consideration as well. We are depending on your choices and hope it is the best choice not only for farmers but also for residents.

Sincerely,  
 Deniz Yarim  
[denizolcan@gmail.com](mailto:denizolcan@gmail.com)

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 11:34 AM  
**To:** Sandra Watts  
**Subject:** FW: Regarding January 15, 2020

**From:** Carol Schlunz [mailto:carolsue0313@gmail.com]  
**Sent:** Monday, January 27, 2020 11:32 AM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Regarding January 15, 2020

## Comments:

- |  |      |
|--|------|
| 1) Notification of public meetings be more sweeping and visable.               | 59-1 |
| <hr/>  |      |
| 2) Citizens of Patterson will need to obtain flood and catastrophic insurance. | 59-2 |
| <hr/>  |      |
| 3) Property values will decrease.  | 59-3 |
| <hr/>  |      |
| 4) Why would anyone put an earthen dam on an active fault.                     | 59-4 |
| <hr/>  |      |
| 5) Why the rush. What are you hiding.  | 59-5 |
| <hr/>  |      |

Carol Schlunz  
416 N. 4th Street  
Patterson, CA 95363  
[carolsue0313@gmail.com](mailto:carolsue0313@gmail.com)



**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 12:45 PM  
**To:** Sandra Watts  
**Subject:** FW: Plea against the Del Puerto Canyon Dam

**From:** Trisha Vil [mailto:pvprod1@gmail.com]  
**Sent:** Monday, January 27, 2020 12:26 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Plea against the Del Puerto Canyon Dam

Good Afternoon Ms. Anthea Hanson,

My name is Patricia Villicana. My husband and I have lived in Patterson for 30 Years. We have built our lives here, raised our family here, and plan to grow old here. We have grown to love our Home, Neighbors, Church Family & Community.

60-1

Please do not risk the lives and wellbeing of an entire town, as well as, endangered Animals, Indian Artifacts and an unique Geological Site for profits! No one really Wins!!

Please STOP and THINK, about all that is at stake for the Community of Patterson and their families. There is no way out of here, should have the unspeakable happen!

Please put yourself in our shoes. Would you put yourself or your family in harms way? You have thousands of lives in your hands. Please, please, don't let them be stained! Thousands of lives at risk, especially building on a seismically active area, directly above I-5 and Patterson!

Please let your conscience be clear! I am sure there are other alternatives. Thank you and may God lead you to do what is just and right.

Sincerely,  
Patricia Villicana  
209-261-5065

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 2:48 PM  
**To:** Sandra Watts  
**Subject:** FW: Statement on EIR for proposed dam in Del Puerto Canyon  
**Attachments:** Del Puerto landslide.jpg

**From:** Geotripper Photo [mailto:geotripper@aol.com]  
**Sent:** Monday, January 27, 2020 1:54 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Statement on EIR for proposed dam in Del Puerto Canyon

**Thank you for the opportunity to comment on the proposed dam in Del Puerto Canyon.** I spoke at the public meeting of January 15, but I wish to add some thoughts to my comments that were limited to 3 minutes. I am a professor of geology at Modesto Junior College with an MS in Geology from the University of Nevada, Reno. As such I wish to address the educational and geological facts that argue against a dam in Del Puerto Canyon.

**First, the national significance of Del Puerto Canyon**

The Environmental Impact Report is a perfunctory report on the geological resources and hazards at the proposed dam site in Del Puerto Canyon, but fails to communicate the national significance of canyon. Describing Del Puerto as a "typical" canyon of the Coast Ranges is like describing Yosemite as just another glacial valley. If the Diablo Range were under federal ownership, I am convinced that Del Puerto would have warranted consideration as a national monument or national park. Why? It is the only place in Central (and maybe all of) California where one can drive from the earth's surface into the mantle and do it in an exceedingly scenic manner. One passes through 25,000 feet of marine sediments, through the underlying ocean crust, and into rocks that were once part of the earth's mantle. At the same time, as others have noted, the canyon offers a unique assemblage of endemic plants and animals. It has a rare riparian wetland habitat in an otherwise arid mountain range. I have taken hundreds of students into the canyon for field studies over the last 30 years. The National Association of Geoscience Teachers, the Geological Society of America and other national organizations have conducted tours in the canyon and many geologists have done research there. It is the ONLY easily accessible canyon for the public in this part of the Diablo Range. It would be huge loss to the communities nearby who use the canyon for learning and education, for recreation, and for spiritual renewal. 61-1

**It is not widely known, and the EIR fails to mention that the first dinosaur fossils ever found in California** were found on a slope just above the inundation zone of the reservoir. I am disturbed that such a significant site would be simply ignored in the planning for this reservoir. 61-2

**My other concern about this reservoir involves the instability of the slopes above the proposed reservoir.** There are huge and clearly active landslides within the inundation zone. The EIR fails to address the possibilities of large-scale slope failures when the dam is filled. I am concerned about what happens when a slide that formed under arid conditions is subsequently inundated beneath a hundred feet or more of water. I have appended a GoogleEarth image of one of the six slides that will be partially inundated by the reservoir. It is clearly unstable under current dry conditions, and will become ever more so when underwater. I find the statement in the EIR that "the rate of movement of landslides would *likely* be slow..." to be inadequate and worrisome. There are examples of events at other reservoirs around the world where landslides caused water to overtop the dam (Vaiont or Vajont Reservoir in Italy is an example. At the very least, the EIS is silent about the loss of water storage volume if any or all of the huge slides already present are reactivated. 61-3

**Del Puerto Canyon is a region of national scientific significance,** and I am concerned that the EIR does not acknowledge this fact. The backers of the dam have not adequately considered the importance of this important educational locality, and I strongly and sincerely request that the Del Puerto Water District reconsider groundwater storage alternatives, or at the very least, the Ingram Canyon alternative, given that the Ingram project will not have the detrimental impact that would occur if a dam is built in Del Puerto. We should be increasing educational access to the canyon, not restricting it. 61-4

**Thank you for your time and attention.**

Garry Hayes  
12120 Anissa Drive  
Waterford, CA 95386





Google earth

Eye alt: 1362 ft

© 2012 Google

37°28'48.40" N 121°13'52.64" W elev: 390 ft

Image Date: 9/15/2011



January 27, 2020

*Via Electronic Mail*  
*ahansen@delpuertowd.org*

Anthea G. Hansen  
Del Puerto Water District  
P.O. Box 1596  
Patterson, CA 95363

Subject Del Puerto Canyon Reservoir Draft Environmental Impact Report

Dear Ms. Hansen:

Over the past 5 years, I have had the fortune of being able to ride Del Puerto Canyon road 30 times. I find Del Puerto Canyon a very special and beautiful place. It is remote yet accessible from the Bay Area. My reaction to the Del Puerto Reservoir project is very negative. As an avid cyclist, a native Californian from the San Francisco Bay Area, there are few places where one can go anymore that replicate the remote and intense beauty of Del Puerto Canyon Road. Cyclists from all over the Bay Area use Del Puerto Canyon road frequently and many cycling events are held using Del Puerto Canyon Road.

There is no doubt that development of a new 82,000-acre-foot reservoir will be the start of a major transformation of the area around the reservoir and the remote beauty of Del Puerto Canyon will ultimately be lost forever.

I would offer the following comments on the DRAFT EIR.

The project does propose to build a new road around the construction site and to do so prior to the start of construction of the dam. The Draft EIR also discusses a new pump station from the Delta Mendota Canal (Inlet/Outlet) that will extend under the California Aqueduct and under Interstate 5.

The California Aqueduct east maintenance road is open to bicycle/pedestrian access.

- 1) The final EIR should address during construction of the Inlet and Outlet works that there will be no limitations on the use of the California Aqueduct access road as well as any other roads that lead to Patterson from the north. Based on the discussion of the open trenching methods discussed within the project description it seems like there could be limitations on access into Patterson during construction of the Inlet/Outlet conveyance facilities.

62-2 Construction of the new bypass road from Diablo Grande Parkway prior to the closure of the original Del Puerto Canyon Road should allow cyclists a way to get to the original Del Puerto Road while the project is under construction.

---

- 62-3
- 2) The Final EIR should address how the grades associated with the use of Diablo Grande Parkway and the new Del Puerto Canyon bypass road compare to the grades on the original Del Puerto Canyon road.
  - 3) The Final EIR should also explain how the grades for the new road that is constructed within Del Puerto Canyon above the reservoir (that will connect to the new Del Puerto Canyon Bypass road) compares to the original road.
  - 4) Ideally, the grading of the new access to the original Del Puerto Canyon road and the construction of the new roadway within Del Puerto Canyon should not contain any significant new extended or steep grades (above 10%) above what already existed along the original Del Puerto Canyon Road. If new significantly longer or steeper grades are part of the new road system this could serve to discourage access to Del Puerto Canyon by cyclists.
- 

#### Transportation (3.13)

62-4 The Project should address the safety of cyclists at the Perry Ave/Diablo Grande Parkway/I5 prior to the start of construction. This is already a very scary place to ride on a weekday or weekend as there is no shoulder and there is already much heavy truck traffic in this location. The Draft EIR assumes that the Perry Ave/Diablo Grande Parkway/I5 improvements will be addressed by a fair share contribution from the Del Puerto Reservoir project partners. The Final EIR should confirm that the actual improvements to the Perry Ave/Diablo Grande Parkway/I5 intersection are completed prior to the start of the Del Puerto Reservoir construction. This should make this intersection safer for cyclists prior to the start of construction.

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#### Alternatives (Chapter 4)

62-5 The Del Puerto Canyon Reservoir Alternatives (Table 4-1) does not include any explanation of the Del Puerto Water District's involvement in the Los Vaqueros Expansion project. The Los Vaqueros Expansion seems like a credible alternative to the Del Puerto Canyon Reservoir and there is no mention of this Alternative within Chapter 4. My understanding is that the Del Puerto Water District is currently a partner on the Los Vaqueros Expansion. An explanation of the use of the Los Vaqueros Expansion by the Del Puerto Water District should be included within the Alternative section.

Your review of the above comments is appreciated.

Sincerely,



Mark A. Seedall

[maseedall@gmail.com](mailto:maseedall@gmail.com)  
510 388 5282

Mark A. Seedall  
5833 Romany Rd  
Oakland, CA 94618

CC: Grizzly Peak Cyclists- President Mary Ann Jawili  
San Francisco Randonneurs - San Francisco Regional Brevet Administrator, Rob Hawks



# Del Puerto Canyon Reservoir

## Draft DEIR Public Comment Form

Thank you for participating in today's public comment meeting. This meeting provides a way to provide comments on the Draft Environmental Impact Report (EIR). You may provide your comments either orally by filling out a speaker card and waiting to be called upon to come to the microphone or in writing by using this form. All comments on the draft EIR must be submitted by January 27, 2020. You may leave your completed comment form at the sign-in table or submit as described on the reverse side.

### Please Print as Clearly as Possible

Name: Nancy Jewett

Address: 1256 Casual Lane, Turlock, CA 95382

Affiliation: none/private citizen

Email (to be added to the project email list): njewett@sbcglobal.net

### Comments on the Draft Environmental Impact Report

Potential significant impacts to wildlife:

I have witnessed and have photos of Golden Eagles and Bald eagles hunting in the lower canyon in the area of projected inundation. One concern I did not see addressed in the DEIR is the impact on these birds, and other predators of rodent control programs associated with dam maintenance. If poison is used it will threaten these protected birds that are still recovering in the valley.

63-1

The inundation zone will also remove a food source for them.

I am against the dam being placed in Del Puerto Canyon, not against water storage.

63-2

<b>Meeting:</b>	Del Puerto Canyon Reservoir, Draft Environmental Impact Report Public Comment Meeting		
<b>Date:</b>	Wednesday, January 15, 2020	<b>Location:</b>	Hammon Senior Center, 1033 W. Las Palmas Avenue, Patterson, CA



**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 3:40 PM  
**To:** Sandra Watts  
**Subject:** FW: DPC Against the Dam

-----Original Message-----

**From:** Erlinda Perez [mailto:elvirabonita82@gmail.com]  
**Sent:** Monday, January 27, 2020 3:17 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** olsenk@stancounty.com; vito.chiesa@stancounty.com; withrowt@stancounty.com; berryhillt@stancounty.com; demartinij@stancounty.com  
**Subject:** DPC Against the Dam

Del puerto water district,

As a long time resident of Patterson california I am against the construction and building of the Del puerto dam project in Del 64-1  
 puerto canyon. This project has been rushed most of OUR community including myself and family were unaware of this project  
 and some still are! I do not understand that!? If it wasn't for a group of people letting the community know the dangers and risks  
 involved no one would know! I am irate apparently this is your way of non disclosing information to the city that would be most  
 affected? Now I have to worry my home and family are in jeopardy of a dam failure, I will not feel safe or comfortable in my 64-2  
own home! I along with many others oppose this, the eir states debris and unsafe air quality during construction, we already 64-3  
have terrible air quality and the Del puerto water district wants to make it worse! All for a buck! Shame on you! I have zero  
 respect for inconsiderate callous behavior and what I have seen is nothing but sneaky underhanded tactics! This is disgusting 64-4  
 and outrageous! The city of Patterson is my home! I will fight for it, myself and others will not allow our home to become a  
 danger zone! Have some respect for OUR town and it's residents! No dam!

---

Erlinda E. Perez

Sent from my iPhone

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 3:42 PM  
**To:** Sandra Watts  
**Subject:** FW: NO DAM!

-----Original Message-----

**From:** Erica Torres [mailto:onelove1532@gmail.com]  
**Sent:** Monday, January 27, 2020 3:34 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** olsenk@stancounty.com; Vito.chiesa@stancounty.com; Withrowt@stancounty.com; Berryhillt@stancounty.com; Demartinij@stancounty.com  
**Subject:** NO DAM!

Del puerto water district!

As a long time resident of Patterson california I am against the construction and building of the Del puerto dam project in Del puerto canyon. This project has been rushed most of OUR community including myself and family were unaware of this project and some still are! I do not understand that!? If it wasn't for a group of people letting the community know the dangers and risks involved sadly, no one would know! I am irate apparently this is your way of non disclosing information to the city that would be most affected?! Now I have to worry my home and family are in jeopardy of a dam failure, I will not feel safe or comfortable in my own home! I along with many others oppose this, the eir states debris and unsafe air quality during construction, we already have terrible air quality and the Del puerto water district wants to make it worse! All for a buck. I have zero respect for inconsiderate callous behavior and what I have seen is nothing but sneaky underhanded tactics! This is disgusting and outrageous! The city of Patterson is my home! I will fight for it, myself and others will not allow our home to become a danger zone! Reconsider the location! PLEASE No dam!

65-1

Thank you,  
Erica Torres

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 3:42 PM  
**To:** Sandra Watts  
**Subject:** FW: NO DAM!

-----Original Message-----

From: lauren torres [mailto:laurenjtorres@icloud.com]  
 Sent: Monday, January 27, 2020 3:32 PM  
 To: Anthea Hansen <ahansen@delpuertowd.org>  
 Cc: Vito.chiesa@stancounty.com; olsenk@stancounty.com; Withrowt@stancounty.com; Berryhillt@stancounty.com  
 Subject: NO DAM!

Del puerto water district,

As a long time resident of Patterson california I am against the construction and building of the Del puerto dam project in Del puerto canyon. This project has been rushed most of OUR community including myself and family were unaware of this project and some still are! I do not understand that!? If it wasn't for a group of people letting the community know the dangers and risks involved no one would know! I am irate apparently this is your way of non disclosing information to the city that would be most affected?! Now I have to worry my home and family are in jeopardy of a dam failure, I will not feel safe or comfortable in my own home! I along with many others oppose this, the eir states debris and unsafe air quality during construction, we already have terrible air quality and the Del puerto water district wants to make it worse! All for a buck! Shame on you! I have zero respect for inconsiderate callous behavior and what I have seen is nothing but sneaky underhanded tactics! This is disgusting and outrageous! The city of Patterson is my home! I will fight for it myself and others will not allow our home to become a danger zone! Have some respect for OUR town and it's residents! No dam!

Lauren Torres

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 3:45 PM  
**To:** Sandra Watts  
**Subject:** FW: Diablo Grande Proposed Dam

**From:** AL LUCERO [mailto:allucero@sbcglobal.net]  
**Sent:** Monday, January 27, 2020 3:44 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Diablo Grande Proposed Dam

I live at 1541 daisy dr. Right across .5. I have children and think this dam project must stop. I understand this dam will be built next or ON an earthquake fault.

If you are not the person to talk to

67-1

Please inform me. Thank You Alfonso

[Sent from AT&T Yahoo Mail on Android](#)

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 3:45 PM  
**To:** Sandra Watts  
**Subject:** FW: Olsenk@stancounty.com, vito.chiesa@stancounty.com, withrowt@stancounty, berryhillt@stancounty.com, demartinij@stancounty.com, Jose.moreno931@yahoo.com

**From:** connie.ramirez21 [mailto:connie.ramirez21@yahoo.com]  
**Sent:** Monday, January 27, 2020 3:43 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Olsenk@stancounty.com, vito.chiesa@stancounty.com, withrowt@stancounty, berryhillt@stancounty.com, demartinij@stancounty.com, Jose.moreno931@yahoo.com

Hello, My name is Connie. I have been a resident of Patterson for 18 years. This is my official statement of my opposition of the del puerto damn here in Patterson. I do not want a damn built for the possibility of the damn breaking and causing our homes to be flooded and the possibility of harming those in our community. 68-1  
Next reason is because I do not want to pay more for flood insurance than I already do! My home is in a flood zone and I do not want to pay more towards it. 68-2  
 Lastly, I dont believe our tax dollars should go to the damn when the public cannot use it for recreational purposes! This is already a place we can use for recreational use. 68-3

**DONT BUILD THE DAMN!**

Thank you,  
 Connie

Sent from my Verizon, Samsung Galaxy smartphone

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:03 PM  
**To:** Sandra Watts  
**Subject:** FW: Del Puerto Canyon Reservoir/Draft DEIR Public Comments

**From:** Colleen Ceciliani-Alves [mailto:caelin1122@gmail.com]  
**Sent:** Monday, January 27, 2020 4:01 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Del Puerto Canyon Reservoir/Draft DEIR Public Comments

I have been following this proposal since it first became rumor, then, somewhat.

Public Knowledge. I believe you have been remiss to the Public and just forging ahead with your plans, with little interest or regard to the damaging effect of this proposed site. Neglecting due diligence to the other, more logical, proposed site alternatives, I have attended the 2 meetings that have been held in January to finally allow the PUBLIC in on these discussions. I feel that this proposed dam site in Del Puerto Canyon is ill-thought out, ill-planned, and poorly presented as a much needed water shed site. I come from a farming family, generations, then married into a farming family.....it has been my whole way of life. Patterson is losing much of its' valuable farm-land rapidly, to support new housing developments to enhance Bay Area transplants and their money. I question whether this Dam at this location can even support our LOCAL farmers needs!!! A few will PROFIT from the land sale in Del Puerto Canyon Dam Site, but so many will lose what can never be replaced.I AM FULLY AGAINST THIS PROPOSED DAM SITE PROJECT IN DEL PUERTO CANYON!

you,

Thank

Respectfully,

Colleen M. Ceciliani-Alves

**Sandra Watts**

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**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:06 PM  
**To:** Sandra Watts  
**Subject:** FW: Del Puerto Canyon Reservoir – Public Comments  
**Attachments:** Del Puerto Canyon Reservoir - Public Comments.pdf

**From:** eric lohmann [mailto:eric.lohmann@gmail.com]  
**Sent:** Monday, January 27, 2020 4:03 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** olsenk@stancounty.com; vito.chiesa@stancounty.com; withrowt@stancounty.com; berryhillt@stancounty.com; demartiniJ@stancounty.com  
**Subject:** Del Puerto Canyon Reservoir – Public Comments

Below are my comments. I have also attached these in PDF format.

**Ms. Hansen,**

**My name is Roger Eric Lohmann and I have been a Patterson resident for the last 17 ½ years. I am a 9 plus year U. S. Navy Veteran and I am employed with the Department of Veterans Affairs as an IT Manager and as Adjunct Faculty at Skyline College in San Bruno.**

**I am writing to express my deep concern and opposition to the Del Puerto Canyon Dam Project. I only very recently became aware of this proposal and from what I have been able to determine, there is nothing that this project will do to benefit the local community. Rather, there are several significant risks and threats that this project poses to not only Del Puerto Canyon itself but also to the 25,000 nearby Patterson residents. While I was unable to attend in person, I have viewed videos of the two meetings held on December 11 and January 15 and not one person from the local community has stepped up to speak in favor of this proposal. On the contrary, every speaker has voiced justified, legitimate concerns against the construction of this dam. Concerns have included the destruction of the natural habitat of Del Puerto Canyon, the obvious and significant destruction and danger to Patterson residents and their property if ever the dam were to fail, homes having to be sold with an “inundation zone” warning, the consequential need for additional flood insurance which can easily cost \$1,000.00 or more annually, the additional tons of air pollution added in what is already an environmentally disadvantaged area, the increased traffic and delays that will ensue at the Sperry Avenue interchange from the construction and the stench that will occur during the periods of low water levels in the summer. Questions were also raised as to the financial viability of this project since the cost of the bonds that would be issued may well be more than what the return would be on the investment.**

**The danger of the dam failing is of particular concern, especially since it will be built in a seismically active area known for landslides. This is a common-sense issue and doesn't require**

70-1

70-2







And, much closer to Patterson is a graphic showing the impacts of a breach of the Don Pedro Dam:



70-3  
cont'd

Why would anyone want this for Patterson or any other community? I want to clearly state that I do recognize the need for additional water storage especially for the farmers who are struggling due years of extended drought. Like many Patterson residents, I am not against additional water storage, but the Del Puerto Canyon is the wrong setting for this. Please seek out other alternatives and have this project moved to a different location; one that will not endanger the lives and property of 25,000 California Residents or destroy a cherished natural, historical and cultural habitat. Placing a dam in an area known for seismic activity as well as landslides is irresponsible and clearly outweighs whatever financial gains this location may provide. Pursuing this project "as is" results in yet another manmade catastrophe in the making and is not worth the accompanying dangers, risks and threats to Del Puerto Canyon natural habitat and the long established and growing Patterson community.

70-4

Thank You,

Roger Eric Lohmann

(415) 601-0335

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:19 PM  
**To:** Sandra Watts  
**Subject:** FW: Comment on the Del Puerto Reservoir EIR

**From:** lucie field [mailto:monalucie@gmail.com]  
**Sent:** Monday, January 27, 2020 4:17 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Comment on the Del Puerto Reservoir EIR

To whom it may concern,

I am writing to bring up a flaw in your environmental impact report.

There are many unique aspects of Del Puerto Canyon to consider that would take at least one full year of scientific environmental studies before even a draft environmental impact report for a project of this magnitude should be considered for review.

71-1

The mouth of Del Puerto Canyon is not only prime habitat for the endangered San Joaquin Kit Fox (SKF), but it is also in a vital north-south thruway that the animal needs for its survival. Over the years, increased development along the eastern slopes of the Diablo Range have diminished the (SKF) territorial north-south migrations. If the dam is built, the water from the ensuing reservoir would fill the first few miles of rolling rangeland, thwarting the area that is most vital to the (SKF) survival. At least one full year of studying is in order to better understand the mitigations necessary to ensure the survival of the species.

---

The unique rainfall and the creation of micro-climates in the project area attract a wide array of migratory species as well as stray species such as birds that have only been spotted in this specific part of Stanislaus County. Given the limited scope that the draft EIR has taken to study the project area, there are undoubtedly species living in the project area that have yet to be documented.

71-2

The most abundant time of the year for biological life in Del Puerto Canyon is also undoubtedly spring. After the rain has fallen all winter and saturated the ground to become a lush green landscape. The water flows clear and abundantly from the depths of Del Puerto Canyon's vast watershed all the way to the San Joaquin River. During this time is when the most unique, and abundant wildlife needs to be documented, such as river otters and badgers, which have been

spotted in Del Puerto Creek in the project area in recent years. The first few miles of Del Puerto Canyon are prime locations for thousands upon thousands of examples of the state flower, the California Poppy, though their displays come once a year during the springtime as do many other important plants and animals within the project area and need to be documented over the course of a few years, since the wildflower displays are dependent upon certain unique biological circumstances.

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The trees within the first few miles of Del Puerto Canyon and within the project area, are our last living connection to the Native American Yokuts that once lived within the project area. Some of the old Cottonwood trees that begin to show up around the Eagle Rock (graffiti rock) area are estimated at 300 years old. These trees, the gnarled old Cottonwood's were considered sacred to the Native Americans. Aside from their cultural and spiritual significance, the Cottonwood trees along with the heritage oak trees, of which there are many within the project area, serve as a gauge on the climate. It is no secret that the earth is still warming up from the last ice age, and the receding tree line in Del Puerto Canyon is a visible gauge of that process that is now being sped up with increased human interaction with nature. There is no proper mitigation that would ever warrant the removal of the sacred Cottonwood tree grove, or the heritage oak trees. These trees need to be studied and protected in their original locations for perpetuity.

---

Lucie Field

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:33 PM  
**To:** Sandra Watts  
**Subject:** FW: Del Puerto Canyon Dam

-----Original Message-----

From: Katherine Amaral [mailto:katherineamaral1@gmail.com]  
 Sent: Monday, January 27, 2020 4:27 PM  
 To: Anthea Hansen <ahansen@delpuertowd.org>  
 Cc: olsenk@stancounty.com; vito.chiesa@stancounty.com; withrowt@stancounty.com; berryhillt@stancounty.com;  
 demartinij@stancounty.com  
 Subject: Del Puerto Canyon Dam

Del puerto water district,

I am against the construction and building of the Del puerto dam project in Del puerto canyon. This project has been rushed most of OUR community including myself and family were unaware of this project and some still are! I do not understand that!? If it wasn't for a group of people letting the community know the dangers and risks involved no one would know! I am irate 72-1 apparently this is your way of non disclosing information to the city that would be most affected?! Families feel that they are in jeopardy of a dam failure, they do not feel safe or comfortable in their own home! I along with many others oppose this, the eir states debris and unsafe air quality during construction, we already have terrible air quality and the Del puerto water district wants to make it worse! All for a buck! SHAME ON YOU ALL! We have zero respect for inconsiderate callous behavior and what we have seen is nothing but sneaky underhanded tactics! This is disgusting and outrageous! The city of Patterson is home to many! We will fight for our beautiful home!! Have some respect for OUR town! NO DAM!!!!!!!!!!!!

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:44 PM  
**To:** Sandra Watts  
**Subject:** FW: Against Del Puerto Dam Project

-----Original Message-----

From: Josh Mendoza [mailto:lucky\_buddy7@hotmail.com]  
 Sent: Monday, January 27, 2020 4:43 PM  
 To: Anthea Hansen <ahansen@delpuertowd.org>  
 Cc: Olsenk@stancounty.com; Vito.chiesa@stancounty.com; Withrowt@stancounty.com; Berryhillt@stancounty.com; Demartinij@stancounty.com  
 Subject: Against Del Puerto Dam Project

Dear Del puerto water district,

As a life long resident being born and raised in Patterson california. I am against the construction and building of the Del puerto dam project in Del puerto canyon. This project has been rushed most of OUR community including myself and family were 73-1 unaware of this project and some still are! I do not understand that!? If it wasn't for a group of people letting the community know the dangers and risks involved no one would know! I am irate apparently this is your way of non disclosing information to the city that would be most affected?! Now I have to worry my home and family are in jeopardy of a dam failure, I will not feel safe or comfortable in my own home! I along with many others oppose this, the eir states debris and unsafe air quality during construction, we already have terrible air quality and the Del puerto water district wants to make it worse! All for a buck! Shame on you! I have zero respect for inconsiderate callous behavior and what I have seen is nothing but sneaky underhanded tactics! This is disgusting and outrageous! The city of Patterson is my home! I will fight for it myself and others will not allow our home to become a danger zone! Have some respect for OUR town! No dam!

Joshua Mendoza

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:44 PM  
**To:** Sandra Watts  
**Subject:** FW: Against Reservoir Build

**From:** hc jefferson [mailto:firewater9918@gmail.com]  
**Sent:** Monday, January 27, 2020 4:42 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** olsenk@stancounty.com; vito.chiesa@stancounty.com; withrowt@stancounty.com; berryhillt@stancounty.com; demartinij@stancounty.com  
**Subject:** Against Reservoir Build

Please consider the fact that families who live in this area. Road Closures, Wild Life Finding New Homes, Artifacts....Main Road Closing/Moving Sperry/Interstate 5. Main Troubles for this Growing Town. Thank You for your time and I Am Against Build of Reservoir. Rosa Jefferson

74-1

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:45 PM  
**To:** Sandra Watts  
**Subject:** FW: Del Puerto Canyon Reservoir Public Comment

**From:** Hope Presley [mailto:hope.presley7@gmail.com]  
**Sent:** Monday, January 27, 2020 4:43 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Del Puerto Canyon Reservoir Public Comment

Athena Hansen,

The proposed reservoir to be located in Del Puerto Canyon would be a huge detriment to the City of Patterson, surrounding communities, and local wildlife that depend on the Canyon and Diablo mountain range.

Personally, my number one issue in regards to this reservoir is the loss of wildlife habitat. I grew up in Patterson, exploring in the Canyon with my dad and family. It is a major reason why I chose the career path that I did. I have a BS in Environmental Science and Conservation, and am currently in graduate school to obtain a MS in Resilient and Sustainable Communities. I work at a National Wildlife Refuge which was formed because of immense loss of habitat in surrounding area. 75-1

After reading through the draft Environmental Impact Report (dEIR), my concerns are about the lack of importance placed on the wetland and riparian habitats. Wetlands are an incredibly important resource for more than just wildlife habitat and reproduction. Wetlands have a number of benefits for humans, including groundwater recharge, water filtration, carbon sequestration, and flood protection. My other concern is that of the wildlife located in the area, and again, the lack of importance placed upon them. For example, the dEIR indicates that the California tiger salamander (CTS) is not located within 5 miles of the proposed site, but is located 8.5 miles northwest. Although they are not currently located within the site, that does not mean they could not potentially be there in the future, as it is within their designated range. The reason CTS are listed as threatened is *because* of habitat loss. 75-2 75-3

The importance of the Del Puerto Canyon is immeasurable. It can't necessarily be represented with dollar signs. The moments brought to me, and many other residents in the area are qualitative and intangible. 75-4

Please consider our desperate plea to save this beautiful canyon, the memories and experiences it fosters, and habitat it provides.

Thank you,  
 Hope Presley

--  
 Hope Presley

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:52 PM  
**To:** Sandra Watts  
**Subject:** FW: NO Del Puerto Canyon

-----Original Message-----

**From:** Marilyn Miner [mailto:mmarilyn@gvni.com]  
**Sent:** Monday, January 27, 2020 4:51 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** NO Del Puerto Canyon

I really don't know where to begin, all I know is that I love my community Patterson, California and it is about to be destroyed for capital gain. In Del Puerto Canyon are wildlife is in danger.

76-1

I love going up there for serenity and taking photos and bird watching.

This will all be gone please please listen to our concerns.

We know water is needed but not over our head, there are other places where this damn can be built Please Please listen to the people that live in this community.

We are very very concerned about their livelihood.

Marilyn 🐾



**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:54 PM  
**To:** Sandra Watts  
**Subject:** FW: Opposition of Del Puerto Reservoir

**From:** Garrett Christopherson [mailto:fivechristophersons@yahoo.com]  
**Sent:** Monday, January 27, 2020 4:51 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** olsenk@stancounty.com; vito.chiesa@stancounty.com; withrowt@stancounty.com; berryhillt@stancounty.com; demartinij@stancounty.com  
**Subject:** Opposition of Del Puerto Reservoir

To Whom it Should Concern, Anthea Hansen specifically,

I am opposed of the proposed Del Puerto Reservoir being created by the infrastructure of the dam. I believe there have not been enough thorough studies and the EIR was rushed so that the water district could push their agenda and get the funding secured. All while keeping this gigantic project out of the public's knowledge until the last and final stages. 77-1  
The reservoir being situated on a fault line just seems to be ridiculously stupid planning and engineering. 77-2  
Secondly the planned reservoir will be filled from the DMC as part of a replacement of the reclaimed treated water being pumped to the DMC. Otherwise this reclaimed treated water will be sent south without any reservoir to hold the excess water not needed by your farmers in wet years, what a waste of all the time and funds spent on this other reclaimed treated water project if you have no place to store excess other than let it go down the canal. That sounds like a project that was prematurely started without having all the essential pieces in place to store the saved water. To me this sounds as though there could be better management and planning by the Del Puerto WD. I'm not sure if the town of Patterson has the faith to back up such a project of such proportions to a business that has such poor management practices that there current project hasn't even been seen through. I could go on and on. 77-3  
The historical significance of Del Puerto Canyon should not be lost to the damming of a natural creek. 77-4  
The DPWD should continue to pursue the underground storage of water such as the project already in place on Orestimba Creek. I adamantly oppose the construction of the dam and any reservoir here in Patterson on Del Puerto Creek! The citizens deserve to have a voice. 77-5

---

Khyla Smith  
 209-201-6392  
 600 Kinshire Way  
 Patterson, Ca

[Sent from Yahoo Mail on Android](#)

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:57 PM  
**To:** Sandra Watts  
**Subject:** FW: Dam

-----Original Message-----

From: Sean Timmins [mailto:sean.timmins2015@gmail.com]  
Sent: Monday, January 27, 2020 4:57 PM  
To: Anthea Hansen <ahansen@delpuertowd.org>  
Subject: Dam

I'm writing to tell you I'm opposed to any dam and should one decide to be built, I, as well I assume many other residents and businesses will sell and move. I'm not interested in higher taxes, flood insurance or the uncertainty of living anywhere near a dam. Nor am I interested in the lower property value or difficulty in selling my home that a dam would bring. 78-1

Sean and Lacey Timmins  
Registered voters in Patterson

Sent from my iPhone

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 5:07 PM  
**To:** Sandra Watts  
**Subject:** FW: Dam

**From:** Beth Young [mailto:young12tigers@yahoo.com]  
**Sent:** Monday, January 27, 2020 5:06 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** olsink@stanislauscounty.com; vito.chiesa@stanislauscounty.com; berryhilt@stanislauscounty.com  
**Subject:** Dam

We do not need a dam here, it constitutes a danger to our city, families too. Also Buriel cementary of Native Indians, natural habitat area for wildlife. 79-1  
Put the dam at the San Juquin river going out of town if you must have one. Also if southern Calif. Needs water build the dam down there will cost a lot less to do so.

[Sent from Yahoo Mail on Android](#)

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 5:11 PM  
**To:** Sandra Watts  
**Subject:** FW: Public Comments on the Del Puerto Dam

**From:** paolododo@berkeley.edu [mailto:paolododo@berkeley.edu]  
**Sent:** Monday, January 27, 2020 5:10 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** Public Comments on the Del Puerto Dam

I know that today is the deadline for public comments on the Del Puerto Dam.

This project raises some concerns because of the history of landslides (and earthquakes) in the area. From the documents posted online it was not clear to me how the effect of landslides has been accounted for. At a minimum there would be the need for a full analysis of landslide risk, how it is affected by the flooding of the upstream area and changes in water levels associated with the operation of the reservoir. 80-1

I think it would be good to show to the local communities the results of the dam breaching analysis (section 3.11.3) and the associated flooding of the downstream area. It seems that such studies have been done and summarized in the text. It would be clearer to see them on a map. 80-2

More in general, this is a spectacular canyon with great naturalistic value with important riparian ecosystems. 80-3

Sincerely,  
 Paolo D'Odorico

---

Paolo D'Odorico  
 Department of Environmental Sciences, Policy, and Management  
 University of California  
 Berkeley, CA 94720-3114  
<https://ourenvironment.berkeley.edu/people/paolo-dodorico>

From: [Mary Currie](#)  
To: [Robin Cort](#)  
Subject: Fwd: Del puerto canyons  
Date: Monday, January 27, 2020 8:20:45 PM

---

Letter 81

You may be receiving these...but just in case.

Mary Currie  
415-783-8420

Begin forwarded message:

**From:** Isabel Garcia <isabelg379@gmail.com>  
**Date:** January 27, 2020 at 8:06:52 PM PST  
**To:** "dpcrinfo@woodardcurran.com" <dpcrinfo@woodardcurran.com>  
**Subject:** Del puerto canyons

**Hello, my name is Isabel Garcia. I am a junior at Del Puerto High School. I'm hoping I'm not late in sending this email. I've read so much about the dam and the pros and cons of it. Me and the majority of the community spoke our minds and we realized that the dam is nothing but unsafe to Patterson and the history of the canyons. I've been living in Patterson my whole life. I have been going to del puerto canyons for 17 wonderful years and I wouldn't want the dam to replace many memories and history that was made up there. Me and my family have SO many amazing memories and family traditions up there. It would be so sad to see it all get destroyed by a dam that's not going to benefit us. I'm pretty sure we will survive without that dam because we have been for 100 years. I hope my voice gets heard. I will let my voice get heard for something that will not benefit us and definitely ruin many memories and so much history. I personally and a big majority of my generation LOVE to go hiking up in the canyons. I'm sorry to say, but I wouldn't want to take any other road. The drive up is so beautiful that I could never imagine a dam being built in such a very beautiful scenery. I love the canyons just the way they are. If the small amount of people that are with the dam don't like it, then they could leave as simple as that. Some negative people might say things like it's**

81-1

8-1  
cont'd

**“overrated” or it’s where kids get “drunk” or even things like the graffiti rock is “ugly”. Those people obviously don’t know nothing. If you are truly from Patterson, you could know that all those things are simply false. The graffiti rock has ALWAYS been something to leave your mark. It’s something we like to enjoy. It’s art. Kids getting drunk? I’m a teenager and I know those are not the intentions when we go up there. When us teenagers go up there it’s to enjoy our time in space of peace and nature. We are not going up there to get “drunk” we are up there to live life and have fun. Now, when people say it’s overrated. Obviously they don’t care about the nature the memories and the history in the canyons. Those are the people that have not fully explored del puerto canyons. I’m telling you, if I could get a group of people that barely moved to Patterson, I could change everything. They would know how beautiful and extraordinary the canyons are in just 1 second of actually exploring. I have a lot to say but my fingers hurt from typing and I have some homework to do but I really do hope the board or whoever their called has the time to think about the memories the history and the peace and nature out in the canyons. Thank you for hearing my voice. #savedelpuertocanyons**

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 9:35 PM  
**To:** Sandra Watts  
**Subject:** Fwd: No reservoir

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** nancy Maravilla <nancykmaravilla@yahoo.com>  
**Date:** 1/27/20 5:52 PM (GMT-08:00)  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Subject:** No reservoir

Ahí whom it may concern,

my name is Nancy Maravilla, address 140 marguerite Lane. I totally oppose to build the water reservoir. We have to considered is not a benefit or a need for us that live in this town. We live with fear an earthquake might happen and we we live with even more fear an accident eerh this will happen. We don't know when , we don't know if it will, but fear will be always there and together with more money out of pockets . 82-1  
82-2

Therefore , considered my opinion and my vote together with my husband's Jesus Marron jr as a No, no reservoir.

Nancy Maravilla  
(707)365-6920

Sent from my iPhone

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Kristin Olsen <OLSENK@stancounty.com>

Date: 1/27/20 6:03 PM (GMT-08:00)

To:

Cc: Anthea Hansen <ahansen@delpuertowd.org>

Subject: Re: NO DAM!

Hi. Sorry you're getting this barrage. This is what I have been sending in response to several of them:

Hello. Thank you for taking the time to express your concerns. It sounds like a lot of misinformation has been going around. This is neither a new project nor one being rushed through. On the contrary, this water project has been studied for many years and is an important part of the solution to ensuring our community has sufficient water supplies. 83-1

Kristin Olsen

Sent from my iPhone





**San Joaquin Valley**  
AIR POLLUTION CONTROL DISTRICT



February 11, 2020

Anthea G. Hansen  
Del Puerto Water District  
17840 Ward Avenue  
P.O. Box 1596  
Patterson, CA 95363

**Project: Del Puerto Canyon Reservoir Project**

**District CEQA Reference No: 20191396**

Dear Ms. Hansen:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the project referenced above. The project consists of the construction and operation of a reservoir to provide approximately 82,000 acre-feet of new off-stream storage (Project). The proposed Project includes a main dam, three saddle dams, and conveyance facilities to transport water, electrical facilities, relocation of Del Puerto Canyon Road and relocation of existing and proposed utilities that are within the project area. The Project is located in the foothills west of the City of Patterson, CA and Interstate-5, in Stanislaus County. The District offers the following comments:

**1. Voluntary Emissions Reduction Agreement (VERA)**

Table 3.3.11 reflects the achievement of 158.10 tons reduction in NOx emissions during construction years 2023, 2024, 2025, and 2026 through a variety of proposed measures. Based on Table 3.3.11 in the DEIR, NOx emissions would still exceed the significance threshold after implementation of the proposed mitigation measures (i.e.: onsite measures), which includes a proposed construction fleet comprised of 92% Tier-4 engines. The mitigated project analysis relies heavily on the successful implementation of Tier 4 engines. 84-1

In addition, page 3.3.24 lists several mitigation measures proposed in efforts to reduce emissions and states that "If all feasible on-site measures have been implemented and annual emissions are anticipated to still be above ten tons per year for NOx, then the Project Partners will enter into a VERA with SJVAPCD". The DEIR seems to imply that there will another analysis/assessment performed to verify

Samir Sheikh  
Executive Director/Air Pollution Control Officer

Northern Region  
4800 Enterprise Way  
Modesto, CA 95356-8716  
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)  
1990 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region  
34946 Flyover Court  
Bakersfield, CA 93308-9725  
Tel: 661-392-5500 FAX: 661-392-5565

"if" the feasible on-site measures were sufficient to reduce the emissions to less than significant before a VERA becomes the method for reducing emissions. District recommends the DEIR clarify this statement and, if there is an intent to have additional analysis after the certification of the DEIR, then an enforcement and monitoring mechanism be discussed in the DEIR to ensure quantification of emissions be performed and a verification of such analysis be made by the Lead Agency, i.e.: the Del Puerto Water District. As a Responsible Agency, the District is available to provide technical assistance to the Del Puerto Water District in addressing air quality issues in environmental documents.

Page ES-4 of the DEIR introduces Mitigation Measure MM AIR-1 "*Reduce NO<sub>x</sub> Emissions*". MM AIR-1 includes a VERA as a component. MM AIR-1 states that "*implementation of Mitigation Measure AIR-1 would reduce NO<sub>x</sub> emissions through on-site measures to below significance thresholds, or require a VERA, which would reduce emission to a less-than-significant level.*" A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds for the District's incentives programs). The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-specific regional impacts on air quality can be fully mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors.

The District recommends that MM AIR-1 be clarified to guide the Project proponent to have a VERA entered into prior to generating emissions associated with the Project. This is consistent with the requirements of a VERA to have mitigation in place prior to the start of the first activity generating emissions, including but not limited to demolition, grading, etc., whichever occurs first. This will ensure that the targeted emissions reductions and the Project emissions occur contemporaneously.

---

## 2. Ambient Air Quality Analysis (AAQA)

Page 3.3-26 of the DEIR states "*CO emissions during construction would be greater than 100 pounds per day (equivalent to 18 tons per year). However, annual CO emissions would be lower than the SJVAPCD significance levels (100 tons per year, see Table 3.3-4), therefore, it was determined that an ambient air quality analysis would not be necessary.*" The District would like to clarify that the 100 pound per day threshold triggering the requirement for an AAQA is different and separate from the 100 tons per year threshold of significance for criteria pollutants. Per page

84-1  
cont'd

84-2

3.3.26, project emissions will exceed 100 pounds per day. Therefore, the District recommends that an AAQA be performed.

An ambient air quality analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of the ambient air quality standards. District policy APR 2030 states that if daily emission increases for any of the three categories (construction, operational emissions-permitted equipment and activities, or operational emissions-non-permitted activities and equipment) exceed 100 pounds per day, then an AAQA shall be performed. In this case, daily emission increases exceed 100 pounds per day for the construction category only, so the AAQA shall evaluate sources from that category. See: ([https://www.valleyair.org/policies\\_per/Policies/APR-2030.pdf](https://www.valleyair.org/policies_per/Policies/APR-2030.pdf)).

84-2  
cont'd

The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis. Specific information for assessing significance, including screening tools and modeling guidance is available online at the District's website [www.valleyair.org/ceqa](http://www.valleyair.org/ceqa).

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### **3. District Rule 9510 Indirect Source Review (ISR)**

Page 3.3-13 of the DEIR states "*Rule 9510 applies to any applicant seeking discretionary approval for a development project. As a water supply project, the proposed project does not meet the definition of a development project and Rule 9510 is thus not applicable.*" The District would like to clarify that the Project is a development project. District Rule 9510 Section 3.13 defines Development Project as: any project, or portion thereof, that is subject to an approval by a public agency, and will ultimately result in the construction of a new building, facility, or structure, or the reconstruction of a building, facility, or structure for the purpose of increasing capacity or activity. This Project is a development exceeding the District's applicability threshold of 9,000 square feet of space, and as such is subject to District Rule 9510. Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment (AIA) application to the District no later than applying for final discretionary approval.

84-3

If approval of the Project constitutes the last approval by your agency, the District recommends that an Air Impact Assessment (AIA) application be submitted for the Project before the EIR is finalized, and recommends that demonstration of compliance with District Rule 9510 be made a condition of Project approval.

The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NO<sub>x</sub> and PM<sub>10</sub> emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule

requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.

84-3  
cont'd

Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>. The AIA application form can be found online at: <http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

#### **4. Health Risk Screening/Assessment:**

84-4

Page 3.3-16 of the DEIR, states that a screening assessment was performed using the District's "prioritization calculator". The District requests that the prioritization assessment file be sent for assessment by District staff to:

- E-Mailing inquiries to: [hramodeler@valleyair.org](mailto:hramodeler@valleyair.org); or
- The District can be contacted at (559) 230-6000 for assistance; or
- Visiting the Districts website (Modeling Guidance) at: [http://www.valleyair.org/busind/pto/Tox\\_Resources/AirQualityMonitoring.htm](http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm).

#### **5. District Rules and Regulations**

*This Project may also be subject to other District rules and regulations.*

A. Certain equipment operating at the facility may require District permits. Page 3.3.11 of the DEIR, states that the proposed equipment for the project is exempt from obtaining an Authority to Construct (ATC) or Permit to operate. However, the DEIR goes on to state that the proposed project will include one new emergency generator, which will require a District permit. Prior to the start of construction, the Project proponent should contact the District's Small Business Assistance Office at (559) 230-5888 to determine if an Authority to Construct (ATC) or Permit to Operate is required for any equipment associated with the project.

84-5

B. The Project may also be subject to the following District rules: Regulation VIII, (Fugitive PM<sub>10</sub> Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

C. The Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the Project would result in employment of 100 or more "eligible" employees. District Rule 9410 requires employers with 100 or more "eligible" employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best

for their worksites and their employees. Information about how District Rule 9410 can be found online at: [www.valleyair.org/tripreduction.htm](http://www.valleyair.org/tripreduction.htm). For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at [etrip@valleyair.org](mailto:etrip@valleyair.org)

84-5  
cont'd

- D. The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at: [www.valleyair.org/rules/1ruleslist.htm](http://www.valleyair.org/rules/1ruleslist.htm).

If you have any questions or require further information, please call Cherie Clark at (559) 230-5940.

Sincerely,

Arnaud Marjollet  
Director of Permit Services



Robert Gilles  
Program Manager

AM: cc



1 Transcript contains comments 85-1 through 85-28. Comments start on page 16.

2  
3 TRANSCRIPT OF ORAL COMMENTS  
4 GIVEN AT PUBLIC MEETING REGARDING  
5 THE DRAFT ENVIRONMENTAL IMPACT REPORT  
6 PREPARED FOR  
7 THE DEL PUERTO CANYON RESERVOIR PROJECT  
8  
9

10 January 15, 2020

11 4:00 PM - 6:00 PM  
12  
13

14 Meeting held at:

15 HAMMON SENIOR CENTER

16 1033 West Las Palmas Avenue

17 Patterson, CA  
18  
19

20  
21 Reported by: LISA S. COELHO, CSR #9487

22 PALERMO REPORTING SERVICES

23 1301 G Street, Suite A

24 Modesto, CA 95354

25 Telephone: (209) 577-4451

1 APPEARANCES:

2 CHARLES GARDINER, The Catalyst Group

3 ANTHEA HANSEN, Del Puerto Water District

4 ANDY NEAL, Woodard & Curran

5 ROBIN CORT, Woodard & Curran

6 CHRIS WHITE, San Joaquin River Exchange

7 Contractors Water Authority

8  
9 --o0o--



1           MR. GARDINER: Welcome, everybody. Glad you're  
2 here. Thanks for coming and welcome to the meeting.  
3 We're talking tonight about the Del Puerto Canyon  
4 Reservoir. If you're here for a senior activity, I think  
5 that's in another room.

6           So I first wanted to have Anthea welcome  
7 everybody, so let me start with that, and then I'm going  
8 to talk a little bit about how the meeting is going to go.

9           MS. HANSEN: Thank you. On behalf of -- I'm  
10 Anthea Hansen. I'm the general manager of Del Puerto  
11 Water District. On behalf of the district and the board  
12 of directors and the landowners in the district, I'd like  
13 to welcome you all here. I'd also like to introduce the  
14 district's partner in this project. The district is  
15 partnered equally with the San Joaquin River Exchange  
16 Contractors Water Authority, and there are several members  
17 from the water authority team here today.

18           And I'd primarily like to make sure everybody  
19 gets a chance to meet and greet Chris White. Chris is the  
20 executive director of the water authority and works very  
21 hard with me to further the studies that we've been  
22 working on, and that's what we are doing. We are studying  
23 feasibility of building a storage facility.

24           And so we really appreciate that you're here  
25 tonight to give us comments. We've received quite a few

1 comments already, and we are looking forward to receiving  
2 more between now and the 27th so we can take all those  
3 comments and do the remaining analysis that we need to do  
4 to study the feasibility of this project and then send  
5 it -- send that feasibility report along for further  
6 consideration.

7 So, again, I want to thank you all. I would like  
8 to recognize that I think I have a couple of board members  
9 here, I'm sure. I see in the front row our board  
10 president, Gene Bays, is here. And so I just want to  
11 thank you, Gene, for coming.

12 And if anybody has any questions, I will -- I  
13 have my card and I am happy to give that out if anybody  
14 wants to give me a call any time. But tonight we're not  
15 here to hear from me or from Chris. We're here to hear  
16 from you. So thank you for coming.

17 MR. GARDINER: Okay. Thanks, Anthea.

18 So let me -- is that not on? So I wanted to go  
19 over what we're going to do today, but first let me talk  
20 about a couple of things that were at the front. The key  
21 thing is this speaker card. If you're interested in  
22 speaking here tonight, you need to fill one of those out.  
23 So if you haven't done that and given it to Linadria at  
24 the front desk, please do that, or stick your hand up if  
25 you need a card to fill out, but we're using those to take

1 the comments.

2 The other thing I wanted to highlight was that  
3 this sheet is a comment form. If you prefer to comment in  
4 writing, you can feel free to use this form and fill it  
5 out tonight and leave it here, take it home and fill it  
6 out and send it in. Sorry. One sec. Sorry, folks.

7 Sorry about that, folks. So those are a couple  
8 of the key materials for commenting tonight. So we want  
9 to start first by giving you a very brief overview of the  
10 project. How many people came to the meeting in December?

11 Okay. Good, great. We had a really good  
12 discussion in December about the project and the features  
13 and some of the community concerns. We're giving you a  
14 very brief overview of the project, and we also want to  
15 describe for you this environmental review process that  
16 we're in which is really what this meeting tonight is  
17 about is commenting on that environmental review process.  
18 So we'll have a short presentation on that. Describe what  
19 the next steps are in the process, what happens with  
20 comments that you submit tonight and how the process goes  
21 forward. And then I'm going to come back and talk a  
22 little bit about the public comment process and how we're  
23 going to go through those this evening.

24 We're prepared to be here as long as people have  
25 comments. We are asking people to limit their comments to

1 three minutes so we give everybody an opportunity to  
2 comment, and I'll go over that a little bit later. So let  
3 me talk a little bit about our meeting purpose, a little  
4 bit more about it.

5 As I mentioned, we're in this environmental  
6 review process which is governed by the California  
7 Environmental Quality Act. And the purpose of the draft  
8 document that was released in December is to describe the  
9 potential environmental impacts of the project that Anthea  
10 and Chris are exploring, so that document is out for  
11 public comment, for -- an opportunity for all of you to  
12 provide comments on that document so that the team can  
13 prepare a final environmental review.

14 So our purpose is to get your comments on that  
15 document, hear your thoughts about what's presented in the  
16 environmental review and your suggestions on how -- on  
17 improving. It is a draft document. The team will be  
18 considering all of your comments and preparing a final  
19 document, including responses to the comments that we  
20 receive on the document.

21 So our purpose tonight is to hear those comments  
22 and record them, and we have a court reporter who will be  
23 recording them verbatim so we document all the comments  
24 accurately, and then the team will go off and work on  
25 responding to those comments. So our purpose tonight is

1 not to answer the questions that you may have. It's  
2 really to receive the comments on the draft document.

3 So with that, I'm going to hand it to Andy Neal  
4 who's the project manager for the consulting team that's  
5 been reviewing the project. He's going to give you this  
6 brief overview of the project followed by Robin Cort who  
7 will talk about the environmental review process.

8 MR. NEAL: Thank you. I'm Andy Neal. I'm with  
9 Woodard & Curran. We are the program team working here  
10 for Anthea and Chris.

11 So the Del Puerto Canyon Reservoir project is a  
12 locally owned and controlled storage project. As  
13 considered right now, it is an 82,000 acre-foot reservoir  
14 behind a 260-foot high dam and three saddle dams. One of  
15 those saddle dams is about 150 feet high, so pretty  
16 sizable. The other two are quite small, one about 20 feet  
17 and 10 feet.

18 It is an off-stream storage project. It is  
19 filled from the Delta-Mendota Canal. So Anthea and Chris,  
20 the Exchange Contractors and Del Puerto Water District  
21 will be taking their water from the Del Puerto -- excuse  
22 me -- the Delta-Mendota Canal, delivering it into the  
23 reservoir area, and returning it back to the canal.

24 Water would be stored for agriculture purposes as  
25 well as for wildlife refuges in the Central Valley and via

1 the Delta-Mendota Canal.

2 Del Puerto water district is the lead agency for  
3 CEQA. Responsible for adopting the EIR. And the San  
4 Joaquin River exchange contractors are comprised of four  
5 water district: Cc ID, San Luis canal company, Columbia  
6 canal company and Firebaugh. They are also a responsible  
7 agency for the purposes of CEQA. And the other colors  
8 there are the wildlife refuges where water deliveries are  
9 to be expected.

10 Lots of project benefits. Water storage being  
11 the main driver but lots for the environment as well as  
12 public and regional economy and really some flexibility to  
13 adapt the future water supply changes as well as storage  
14 needs and give the regulatory environment and future of  
15 water supply. It's really preparing us for the future  
16 here.

17 MS. CORT: Hello. I'm Robin Cort with Woodard &  
18 Curran, and I've been conducting the environmental review,  
19 managing a team of folks who are doing the best they can  
20 to evaluate all the impacts of the project. Wrong  
21 direction.

22 The Draft Environmental Impact Report was  
23 published on December 12th, and it's available online if  
24 you haven't had a chance to review it. There are also  
25 hard copies, reference copies available at the Patterson

1 Public Library, at the Del Puerto Water District office,  
2 and at the Exchange Contractors office. Written comments  
3 or comments -- you can make comments tonight or make  
4 written comments. They're all due by January 27th by 5:00  
5 PM, and they would be sent to Anthea either by snail mail  
6 or by e-mail, whichever you prefer. We will, of course,  
7 be receiving your oral comments tonight. And for  
8 information or to download the environmental document,  
9 everything is available on the project website.

10 So the Draft EIR describes the purpose of the  
11 project and the need for the water supply for water  
12 storage. It describes the project and the various  
13 facilities that are involved. It provides an evaluation  
14 and description of the alternatives that have been  
15 considered, reviews for a variety of environmental topics,  
16 the potential adverse environmental impacts, and where we  
17 did determine that there are potential impacts, presents  
18 mitigation, ways that we can either avoid, reduce, or  
19 offset the impacts. It also describes a whole suite of  
20 regulations and requirements that are required for a dam  
21 for permitting and for evaluation of the project.

22 So we -- we have topics A to Z, everything from  
23 aesthetics to tribal/cultural resources, utilities, and  
24 evaluating the cumulative impacts of the project combined  
25 with other things that could occur in the area. There are

1 a variety of smaller topics that didn't -- we just looked  
2 at in the initial study that don't have any significant  
3 impacts, but these are the main ones that were considered  
4 in the environmental document.

5 There are a lot of mitigation measures. There's  
6 lots of stuff that the project partners are committed to  
7 doing to minimize impacts, avoid impacts when possible,  
8 but there are some potentially significant unavoidable  
9 impacts that we've identified in the Draft EIR. It is a  
10 fairly large facility. It would have an aesthetic impact.  
11 It would be visible from I-5. There are cultural  
12 resources in the reservoir area that would be inundated.

13 The project results in greenhouse gas emissions  
14 because of construction and it's pumping a lot of water so  
15 there are emissions during the operation because  
16 electrical power currently is not totally carbon neutral.  
17 For our construction, there would be potential impacts at  
18 the I-5 Sperry Road area. If that interchange project is  
19 done before construction starts, which we hope will occur,  
20 that would really resolve the problem, but because that's  
21 outside the control of the water districts, we've -- we're  
22 calling it a significant impact, although water district  
23 and the Exchange Contractors do want to work with Caltrans  
24 and the county to try and get that interchange improvement  
25 inline -- online before construction starts. And then



1       there's a fairly substantial relocation of utilities.

2       There's big power lines that would have to be moved.

3               All of those mitigation measures are preliminary.  
4       We're very open to any ideas folks have about improvements  
5       to those mitigation measures, and they will also be  
6       refined during the federal, state, and local permitting  
7       for the project.

8               I want to briefly tell you the next steps for the  
9       project. The comment period will close January 27th, as I  
10      said. We will respond to all of the comments on the EIR  
11      and are aiming to provide a final EIR that will have any  
12      necessary improvements or corrections to the draft  
13      document, responses to all of the comments that are made,  
14      and a final evaluation of the impacts and mitigation.

15              This will be presented to decision makers who  
16      will then decide if the EIR is complete, decide if they're  
17      going to certify the EIR, and would file a Notice of  
18      Determination to determine if they're going to proceed  
19      with further evaluation of the project. Then in December  
20      feasibility studies should be complete, which would  
21      describe the technical, environmental, and financial  
22      feasibility for decision makers. And then the next steps,  
23      if the project does move forward, would be design and  
24      permitting. The road would have to be relocated, project  
25      would be constructed, and if everything moves forward,

1 operations are estimated to start in 2028. So now...

2 MR. GARDINER: Okay. So that's a quick overview  
3 of the project and the environmental review. Let me talk  
4 a little bit more about the comment process tonight. As I  
5 mentioned, we're receiving comments tonight. We are not  
6 planning to answer questions or have a discussion about  
7 the community issues. We'll prepare responses. We expect  
8 there will be future meetings to have further discussions.

9 Our goal is to hear from everybody who wants to  
10 comment. One of the things that was really apparent in  
11 the December meeting is that there are a very wide range  
12 of ideas and opinions about the project. We want to be  
13 sure that we allow space for everybody to be heard. And I  
14 think that's a collective job for all of us here in the  
15 room is to provide the space for everybody to have an  
16 opportunity to comment, and I'll talk a little bit more  
17 about that in a minute.

18 So as I mentioned, if you would like to make a  
19 comment, please fill out a speaker card. It's important  
20 for the court reporter to get the names down correctly,  
21 but also we want to be sure we give everybody a chance to  
22 comment, and that's the way to be sure to get in the queue  
23 for a comment.

24 We are going to limit your comments to three  
25 minutes, again, to allow everybody an opportunity to

1 comment. There are lots of people who want -- have  
2 something to say. I'll give a sort of on-deck circle so  
3 you can be prepared to come up. We ask that you come to  
4 the microphone and state your name so the court reporter  
5 can get it and then provide your comment. I will give you  
6 a warning when we're down to about 30 seconds so you can  
7 start to wrap it up.

8 A few ground rules. This first one is really  
9 important. Again, because there are differing opinions,  
10 it's important to be respectful of those different  
11 opinions and allow that space for people to be heard.  
12 Please be concise. Three minutes is not long, so if  
13 you've got written comments, please summarize them and  
14 then provide us the written comments. Feel free to agree  
15 with a previous commenter if someone has already said what  
16 you wanted to say. So some ideas of just being concise.

17 Be constructive. As we've said, this is a draft  
18 document. The team is interested in improving it, so  
19 ideas for improvement are really the most valuable and  
20 I'll talk about that in a second. So these are the ground  
21 rules we want to live by as we proceed this evening.

22 Here are some suggestions on making your comments  
23 count on an environmental document. It's important to  
24 focus on the content of the EIR. That's what the team is  
25 working on. They're trying to get it as accurate as

1 possible so we have a full disclosure of environmental  
2 impacts, mitigation measures, how the project might  
3 proceed. So comments on the project description, on the  
4 analysis of potential environmental impacts, comments on  
5 the proposed mitigation, those are the things that are  
6 most helpful to the team. So the EIR would be more  
7 complete or accurate with this addition; it would be a  
8 clearer description of this; it would be a more complete  
9 analysis of that. Those are the kinds of things that are  
10 most helpful for the team.

11 Also want to make note -- it's probably  
12 obvious -- comments become part of the public record.  
13 It's going to be documented in a transcript. All of the  
14 comments will go into the final document. It will be a  
15 public document. And the responses the team will prepare  
16 will also be in the final EIR.

17 Yes. You okay in the back? Can you hear okay?  
18 Okay. I think we have all the seats full. So as seats  
19 open up, I'll try to make space because it looks chilly  
20 out there.

21 UNIDENTIFIED SPEAKER: I have a question real  
22 quick. Why -- how come on the slide it says you cannot  
23 yield your three minutes to another speaker? Is there a  
24 reason for having that up there? It says you cannot yield  
25 your time to another speaker. Is there a reason for that?

1 MR. GARDINER: Yeah, it's that we want to have  
2 three minutes for everybody to talk and be fair and even  
3 about that.

4 UNIDENTIFIED SPEAKER: That's the reason?

5 MR. GARDINER: Yeah. So I'm going to leave this  
6 slide up as kind of the ground rules and suggestions on  
7 comments. Is there anybody else who wants to submit a  
8 card who's been filling it out at their seat? We'll pick  
9 it up. Great. Anybody else who needs a card?

10 Okay. I'm likely to take a break somewhere  
11 because there may be more people coming after work. I may  
12 review this information again as we go. But with that --  
13 we need to turn this microphone on; right? We're on.  
14 Okay.

15 UNIDENTIFIED SPEAKER: Maybe I missed it. Did  
16 you say the size of the project? I know he talked just  
17 briefly about the dam and the area. What is the square  
18 footage or whatever, that whole reservoir? Do we know  
19 that?

20 MR. NEAL: It's about 800 acres.

21 UNIDENTIFIED SPEAKER: 800 acres?

22 MR. NEAL: Yeah.

23 MR. GARDINER: Yeah, and that's a good point.  
24 This fact sheet has a lot of the information about the  
25 project, so if you didn't get one of those, that's another

1 good source of summary information.

2 Cards. Okay. So first up I have Kent Mitchell  
3 and then on deck Keith Ensminger. I'm going to -- I  
4 apologize in advance if I mispronounce people's names.  
5 Keith Ensminger. Ensminger. Thanks.

6 Okay, Kent, you're on.

7 MR. KENT MITCHELL: Hello, everybody. My name is  
8 Kent Mitchell. I'm the political chair of Sierra Club in  
9 Stanislaus County, the Yokuts Group.

10 I've got three questions. I'm here to speak for  
11 our planet and Mother Nature. And she couldn't be here  
12 today, but she'll have a lot to say later on. Question  
13 one is how many natural resources, waterways are we  
14 willing to sacrifice for money? It may not be a very  
85-1 15 popular question, but my understanding is all the water  
16 stored in the proposed dam will go to agribusiness.

17 Now, I'm not anti-ag, anti-farmer, or anti making  
18 a profit, but how much acreage are we going to be --  
19 devoted to water-hogging crops in an errand -- aired  
20 environment? How much is enough? The third ques --  
21 second question is is this dam absolutely necessary? Are  
22 there better, more sustainable ways of conserving water  
23 other than flooding a scenic canyon?

24 We need instead to look toward conservation  
25 measures such as groundwater storage, which has several

1 times the capacity of surface storage at a fraction of the  
2 cost, and recycled water. We need to find better ways of  
3 living in harmony with our planet. Thank you for the  
4 time.

5 MR. GARDINER: Thank you.

6 So Keith is next and then Garry Hayes. Sorry.  
7 Garry Hayes is on deck.

8 MR. KEITH ENSMINGER: I was a teacher for a long  
9 time, and my kids just called me Mr. E. until they could  
10 get Ensminger down, but it sounds just the way it's  
11 spelled.

12 Anyway, my name is Keith Ensminger. I'm from  
13 Merced. I'm a native of California. I've lived in the  
14 Valley since the early -- the early '80s. And I'm  
15 concerned about the project because, as you see from the  
16 graph, I'm wondering if given our current climate events,  
17 if the dam will actually play out and have the kind of  
18 storage that you're wanting.

19 The top picture in that is a picture of my  
20 grandmother's house. She grew up off Henness Pass Road  
21 which was the main -- 120 years ago when water policies  
22 were developed in California, it was the main wagon road  
23 into California north of Donner Pass from Reno to  
24 Marysville. They had 6 to 8 feet of snow every winter at  
25 4500 feet, and we rarely see that kind of snow today and

85-2  
cont'd

1       it doesn't look like we're going to be -- to see more of  
2       it. Juan Cabrillo wrote about snowcapped mountains around  
3       Carmel when he sailed by in 1542.

4               And you see from the graph that the graph shows  
5       the historic aridity of the west, and I understand that  
6       aridity goes back for thousands of years. So we're trying  
7       to manage a segue from basically the little ice age to a  
8       much drier period of time, so I'm wondering if something  
9       like this would actually be beneficial. Like the previous  
10      speaker talked about ground storage probably would be a  
11      much better way to work on this.

12              I was at the Tulare farm show about five years  
13      ago when the SGMA laws were first developed to regulate  
14      our aquifers. And I was speaking with a fellow from the  
15      Nebraska exhibit, and behind him was a large map of the  
16      Ogallala Aquifer that extends from the Dakotas down into  
17      Texas. And they're very, very jealous of their aquifer  
18      and they regulate it highly, and he was surprised that we  
19      hadn't -- we didn't regulate our aquifers. We're the last  
20      state in the West to do so.

21              And another farmer came up and joined our  
22      conversation, and he just kind of went off about the new  
23      regulations as though it was going to impede on his  
24      freedom to do whatever he wanted to do. And the Nebraskan  
25      looked at him just in amazement and said, "You would



1 really hurt your neighbors? You pump so much that you're  
2 going to hurt your neighbors and their wells, and so their  
3 wells are going to go dry." And that's the kind of thing  
4 we need to keep in mind with this kind of thing.

5 There are a couple of --

6 MR. GARDINER: Keith, can you wrap it up?

7 MR. KEITH ENSMINGER: Okay. Like the fellow  
8 mentioned before, I think aquifers are a way to do this.  
9 I think we need to recognize at some point that we need to  
10 fallow land in order to do that. That can be part of a  
11 rotational system for farmers, and the money that's behind  
12 a project like this and other kinds of public moneys could  
13 be used to help pay for people to fallow that land that  
14 could then be flooded to help recharge the aquifers.

15 MR. GARDINER: That's your three minutes.

16 MR. KEITH ENSMINGER: And that's my three  
17 minutes. So thank you.

18 MR. GARDINER: Thank you.

19 Now Garry is up and then Milt Trieweiler.

20 MR. GARRY HAYES: I'd like to thank you for the  
21 opportunity to speak to this issue. My name is Garry  
22 Hayes. I have been a professor of geology at Modesto  
23 Junior College for the last 32 years, and I really want to  
24 touch on some really important issues about this canyon.

25 The Environmental Impact Report is an okay report

85-3  
cont'd

1 on the geological resources, but it treats Del Puerto  
2 Canyon like another coast ranges canyon, and it's kind of  
3 like describing Yosemite as another glacial cut canyon.

4 The reason -- if history had been different, if  
5 this part of the coast ranges had been under federal  
6 control, this area would have been considered for a  
7 national monument, I'm quite sure, because it's one of the  
8 few places in all of California where you can literally  
9 drive from the earth's surface into the earth's mantle.

10 Going up the canyon, you pass through 25,000 feet  
11 of marine sediments, five miles of marine sediments, and  
12 then you pass into the ocean crust. It's kind of hidden  
13 under the words "ophiolite" in the report. And you drive  
14 right through the ocean crust and into the earth's mantle,  
15 rocks that are from 30 and 40 miles down in the crust in  
16 the upper part of the canyon.

17 So as other people are going to note, the canyon  
18 also has a unique assemblage of endemic plants and  
19 animals. It has this rare riparian wetlands habitat in an  
20 otherwise arid mountain range. I've been taking students  
21 up into Del Puerto for 30 years. I've taken hundreds and  
22 hundreds of students up there. It is a place where  
23 national -- of national significance. Geologists have  
24 been exploring the canyon for years. A lot of research  
25 has been done up there.

1           It's not widely known, but the Environmental  
2   Impact Report fails to mention that the first dinosaur  
3   bones ever found in California were found just up above  
4   the inundation site of the dam, three or four miles up the  
5   canyon. I'm disturbed that such a significant site would  
6   be simply ignored in the planning for this reservoir.

7           My other concern involves the instability of the  
8   slopes above the reservoir. There are huge, active  
9   landslides at the three-mile mark that are very obvious,  
10   very active, and I'm highly concerned about what happens  
11   when you inundate those landslides and literally lubricate  
12   the base. So I'm worried about that stability, and I did  
13   find the statement a little worrisome that the rate of  
14   movement of the landslides would likely be slow. That's  
15   kind of open-ended, so --

16           MR. GARDINER: You have 30 seconds.

17           MR. GARRY HAYES: Del Puerto Canyon is a region  
18   of national scientific significance. I'm concerned that  
19   the Environmental Impact Report does not acknowledge that  
20   fact. They've not adequately considered the importance of  
21   this -- the educational value of this region, and I  
22   sincerely request that you look much more strongly at the  
23   Ingram Canyon alternative because it would not have the  
24   detrimental effects that this dam would have. We should  
25   be increasing educational access, not shutting it off.

1 Thank you very much.

2 MR. GARDINER: So Milt is up next. And sorry,  
3 one second. Steve -- Steve Rishebarger?

4 MR. STEVE RISHEBARGER: I don't need to comment.

5 MR. GARDINER: You're not going to comment?  
6 Okay. Thank you.

7 So, Wayne Armbrust, you're on deck.

8 Thank you, Milt.

9 MR. MILT TRIEWEILER: I'm Milt Trieweiler. I'm a  
10 Stanislaus County citizen. I was born here in Stanislaus  
11 County, lived here all my life.

12 And what I wanted to talk about was the whole  
13 concept of this dam in this location. It states in your  
14 literature that the average surface water needed for this  
15 area is 90,000 acre-feet per year, and the average  
16 received since 2010 is only 42,000 acre-feet per year, and  
17 the allocations in 2014 and '15 were zero acre-feet per  
18 year.

19 In the main flier you said there are two entities  
20 working on this together, and that's the Del Puerto Water  
21 Canyon [sic] based in Patterson with 45,000 acres of land  
22 and the San Joaquin River Exchange Water Authority which  
23 has 240,000 acres of farmland. That makes a total of  
24 285,000 acres of farmland. My best understanding is it  
25 takes about 3 acre-feet of water to irrigate an acre of

1 farmland. When we take the 285,000 acres of farmland,  
2 this means you have to provide 855,000 acre-feet of water  
3 per year.

4 This project is only going to provide at its best  
5 yield 60,000 acre-feet per year. That's 7 percent of what  
6 will normally be needed to irrigate this land. That's to  
7 me very wasteful and not even worth it, especially when we  
8 get into the fact that we're not -- you know, your  
9 statement states that -- the handout slide 6 states you  
10 need the 90,000 acre-feet per year. In the ideal year  
11 you're only going to get 60,000 acre-feet.

12 So I'm very curious as to how this is going to be  
13 paid for by your farming community. It looks to me like  
14 any farmer who opts into this reservoir project is taking  
15 a big risk. They're not really going to receive any water  
16 from it because there isn't going to be any water in the  
17 dam to use. It might even be accurate to say it would be  
18 naive and delusional to opt into this project.

19 The climate scientists tell us with the use of  
20 computer projections they've determined that the Central  
21 Valley of California will have more and longer droughts,  
22 and some periods will not be enough -- there will not be  
23 enough water to fill this reservoir up for years at a  
24 time. I would think that this is really maybe not only  
25 environmentally silly, but it's also economically silly

85-4

1 for the farmers who would invest in this because they're  
2 not going to get any water from it. It's going to be a  
3 waste of their money. Thank you.

4 MR. GARDINER: Thank you.

5 So Wayne is up next and then David Peak --  
6 Piecyk, Piecyk. Sorry. So you're on deck.

7 MR. WAYNE ARMBRUST: Yeah, my name is Wayne  
8 Armbrust. I'm one of the residents up in the canyon. I  
9 know most of the board members know me because I've been  
10 to some of your meeting -- or at least one of your  
11 meetings.

12 My biggest questions: Why is this -- and I've  
13 asked it before and I haven't really gotten a satisfactory  
14 result or answer. Why has this been rushed through so  
15 much? You say you've looked at other alternatives, the  
16 Ingram Canyon site, Quinto Canyon. If you actually  
17 implemented, you know, both of those, they're smaller dams  
18 so that you have a much lower risk if you do have a dam  
19 failure, which you do have to take into account during the  
20 safety analysis of it, and you're not going to flood the  
21 largest town around.

22 You know, you might be inundating a little bit of  
23 a floodplain, part of maybe Westley or whatever, but you  
24 might get little bit less resistance there. But I'm not  
25 trying to push it off on them, but it's easier to mitigate

1 a problem like that because you're starting with a lower  
2 catastrophic failure and you have two of them and you only  
3 have to handle one at a time.

4 How are you handling the Environmental Species  
5 Act? From what I read in there, you haven't identified at  
6 least two different species -- or at least one is present  
7 up in the canyon. I think you mentioned a  
8 (unintelligible), but that's all that's mentioned. And as  
9 far as the significant impact, well, I -- you're flooding  
10 the area. I think your definitions -- you need to go back  
11 and look at the definitions of substantial or significant  
12 impact in the actual CEQA law because, you know, you're  
13 flooding somebody's house. If that's not significant,  
14 well, I don't know what planet you're living on.

15 What permitting agencies -- county permitting  
16 agencies are involved in getting, you know, the rest of  
17 the approval on this project? Because I know you're a  
18 county agency, but, you know, water districts in  
19 California sort of do their own thing. After all, you  
20 know, look at the water district over in the Bay Area.  
21 They're all actually coming over here to purchase land and  
22 so forth.

23 One of the other questions I had --

24 MR. GARDINER: 30 seconds.

25 MR. WAYNE ARMBRUST: -- okay -- is why was such a

85-5  
cont'd

85-5  
cont'd

1 geologically and ecologically unique canyon chosen as the  
2 prime location for this? I -- you can't mitigate a  
3 problem in something that's unique. And before I moved up  
4 there, I was actually concerned that I was moving into an  
5 area that was going to be affected by all sorts of  
6 environmental regs.

7 But, anyway, the rest of my comments -- I've been  
8 going through the Draft EIR, and I'll have a pile of  
9 papers for you to address them.

10 MR. GARDINER: Thank you.

11 David, you're up. On deck is Elias Funez.

12 MR. DAVID PIECYK: My comments would be best if I  
13 had something to point at, and there's these slides that  
14 I'd kind of like to use.

15 MR. GARDINER: I think you should just -- feel  
16 free to submit something in write -- you know, images in  
17 writing. You know, that would be great.

18 MR. DAVID PIECYK: I'm David Piecyk. I've lived  
19 here in Patterson for three years. I used to live in  
20 Milpitas, straight east, which has the Calaveras Reservoir  
21 right next to it, and I was hoping to come here to find  
22 out where the road is going to be located if the project  
23 goes through.

24 My opinion would be to keep it within the canyon  
25 and to do exactly what they did over Calaveras Reservoir

85-6



1 with Calaveras Road. Okay? And that is you know where  
2 the highest part of the water is going to be. Build --  
3 you know, carve a road into -- around the reservoir at so  
4 many hundred feet high. Okay? So you would still be able  
5 to maintain the road within the canyon. You would also be  
6 able to allow drivers in future decades to be able to see  
7 the peaks that are being hidden by all of the hills that  
8 are close by such as 1893, 1612 with the box on top, 1174,  
9 and even Mount Oso and even other peaks that surround us.

10 It would be nice to have this higher road going  
11 around the reservoir, most likely to the south end. So  
12 basically instead of cutting off the road, just, you know,  
13 veer it into the hills and just, you know, cut it all the  
14 way through to wherever you come out you, I believe around  
15 the 6-mile marker. I think that's where it comes in.

16 Taking people down into Diablo Grande, into  
17 Salado Canyon just basically removes one fourth of, you  
18 know, this beautiful reservoir -- or reservoir and canyon  
19 that people could be enjoying. I don't even know how you  
20 would cut over, you know, that ridge, you know, that  
21 contains 1790 and 1830. I'm referencing the numbers of  
22 these peaks around here because they don't have names.

23 In fact, I've been learning all of these peaks  
24 by -- here's my thing of Del Puerto Canyon here and the  
25 road, and I've been learning all of the peaks around here

85-6  
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85-6  
cont'd

1 because I live here now and I love Patterson. And I would  
2 like to continue to enjoy it, and I'd like to continue to  
3 enjoy Del Puerto Canyon as best as possible. Please keep  
4 the road within the canyon.

5 MR. GARDINER: Thank you.

6 So, Elias, you're here; right? And on deck is  
7 Sharon Reeves.

8 MR. ELIAS FUNEZ: Hello. My name is Elias Funez,  
9 born and raised Patterson resident, former city planning  
10 commissioner, parks and rec commissioner, and member of  
11 the 2012 General Plan Advisory Committee.

12 Aside from all of the biologic, geological, and  
13 cultural resources that would be lost, the dangers of  
14 living under a dam that wants to be built right next to a  
15 fault line are the reasons why 554 physical signatures  
16 were given within the last few days.

17 A couple other things I want to comment. The ads  
18 that you guys have been putting out need to be in Spanish  
19 as well. I've been standing in front of Walmart for the  
20 past few days talking to people, and majority of people  
21 are Spanish speakers and so they need this information to  
22 be in Spanish as well.

23 What's been amazing for me to understand while  
24 I've been talking to people for the past few days is that  
25 90 percent of the people I've been talking to have had no

85-7

1 idea about this project, so you guys really need to do  
2 your due diligence and send notifications to every  
3 resident in Patterson, please.

4 The Del Puerto Water District claims that they've  
5 been in contact with the City of Patterson. If that is  
6 the case, why would you choose to build a dam where the  
7 City plans to expand and grow? During the conversation  
8 you must have discovered that the City has drafted  
9 documents that show the area to be preserved as a natural  
10 part -- as part of the Draft 2012 General Plan Update of  
11 the parks and rec element.

12 The City's parks and rec commission identified  
13 that area as a special sensitive species habitat and an  
14 outdoor amphitheater as well as hiking, biking, and  
15 equestrian trails were planned should development occur in  
16 that area. So during the last conversation we had at the  
17 meeting in December, Del Puerto Water District proponents  
18 said that no sacred Native American cultural sites would  
19 be in danger. However, if the reservoir would flood up to  
20 five miles up Del Puerto Canyon Road, then the Indian  
21 burial area that's three and a half miles up there would  
22 be desecrated. Now, if you guys don't know where that  
23 Indian burial area is, I would be more than happy to show  
24 you.

25 So I want to read the cover letter from this

85-7  
cont'd

85-7  
cont'd

1 petition. It says, "This petition formed is to state that  
2 those that have signed their names here are against the  
3 proposed 200-foot-high dam in Del Puerto Canyon as well as  
4 any other development of that area that doesn't include  
5 full protection of the Del Puerto Creek drainage through  
6 the unique, historic, and culturally significant Del  
7 Puerto Canyon gateway.

8 One last thing I'd like to say is that some  
9 project proponents have been calling some of our bosses  
10 and complaining about some of us speaking out. That type  
11 of intimidation, typical of Patterson politics, has to  
12 stop. Thank you.

13 MR. GARDINER: Sharon is coming up. Marissa --  
14 sorry. Marissa Chavez-Yang.

15 MS. SHARON REEVES: My name is Sharon Reeves. I  
16 grew up in Patterson. I have a special connection to Del  
17 Puerto Canyon just because it was always there, and we  
18 took it for granted growing up. I want to have the  
19 students that I teach now to take it for granted too, that  
20 it will always be there.

21 So I didn't know a lot about your plan because I  
22 was gone in December, but when I looked up some of the  
23 things -- I looked up "reservoir." The first word next to  
24 it was "earthquake," and it was -- and I'm not going to  
25 say I know everything there is to know about that, but I

1 do know it says because of the weight of the water in  
2 these areas, it can -- it triggers what eventually becomes  
3 an earthquake. And I was also shocked to find out that  
4 we've been having these little earthquakes all along in  
5 Patterson when I -- I read that the material about that.  
6 So I'm thinking an earthquake hitting that reservoir will  
7 not be a good thing for us. Thank you.

8 MR. GARDINER: Thank you.

9 Marissa? On deck is Shivaugn Alves.

10 MS. MARISSA CHAVEZ-YANG: Hi. My name is Marissa  
11 Chavez-Yang. I'm representing Valley Improvement  
12 Projects, VIP, and I just want to point out some of the  
13 points that are actually in the Environmental Impact --  
14 the packet.

15 Okay. So the things I'm going to point out are  
16 significant and unavoidable, so they're something that we  
17 all really need to be considering when, you know,  
18 considering this project. So, you know, aesthetics.  
19 There's going to be substantial damage to scenic resources  
20 within the State scenic highway which people have talked  
21 about.

22 As Elias just pointed out, too, there's going to  
23 be substantial adverse change in the significance of  
24 unique archeological resources, so that's going to be  
25 significant and unavoidable. That is directly from the

85-9

85-9  
cont'd

1 report.

2 There's going to be greenhouse gas emissions. So  
3 either directly or indirectly, that's going to have a  
4 significant impact on the environment. Okay? So that's  
5 going to be unavoidable. Traffic and transportation,  
6 conflict with a program, plan, ordinance, or policy  
7 addressing the circulations including transit, roadway,  
8 bicycle, and pedestrian facilities. I'll also just  
9 address some -- something that we all need to be  
10 considering.

11 Now, I think just to wrap up -- just to wrap up,  
12 it's really important to understand all of the cumulative  
13 environmental impacts that we are subjected to as  
14 residents of Patterson. We have some of the worst air  
15 quality in the country. We have all of the emissions from  
16 Highway 5, the warehouse distribution centers, from ag,  
17 diesel trucks. All of those things affect our air. And  
18 we have, you know, pesticides, all of these things that  
19 need to be considered when we are talking about -- excuse  
20 me, sorry -- impacting our environment again with this  
21 project. Thank you.

22 MR. GARDINER: Thank you. Shivaugn's coming.  
23 Andrea Stang is on deck.

24 MS. SHIVAUGN ALVES: So my name is Shivaugn  
25 Alves. I'm here on behalf of the community. I am a

1 cofounder of the Patterson Progressive Alliance and an  
2 educator in our district for 15 years. I speak up here  
3 voicing my opinion -- voicing concerns despite the fact  
4 that my -- the district office was contacted to try to  
5 reprimand me for my activities. So what I would like to  
6 do is read the petition that I sent because the comments  
7 are -- need to be very technical, and I'm not going to  
8 state them very technically.

9 Greetings. Despite not sending the community  
10 information in the mail, holding January's public meeting  
11 during working hours, and doing the bare minimum, we have  
12 learned of the massive reservoir that is being planned and  
13 have read the Environmental Impact Report and are  
14 adamantly against this project at this location.

15 The reservoir would hover just to the west of  
16 Patterson, home to 25,000 people. It would be near a  
17 fault and built on landslide soil. If the dam were to  
18 fail, Patterson would be flooded up to 10 feet all the way  
19 to San Joaquin River, raising it 14 feet. This would  
20 undoubtedly harm our children, schools, and elderly, not  
21 to mention cause irreparable damage to our structures.  
22 The EIR states a failure as catastrophic.

23 Many of Patterson's homes would now fall under a  
24 hazardous dam inundation zone requiring -- sorry --  
25 requiring notification with selling of property, reducing

85-10

85-10  
cont'd

1 property values. Who wants to buy a house right next to a  
2 giant dam, a private dam that you guys want to build that  
3 the public now has to pay for. Thank you. And we're in  
4 the inundation zone that you circumvented our city so that  
5 you didn't have to deal with this.

6 The west side is located in the region of the  
7 worst air quality in the nation as my friend just  
8 mentioned. This project will add hundreds of tons of  
9 debris from the EIR, placing our disadvantaged community  
10 at even greater risk.

11 The canyon is known for the kit fox, an  
12 endangered species, home to Yokut Indian artifacts, and  
13 where California's first paleontological finds were  
14 discovered. It has been a cherished respite for  
15 generations and continues to be a destination for geology  
16 tours and bird watching.

17 When the dam fluctuates in the summer, canyon  
18 visitors will get to see a revolting empty reservoir where  
19 trees and animals once flourished. This is a private  
20 reservoir project intended to assist the water exchange  
21 who serves farms as far away as 100 miles. The private  
22 reservoir will offer no public recreation; however, the  
23 county has offered an additional project to provide some  
24 opportunities.

25 After reading the EIR and traveling up into the



1 canyon another time, no park is worth the risk of this  
2 project. We, the residents and friends of Del Puerto  
3 Canyon, are not anti-dam. We're open to the alternate  
4 location at the Howard Road exit, and we plead you to  
5 consider that.

6 MR. GARDINER: So Andrea is coming up. On deck  
7 is Chuck Marble.

8 MS. ANDREA STANG: Hello. My name is Andrea.  
9 I'm an artist and a resident of the Patterson -- here in  
10 Patterson, and I am against this dam and reservoir.  
11 We have suffered our connection to spirit and  
12 nature by building these structures, you know, and sitting  
13 in front of a TV all the time and on our phones all the  
14 time. And that's where I take my family, my little baby,  
15 you know, to go look at nature and go decompress and  
16 connect back with that severed connection. When you put  
17 money at the heart of something, you're further severing  
18 that disconnection.

19 And that's a beautiful, beautiful place that  
20 should be preserved. There's so many different species  
21 over there. There's, you know, the geological aspect of  
22 that whole area. It's beautiful. If you haven't been up  
23 there, then please do because it's a beautiful part of our  
24 community that should be protected. Thank you.

25 MR. GARDINER: So Chuck is coming up. On deck is

1 Sean Hansen.

2 MR. CHUCK MARBLE: Good afternoon. My name is  
3 Chuck Marble. I have been the vice president and  
4 nationwide manager of technical training and support for a  
5 Fortune 100 company. I've also been a resident of  
6 Patterson for the past 27 years, and I've been privileged  
7 to have spent 20 of those years providing free family  
8 programs, including the astronomy and the park program and  
9 the rocketry in the park program. I also was privileged  
10 to develop and the first leader of the Patterson Youth  
11 Development Committee, and I have been pleased to have  
12 served as a Patterson parks and recreation commissioner as  
13 we developed and implemented the skate park for the youth  
14 in our community.

15 I care deeply about my home, my family, my  
16 neighbors, and the people of Patterson. This project in  
17 my opinion is an unwarranted gamble. In addition to all  
18 the other things that have been mentioned today that are  
19 clearly negative impacts from this project, there are so  
20 many other canyons along the I-5 corridor, including other  
21 sites that have been considered for this project, that  
22 would not have the kind of impact that we've been hearing  
23 about.

24 One of the reasons I moved my family here 27  
25 years ago was the beauty of Del Puerto Canyon, Frank

1 Raines Park. We go out there regularly and have for the  
2 past 27 years. This would be devastating, but more  
3 importantly, a lot of the good people of Patterson are  
4 struggling already to make ends meet from paycheck to  
5 paycheck. Now adding the additional burden of requiring  
6 flood insurance to know that we could recover from  
7 something that would be disastrous. I mean, history is  
8 full of instances where the best planned dams -- earthen  
9 dams, concrete dams -- they fail, and putting one in a  
10 seismic -- area of seismic activity like this is a risk.

11 We all agree that water is important. Nobody  
12 would not want the farmers to be able to have the water  
13 resources they need to grow the crops that feed America.  
14 And Central California is significant in that role, but  
15 there are so many other places that we could build this  
16 dam that wouldn't pose such a threat to such a large  
17 community.

18 Also, have you ever been on the freeway nowadays  
19 coming home during commute hours?

20 MR. GARDINER: You have about 30 seconds.

21 MR. CHUCK MARBLE: It backs all the way up and  
22 onto the freeway already. This would add to that.

23 These are stressful times. Wouldn't everyone  
24 agree that these are worrisome and stressful times as it  
25 is and difficult economically? Why do we want to invite

85-12  
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85-12  
cont'd

1 that kind of worry and stress to our lives, constantly  
2 fearing that we're going to have a structural failure and  
3 flooding in our town. This is an unwarranted gamble, and  
4 I urge everyone involved in the decision-making process to  
5 do the right thing and move this to an area that would be  
6 a lot less risk to those people that we all care about.  
7 Thank you.

8 MR. GARDINER: Sean is coming up. Nancy Jewett  
9 is on deck.

10 MR. SEAN HANSEN: My name is Sean Hansen. I'm a  
11 resident of Patterson. I initially started looking into  
12 this dam project for recreational use, and we had -- at  
13 the last meeting it was kind of contentious over asking  
14 for recreational usage.

15 First I would like to say that Patterson is not  
16 against farmers. We're not against farmers collecting  
17 water. The issue here is that this dam is going to put  
18 Patterson, California, in danger and is unacceptable. We  
19 live in California. There are earthquakes. If that dam  
20 were to fail, it says right in the EIR report that we  
21 could have anywhere from 3 to 10 foot waves wipe out half  
22 the city. Our homes and lives could be put at jeopardy.

23 In the EIR report there are alternate sites.  
24 This project must be moved to an alternate site. We  
25 demand that this project is moved to an alternate site.

1 It is unacceptable that we -- you know, that we have to do  
2 this, and I think what's happening here is this project is  
3 being rushed through. You guys are having meetings -- we  
4 have a lot of commuters that are not even home yet from  
5 the Bay Area. You're getting a small facility. You know  
6 people are going to come out to this.

7 You need to slow this project down and move it to  
8 an alternate site. You're still going to get your water  
9 for farmers, but you're not going to put Patterson,  
10 California, at jeopardy of our homes and our lives. And  
11 not only that. If it's -- you know, if you do build it, a  
12 lot of people mentioned about flood insurance. It was  
13 said that FEMA doesn't require it, but common sense tells  
14 you if there's an earthquake and the dam were to break,  
15 our homes would be flooded. We would lose everything.  
16 And then if we ask the agency or the farmer, they would  
17 say: Well, you should have had flood insurance.

18 This is very unacceptable. We demand that this  
19 project is moved. Thank you.

20 MR. GARDINER: Nancy Jewett. And then on deck is  
21 Carrie Moser.

22 MS. NANCY JEWETT: Hi. I'm Nancy Jewett. I  
23 moved into the Valley about 20 years ago, and I just -- it  
24 was such an exciting experience the first time I drove up  
25 Del Puerto Canyon Road because I was looking for something

85-14  
cont'd

1 of the native habitat which had been here for thousands of  
2 years, something that might be left, some remnant. And  
3 what I found was this magical, magical place which has so  
4 much in it.

5 Within the area that the dam will be at least  
6 intermittently flooding, which means mudslide and -- when  
7 it's not flooded and will be -- what will be destroyed  
8 is -- already there are -- I mean, I know at least three  
9 Yokuts cultural sites. There are incredible plant  
10 communities just within the area that the dam is going to  
11 flood. Not to mention the heartbreak.

12 I mean, people have been going up there for years  
13 enjoying the beauty of that canyon. I mean, the species  
14 that I have seen just in the lower five miles, it just --  
15 over 20 years. I've got pictures. It's a heartbreak and  
16 it's an assault on an incredibly valuable, irreplaceable  
17 local resource. And I don't understand how it could have  
18 happened so fast, and suddenly people are just finding out  
19 about it.

20 This is a major assault on a massively  
21 significant local resource. It's culturally,  
22 environmentally, biologically, historically rich, and  
23 you're just going to drown it? No. The impact doesn't --  
24 they don't even begin to cover the impacts. It needs to  
25 be expanded. And, you know, you can't mitigate this

1 stuff. The canyon really is a precious resource. Hearts  
2 are being broken just at the thought of losing it. Thank  
3 you.

4 MR. GARDINER: Thank you.

5 So Carrie Moser? Is Carrie here? Not here.  
6 Okay. Ron Stork? So Ron's here. Okay; great. And then  
7 on deck is Frank Molina. Okay. Just -- Ron's before you.  
8 No, no. Come on next.

9 MR. RONALD STORK: I'm Ronald Stork. I guess  
10 welcome to American democracy here in action. It's a good  
11 thing that the public is able to interact with you both in  
12 this formal way as well as in writing, and I'm sure there  
13 will be many more meetings.

14 I work for Friends of the River. I manage the  
15 storage programs for Friends of the River statewide. I'm  
16 down here because, well, this is a storage project. And  
17 you can tell that a lot of people care about the landscape  
18 that you're planning or you would like to convert. And,  
19 you know, what is that? I mean, what is the conversion?

20 The reservoir fills, the reservoir drains, and  
21 the vegetation disappears and we have a reservoir bathtub  
22 ring. And I don't think that -- you know, we should be  
23 candid and recognize that that's what you're talking  
24 about.

25 It's also -- I think not only are you going to

85-15

85-15  
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1 run into reactions like you've heard today, but you also  
2 have the challenge of actually financing a half a billion  
3 dollar project before cost overruns. And I live in that  
4 world, as do you, and recognize that there are -- there's  
5 a good chance that some of the subsidies that you're  
6 hoping to harvest won't come to you. There's competition  
7 and it may not even materialize for anybody.

8 So you've got some challenges. I don't wish you  
9 luck actually. I'm perfectly happy to work with the  
10 Exchange Contractors in particular on some other issues,  
11 but this is one that I encourage you to recognize that  
12 failure potentially is imminent.

13 MR. GARDINER: Thank you, Ron.

14 So, Frank, you're up. And on deck is Laura  
15 Presley.

85-16

16 MR. FRANK MOLINA: Yeah, thank you. My name is  
17 Frank Molina, as they just said. I'm a five-year  
18 Patterson resident. I came here initially because my son  
19 got out of Iraq and there was another friend that was in  
20 Patterson and they moved together so they could kind of  
21 help each other through PTSD problems. That was my main  
22 reason to come here five years ago.

23 I've been here; now I like the area. Actually  
24 it's tranquil as heck. I really enjoy it. I'm glad I'm  
25 here. I'm glad for Mr. Nunez telling me yesterday that



1       there was a meeting today because I knew nothing about  
2       this. Five years here; I knew nothing. I'm so glad I  
3       know because, damn, I'm hearing so many things that are  
4       potentially catastrophic.

5               I mean, Oroville Dam flooded not too long ago.  
6       You all know that. There was catastrophe to the city, to  
7       the locale, to the highway, the freeways, a whole bunch of  
8       stuff. And now I'm hearing three to ten possible flooding  
9       waters into -- I live right here. I would be one of the  
10      first affected. I didn't come here to have a dam  
11      potentially be on top of my house, my family. That's not  
12      right.

13             And you guys should have done a better job of at  
14      least notifying us. Then you wouldn't have everybody in  
15      such a mad scramble to say, hey, we've got to do  
16      something. But now I'm hearing the geology teacher, this  
17      lady right here who was very, very fluent in discussing  
18      what the potentials of this thing are. You know, I'm just  
19      livid now and I'm going to do everything I can to stop  
20      this dam. There is too many things that could potentially  
21      impact the community, and we've got to stop it.

22             I didn't realize this yesterday. You know,  
23      you've just changed me as a person. I'll do everything I  
24      can. And I'm very fluent and I'll be able to put my  
25      points across. And I only tell the truth. There's no

85-16  
cont'd

1 lies, there's no inflection. Just telling the truth. And  
2 if the truth comes out, we're going to fight you to stop  
3 this project. Thank you.

4 MR. GARDINER: Thank you.

5 So Laura. Is Laura here? Great. And on deck is  
6 David Froba.

7 MS. LAURA PRESLEY: Hi. My name is Laura  
8 Presley, and I've lived in Patterson community for 31  
9 years. We love the beautiful Del Puerto Canyon, and we've  
10 taken advantage of it the entire time that we've lived  
11 here. My kids grew up exploring that canyon and learning  
12 about nature. My oldest daughter is an environmental  
13 educator today, and I attribute that canyon as part of her  
14 love for the environment and species and birds, so I am  
15 very sad to see this possible dam and reservoir being  
16 built.

17 One question I had is on your page. I don't know  
18 if you can answer questions, but which wildlife refuges  
19 are going to be benefit from this water?

20 Since 1920 the Central Valley has sunk 28 feet  
21 because of the aquifers being drained, and so other people  
22 have mentioned why aren't we replenishing that as a water  
23 district. What is your concern about that? And why  
24 aren't -- why isn't the alternate site at Ingram Creek  
25 being looked at that won't impact a community?

1           We can -- we don't want to pay extra money for  
2 flood insurance or have our houses go down because we're  
3 in an inundation zone. Our air quality is horrible, just  
4 like other people have said, and this will not -- you  
5 stated right on there that it's going to have bad impact  
6 on our air quality.

7           So I guess that's all I have to say, and I really  
8 hope you all consider -- I'm not against farmers and I'm  
9 not against water, although I do believe that a lot of the  
10 farming here isn't produced for our area. It's being sent  
11 overseas is what I've thought. But I'm not against that;  
12 I love farming myself for growing food. And I hope you  
13 consider another site. Thank you.

14           MR. GARDINER: Thank you.

15           David's up. On deck is J. Taylor.

16           MR. DAVID FROBA: My name is David Froba from the  
17 Stanislaus Audubon Society, and our concern is primarily  
18 birds and wildlife. We've been coming up to the valley --  
19 Del Puerto Canyon for many years and know of all the  
20 biological resources.

21           The first thing is from the reading that I did of  
22 the Draft EIR, you don't seem to think you need to  
23 mitigate any loss of recreational value, and I think you  
24 do. Secondly, you do talk about mitigation for the loss  
25 of the riparian habitat, but it's not very specific. It

1 needs to be specific about what exactly you intend to do.

2 But more basically than that, from my  
3 understanding you've got a couple of million dollars from  
4 the federal government to do this study. As has been  
5 pointed out, it's a relatively small amount of water.  
6 It's over a half a billion dollars. Who do you think  
7 you're going to sell those bonds to?

85-18  
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8 Now, if you're telling the people in the district  
9 the farmers, who are the most financially interested in  
10 this, that this thing is going to work, you need to let  
11 the rest of the people in the county know that because it  
12 doesn't sound possible that this little water is going to  
13 produce enough money to pay off a half a billion dollars'  
14 worth of bonds.

15 MR. GARDINER: Thank you.

16 J. Taylor. On deck is John Mataka.

17 MS. JUSTICE TAYLOR: Hi. My name is actually  
18 Justice. When I submitted the card, I thought it was  
19 just, like, informational. I didn't know if it was to  
20 speak.

85-19

21 But what I was thinking of is I took an  
22 oceanography class. And my teacher had mentioned that  
23 between 2007 and 2032, there is supposed to be a huge  
24 catastrophic earthquake in Northern California, and that's  
25 around the time that this is being built. And we're

1 already in that zone, so I'm very concerned. I've only  
2 lived in Patterson a few years, and I go to Stan State.  
3 And it's making me want to move, and I actually was --  
4 maybe wanted to live here, like, after I move out of my  
5 family's house, but it's not feeling like it's -- if I  
6 have to pay all this money for insurance for floods, it  
7 doesn't seem fair and it's kind of disgusting.

8 I just found out about this yesterday too. So I  
9 do a lot of research, but as an objective third party  
10 who's not born and raised in Patterson, I can just say the  
11 fact that there's not pamphlets for people that speak  
12 Spanish and that hasn't been updated for the people of  
13 this community, it's kind of like repulsive to me.

14 And I've lived around reservoirs and dams. I've  
15 lived near the San Pablo Dam, the Lafayette Reservoir. I  
16 moved around a lot, and people there are very well  
17 informed about the risks and pay high insurance for  
18 floods. And I think that because of the seismic activity,  
19 it should be moved to a different location.

20 I'm not a science expert, but I hope that -- in  
21 the pamphlet you talk about seismic activity being  
22 measured. I really hope that you guys are really  
23 considering this because we're in a period right now where  
24 a big one is going to happen at any moment, 2007 to 2032.  
25 And if you guys aren't thinking about that, I don't know

85-19  
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1 if the people who are funding this who are actually going  
2 to benefit financially from this are living in Patterson,  
3 but if they're not going to be with us under water, then  
4 they shouldn't have a say-so in what happens. So that's  
5 all I have to say.

6 MR. GARDINER: Thank you.

7 John's coming up. Pearl Alice Marsh is on deck.

8 MR. JOHN MATAKA: Good evening. John X. Mataka  
9 with the Valley Improvement Projects and Grayson --

10 UNIDENTIFIED SPEAKER: Can you speak into the  
11 mic, please?

12 MR. GARDINER: There you go.

13 MR. JOHN MATAKA: Can you hear me now? How about  
14 now?

85-20 15 All right. John X. Mataka with Valley  
16 Improvement Projects of Modesto and Grayson Neighborhood  
17 Council of Grayson, California. First of all, I want to  
18 say this before I get into a few points. Patterson, just  
19 like Grayson and Westley, according to the CalEnviroScreen  
20 with the California Environmental Protection Agency, are  
21 disadvantaged communities, and what that means is they're  
22 in the red as far as pollution and health effects as a  
23 result of different types of pollution.

24 What that also means is when you come to do a  
25 project in Patterson, Grayson, or Westley, you have to --

1 because the -- one of the predominant languages other than  
2 English is Spanish, and you have to provide the public  
3 with information about the meeting in Spanish as well as  
4 English. You have to at the minimum do a summary of the  
5 EIR in Spanish that's available to them. And you can't  
6 just come in here and totally neglect a majority of the  
7 population; that's No. 1. So you're in violation from the  
8 get-go.

9 Second of all, I want to say this. People have  
10 been pretty good about talking about all the issues like  
11 biological resources. It has a substantial adverse effect  
12 either directly or through habitat modifications on any  
13 species identified as a candidate or special status  
14 species in local original plans, policies, or regulations  
15 or by the California Department of Fish and Game or the  
16 U.S. Fish and Wildlife Service, including ecologically  
17 significant and endangered species, insects, birds, fish,  
18 amphib -- amphetamines [sic], San Joaquin kit fox  
19 potentially significant.

20 Cultural resources. It's going to disturb human  
21 remains. We talked about the Native American. I wasn't  
22 aware that there's three or four up there, not just one  
23 cemetery. The earthquake issue with the soil being -- you  
24 know, the potential for an earthquake to cause that dam to  
25 break is huge.

85-20  
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85-20  
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1           But I just want to say this. They tried to do --  
2       this is par for the course in this county. Projects are  
3       brought in. They're -- the community isn't made aware of  
4       it. They're snuck in. The local politicians get their  
5       little piece, whatever -- however they can find a way to  
6       hide it and then -- before the community knows it's there.  
7       That's what happened with the Covanta waste-to-energy  
8       plant. That's what happened with the tire incinerator in  
9       Westley.

10           So I want to say that, you know, the bottom line  
11       is this. When you talk about this alternative site, you  
12       better give up Howard Road because that's in my neck of  
13       the woods. And we may be a small community in Grayson and  
14       Westley, but we carry a big stick. You ask Jeff Arunbell  
15       (phonetic) about that. He tried to do the habitat there  
16       and flood zone and put in -- increase our town to three  
17       times the size, but -- he won locally but he lost and it's  
18       environmental law. It's called the Grayson Park 3.

19           All the issues that people are talking about  
20       tonight --

21           MR. GARDINER: That's your time.

22           MR. JOHN MATAKA: -- are in that Grayson Park 3.  
23       Look it up and you'll find out.

24           MR. GARDINER: Thank you.

25           Is Pearl here? Pearl Alice Marsh? Not here?



1           Okay.   Amanda Isham, Isham.   Great.

2                   MS. AMANDA ISHAM:   Hi.   I'm Amanda Isham.   I  
3   haven't lived in Patterson long.   I actually just bought  
4   my house in April.   And I'm 23; I just bought my first  
5   home with my boyfriend who I plan to start a family with,  
6   who I planned to start my family with here.   I don't want  
7   to do that anymore because if I have to -- my mortgage is  
8   phenomenal versus the Bay Area.   I'm paying more, but  
9   that's because I got a house versus an apartment.   It was  
10   a better opportunity to move here.

11                   But you building the dam, I'm going to have to  
12   get flood insurance.   And you're saying that, no, you  
13   don't have to.   Yes, you do.   Because if that breaks, I'm  
14   screwed.   I'm coming out-of-pocket.   I don't have a great  
15   job.   I'm still building my career.   I'm still going to  
16   school.   My man is working 80 hours a day -- every few  
17   days, not a day.   Sorry.   But he's working a lot.   But he  
18   works a lot.   I don't see him often.   We only get the  
19   weekends.   Okay?

20                   If we have to move in the bay, we're not going to  
21   see each other ever.   I used to work for SFPUC.   I was a  
22   seasonal worker.   I know what goes on when a reservoir is  
23   being built.   I was there when they were building  
24   Calaveras.   I was there when they were going through their  
25   process.   My father works for SFPUC.   My father will be

1 testing the water quality here in Patterson. I will be  
2 bringing that to your meetings because I know it's highly  
3 chlorinated.

4 I'm not against farmers. I worked with all the  
5 farmers for SFPUC. I love them all dearly. I know what  
6 they go through. I know the hardships. But a dam in --  
7 where I'm living, where I'm building? It's going to lower  
8 my property value, which I know that sounds selfish: me,  
9 me, me; my, my, my. It's -- yeah, I'm being selfish. I  
10 spent everything I have to move here, and it's all going  
11 to go to shit. Excuse my French.

12 But I'm losing everything if that breaks. I'm --  
13 my animals are in danger; myself is in danger. My parents  
14 actually moved here with us from Brentwood, and they're  
15 living in my home. They're in danger. My father works at  
16 the Tracy Tesla plant. He works in Sunol. We know what  
17 goes on when a dam is being built. You're not going  
18 through your steps. Your EIR report, not that great. You  
19 need to keep going.

20 MR. GARDINER: You have about 30 seconds.

21 MS. AMANDA ISHAM: That's fine. You need to look  
22 more into it. You're not doing a great job. I know water  
23 storage is actually a good thing because SFPUC has water  
24 stored under the city that they won't tell you about.  
25 Maybe contact SFPUC and talk to them about their process.

1 I'm sure they would gladly help you and give you more  
2 information because they're a bigger entity than you are.  
3 Think about it. The earthquake fault is a big thing as  
4 well. Thank you.

5 MR. GARDINER: Thank you.

6 So that's the last card I have. Is there anybody  
7 who's moved to speak now that wants to fill out a card?  
8 Sorry. Hold on. There's a gentleman.

9 You have a comment? Yeah, if you can bring it  
10 up, it would be great. Thanks.

85-21  
cont'd

11 MR. PATRICK KOLAR: Hello, everyone. My name is  
12 Patrick Kolar, and I am the field research coordinator for  
13 a large-scale golden eagle study that's going on here in  
14 the Diablo range. USGS actually has a wildlife research  
15 division in case anyone is wondering why the USGS is  
16 involved in doing something like this.

17 Since 2014 we've been surveying a number of  
18 randomly spaced plots, monitoring a number of historical  
19 golden eagle territories in the area. Based on our  
20 research, this is the densest breeding population in the  
21 world. Nothing's higher that's been published at least  
22 than what we've found here.

23 My speaking today is mainly to provide some  
24 information. I'm not advocating for or against this  
25 reservoir, but I wanted to make sure that you guys knew

85-22

1 that we have information on breeding golden eagle pairs  
2 within the project area. Actually, some of those pairs  
3 have been monitored since -- roughly 25 years or so kind  
4 of intermittently.

5 Golden eagles in this area, contrary to what the  
6 EIR says, they actually don't nest on cliffs very often.  
7 I believe it says golden eagles nest on cliffs and large  
8 trees. Golden eagles in this area actually are almost  
9 entirely tree nesting. They use a wide variety of trees  
10 anywhere from 25 feet high to 150 feet high. So they're  
11 pretty flexible. Some even nest on the ground.  
12 Occasionally they nest in transmission towers. So these  
13 golden eagles in this area, they actually have nested  
14 within the project footprint and also near the route --  
15 the road realignment areas.

16 I'd also like to mention that all of the -- I  
17 looked briefly at the alternative sites, and they're  
18 basically golden eagle territories in all of those areas.  
19 So just something to consider, maybe look into a little  
20 bit more for the final EIR. Thanks.

21 MR. GARDINER: Okay. Thank you.

22 Troy McConell -- McCormick. Sorry.

23 MR. TROY MCCORMICK: Yeah, so I've just been  
24 listening and following along with what's been going on.  
25 And, you know, at first, the first thought of the dam was

1 like, oh, good; we need more water storage here. And  
2 then, you know, farmers need more water. I worked for the  
3 Church of Jesus Christ of Latter-Day Saints farm over here  
4 and we -- water issues were huge, and so I definitely  
5 understand that concept.

6 I also am obtaining a master's in biology at the  
7 moment, and I've significantly studied a lot of endangered  
8 species that have been here in the canyon. And just based  
9 on the tiger salamanders and the red-leaf frogs and the  
10 kit fox, it's going to be a nightmare trying to get  
11 anything built there, just based on that. So I think that  
12 right there would stop the economic progress of being able  
13 to build a dam there, but as well as you have a lot of  
14 people who are upset about the cost that it's going to  
15 have to the city.

16 And so I think, you know, an actual accurate  
17 assessment of how much it will cost the average person in  
18 terms of for flood insurance would be good to add in this  
19 Environmental Impact Report as well as, you know, the  
20 impact it's going to be having on those endangered species  
21 there and the amount of -- you know, what kind of  
22 mitigation factors are going to be in place to save those  
23 species, if that were going to be a thing.

24 And then also, since water storage is such an  
25 important part of the community we have here, what other

85-23  
cont'd

85-23  
cont'd

1 options are available other than building a reservoir in  
2 an active earthquake fault area? Is -- are there methods  
3 to maybe bring in water to recharge the aquifer so that,  
4 you know, farmers can use that? Would that be of the same  
5 economic benefit as building a reservoir?

6 And also, what kind of things can be done to --  
7 that people can help the farmers getting more water.  
8 Because we know that there's a big problem with farmers  
9 getting water in the State of California, and this is  
10 primarily a farming community. And so we have water  
11 that's just going out to the ocean every year. It's going  
12 right out, and it's just being lost. And so we need to be  
13 able to save as much of that water as possible, and how  
14 can farmers retain that? You know, maybe by recharging  
15 aquifers or other methods.

16 So those are just a few of my concerns. I just  
17 maybe would like some of that talked about. Since this is  
18 a study being federally funded, if I heard correctly on  
19 that, I think those things should be looked into as well.  
20 And, yeah, I'm just kind of looking at that. And I do  
21 love the Del Puerto Canyon.

22 MR. GARDINER: 30 seconds.

23 MR. TROY MCCORMICK: And just walking in, I saw  
24 the pictures here in the hallway of, you know, a lot of  
25 people enjoying the recreation aspects of the Del Puerto

1 Canyon. I thought that would be a really bad thing to  
2 lose if there were other opportunities that could have  
3 been looked into. Thank you.

4 MR. GARDINER: Okay. Thank you.

5 Okay. Cassandra Torres. And then on deck is  
6 Alysonn Cassidy.

7 MS. CASSANDRA TORRES: Hello. My name is  
8 Cassandra. I am 13 years old. I attend Creekside Middle  
9 School.

10 Originally I didn't really care this much about  
11 the dam. It didn't really seem that distressing to me. I  
12 still wanted to attend the meeting, and being a part of  
13 this is like a great privilege. Thank you. And, you  
14 know, as I am really young, I don't really get much of a  
15 chance to be a part of the community and to really, like,  
16 speak up.

17 But I feel like, you know, learning about all of  
18 the information and everybody here, it really distresses  
19 me about the dam. This is beautiful wildlife that's out  
20 here, and we already have like a really bad global warming  
21 crisis on us. And I -- it breaks my heart to see the  
22 world being ruined by this. I don't want pollution and  
23 all this just craziness.

24 I would like to grow up in a beautiful world and  
25 travel and see how beautiful everything is, you know, the

85-24  
cont'd

1 wildlife, the greenery, everything. Even if you look  
2 outside the window, the sun is setting and just look how  
3 pretty it is. I want to appreciate everything as an  
4 adult, and I just -- I don't feel like this is a good  
5 idea. I don't want the pollution from the dam to be the  
6 cherry on top with everything. I don't want to grow up in  
7 the world we just -- a disgusting wasteland.

8 MR. GARDINER: Thank you.

9 MS. ALYSONN CASSIDY: First of all, thank you of  
10 that speaker. How beautiful, that 13-year-old to speak  
11 like that.

12 I just have two questions. I don't know enough  
13 about the legal, political mechanism for something like  
14 this. I would like to ask -- and you can reply obviously  
15 at the next date -- why is this not a vote? It seems to  
85-25 16 me like this is something the community should vote on. I  
17 don't know; maybe it isn't. I don't know enough about the  
18 funding sources. I don't know how it works, but it seems  
19 to me that I'd love the opportunity to vote on this.

20 My second question I guess is for the group.  
21 Everyone I believe thus far that's come up here has been  
22 emotional -- justified -- and against it. I would very  
23 much like someone who's for it to come and talk to me.  
24 Come and talk to us. Anybody who's in the room that's for  
25 this, I'd love to hear more about why. I came -- and I



1       came not predisposed. I truly didn't. I came to learn.  
2       Matter of fact, I was informed by the school district that  
3       I needed to not be the face of the school district here.  
4       I just need to be a community member, so I am.

5               So if there's anybody that would like to come up  
6       here to this microphone and speak to why this is a great  
7       idea, I'd love to hear. Thank you.

8               MR. GARDINER: Thank you.

9               Aileen Marble. And on deck is Daniel Estrada.

10              MS. AILEEN MARBLE: Hi. Okay. I'm standing  
11       close enough.

12              One of the things I wanted to say as a suggestion  
13       for improvement for the report is that I didn't quite  
14       understand what the mitigation was going to be for the  
15       several species of California State rare plants that were  
16       found out in the canyon. I got the impression -- it  
17       sounded like maybe you guys were going to dig them up and  
18       move them somewhere else, but I didn't know where else you  
19       were going to put the plants. So I figured that that  
20       would be a nice point of clarification so that we all  
21       understand what mitigation efforts you are attempting to  
22       make for the species that are out in the canyon. Thank  
23       you.

24              MR. GARDINER: Thank you.

25              Daniel?

85-26

1 MR. DANIEL ESTRADA: Hello. My name is Daniel  
2 Estrada. I was raised here all my life, and I have so  
3 many great memories going down there into Del Puerto  
4 Canyon, go play in the park with all my friends, family.  
5 Gone there for Easter one time. It's just amazing how  
6 much wildlife is out there and how much this dam could  
7 affect everything that we have here.

85-27 8 Especially how hard it is in California, like how  
9 expensive it is to stay here, like, and with the  
10 insurance, like, it does not help. Like, there's so many  
11 great memories here. It would be such a waste to lose it  
12 all. Like especially in the future, like, I would love to  
13 have my kids and take them there too. Thank you.

14 MR. GARDINER: Okay. Thank you, Daniel.

15 Anyone else inspired? Okay. Oh, there's one.  
16 Tom Biglione, Biglione?

17 MR. TOM BIGLIONE: Biglione. Yeah, G is silent  
18 in an Italian name like that.

85-28 19 I -- as a civil engineer, I can feel the  
20 excitement of some of the other engineers who worked on  
21 the environmental impact study. I remember all the  
22 studies of hauling roads and earthmoving and whatnot. But  
23 I felt something else when I walked up into the valley  
24 this last Saturday. I felt the danger of the loss of yet  
25 one more recreational area. It's more than recreation.

1 It's in the backyard of the folks that live here. I live  
2 in Sacramento. I grew up in Clovis. I've watched over  
3 the course of my life just a little bit snipped here, a  
4 little bit snipped there of these last places, like small  
5 perennial streams running down this canyon that are spots  
6 for local people to appreciate and enjoy the outdoors.  
7 And wildlife.

8 And one of the things that I noticed in the group  
9 that was with me last Saturday, more than half came from  
10 across the Valley, from Merced and Modesto. So it's not  
11 just a local attraction that we're talking about, about  
12 causing some great -- well, not great harm. You'd just be  
13 erasing it and replacing it with what's going to be a  
14 very, very large dirt bathtub.

15 I mean, I understand the nature of the design, to  
16 fill it and deplete it each year, and I understand why the  
17 lake itself or the reservoir won't even be a recreational  
18 area. What I don't understand is how can you mitigate,  
19 how can you replace what's lost there somewhere else? You  
20 can't. You can't because whoever lives here and wants to  
21 go to it, they're going to have to go somewhere else.  
22 They can go farther up the canyon, but then that's farther  
23 up the canyon. That's not the same canyon anymore.  
24 Whatever wildlife exists along that stream down there --  
25 that are up there, it's not going to exist around the

85-28  
cont'd

1 perimeter of a reservoir even if the reservoir were filled  
2 year-round, let alone filled and drained each year.

3 So I would think long and hard about the concept  
4 of the reservoir and more about the reservoir underneath  
5 our feet. You need to store water; store it in the  
6 aquifer. We've been overdrafting it. "We," I say "we."  
7 I'm not a farmer, but I -- collectively we Californians  
8 rely heavily upon our agricultural economy. And we're  
9 standing on a reservoir that is, what, a hundred times, a  
10 thousand times larger than our surface reservoir volume is  
11 now. As reservoirs go, this is a small reservoir. Why  
12 not take advantage of the aquifer that we've been  
13 overdrafting and use it.

14 MR. GARDINER: Thank you.

15 MR. TOM BIGLIONE: Thank you.

16 MR. GARDINER: Okay. I think that's everyone.  
17 We're going to stay. We're going to go off the record for  
18 the moment.

19 (Off the record: 5:36 PM - 6:00 PM.)  
20  
21  
22  
23  
24  
25

1 STATE OF CALIFORNIA, )  
2 )  
3 COUNTY OF STANISLAUS. )  
4

5 I, LISA S. COELHO, a Certified Shorthand Reporter  
6 in and for the County of Stanislaus, State of California,  
7 do hereby certify:

8 That on January 15, 2020, thereof, I reported  
9 verbatim in shorthand writing the foregoing proceedings;

10 That I thereafter caused my shorthand writing to  
11 be reduced to typewriting, and that the foregoing  
12 transcript constitutes a full, true, and correct  
13 transcription of all proceedings had and given.

14 IN WITNESS HEREOF, I have hereunto set my hand  
15 and affixed my Official Seal this 22rd day of January  
16 2020.

17

18

19



20

LISA S. COELHO, CSR #9487

21

Certified Shorthand Reporter

22

23

24

25

**Sandra Watts**

---

**From:** Anthea Hansen  
**Sent:** Monday, January 27, 2020 4:56 PM  
**To:** Sandra Watts  
**Subject:** FW: Online Petition

**From:** Shivaugn Alves [mailto:shivaugnmaureen@gmail.com]  
**Sent:** Monday, January 27, 2020 4:54 PM  
**To:** Anthea Hansen <ahansen@delpuertowd.org>  
**Cc:** Chris White <cwhite@sjrecwa.net>; Elias Funez <efunez@theunion.com>; hayesg@mjc.edu  
**Subject:** Online Petition

1,027 signatures opposed to the dam in less than two weeks.

<https://actionnetwork.org/petitions/no-del-puerto-canyon-reservoir>

Please review and consider each separately as a public comment.

Thank you

--

Shivaugn M. Alves  
209.605.6716; [ShivaugnMaureen@Gmail.com](mailto:ShivaugnMaureen@Gmail.com)  
SJV Air Pollution Control District, CAC  
Patterson Progressive Alliance, Co-Founder  
CA Democratic Delegate, Assembly District 21  
Patterson Association of Teachers, Executive Board  
Stanislaus County Bicycle Pedestrian Advisory Committee  
Patterson Joint Unified School District, Assessment & Accountability TOSA

## NO Del Puerto Canyon Reservoir

 **STANISLAUS COUNTY BOARD OF SUPERVISORS,  
DEL PUERTO WATER DISTRICT**

Patterson Residents and Friends Say:

**NO to the Del Puerto Water District's  
Selfish Canyon Reservoir Project**

The Del Puerto Water District and the Water Exchange are planning a massive reservoir just above the city of Patterson, home to 25K. The community is realistic, but very concerned. The reservoir would be less than five miles from a fault, and within landslide soil. If the dam were to fail Patterson would be flooded up to ten feet all the way to the San Joaquin River, raising it 14 feet. This would undoubtedly harm our children, schools, and elderly.

Many of Patterson's homes would now fall under hazardous inundation zones, needing to indicate that when selling a property. For homeowners to protect their property in case of a dam failure it could cost up to one thousand dollars annually.

The West Side is located in the region of the worst air quality in the nation. This project will add tons of debris and our disadvantaged community will be put at even greater risk. This area is known for the kit fox, an endangered species, home to Yokut Indian artifacts, and where California's first paleontological finds were discovered. It is a cherished area despite.

Concerned citizens are not anti dam, but are open to the alternate location ten miles north that would not negatively impact the community

1,037 Signatures Collected

Only 563 more until our goal of 1,600

### SIGN THIS PETITION





Not in the US?

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the nation. This project will add hundreds of tons of debris placing our disadvantaged community at even greater risk. The canyon is known for the kit fox, an endangered species, home to Yokut Indian artifacts, and where California's first paleontological finds were discovered. It has been a cherished respite for generations, and continues to be a destination for geology tours and bird watching. When the dam fluctuates in the summer, canyon visitors will get to see a revolting empty reservoir where trees and animals once flourished.

This is a private reservoir project, intended to assist the Water Exchange who serve farms as far away as one hundred miles. The private reservoir will offer no public recreation, however the county has offered an additional project to provide some opportunities. After reading the EIR, no park is worth the risk of this project.

We, the residents and friends of Del Puerto Canyon, are not anti dam. We are open to the alternate location at the Howard Road Exit. We plead you consider this instead of the Del Puerto Canyon.



Action Network is an open platform that empowers individuals and groups to organize for progressive causes. We encourage responsible activism, and do not support using the platform to take unlawful or other improper action. We do not control or endorse the conduct of users and make no representations of any kind about them.

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This petition, formed Sunday July 28<sup>th</sup>, 2019 is to state that those that have signed their names here, are against the proposed 200 foot high dam of Del Puerto Canyon as well as any other development of that area that doesn't include full protection of the Del Puerto Creek drainage through the unique, historic, and culturally significant Del Puerto Canyon Gateway.

Print Name:

Sign name:

Address:

DALE S CALLAHAN	<i>Dale S Callahan</i>	415 S 4 ST
JEFF MALIBY	<i>Jeff Maliby</i>	26 WEBER AVE
Jorge A. Zuno Rivera	<i>Jorge A Zuno Rivera</i>	119 North 1 <sup>st</sup> Street # B
Margarita Velez	<i>Margarita Velez</i>	117 N. 1 <sup>st</sup> St. #A 95363
Chris Young	<i>Chris Young</i>	1447 BERRENDAS
Leticia Ortiz	<i>Leticia Ortiz</i>	119 N 1 <sup>st</sup> Street Apt B
SERGIO CHAIR	<i>Sergio Chair</i>	317 Umalca CT
LUCIE Field	<i>Lucie Field</i>	318 Roxanne Dr.
Heather Vasquez	<i>Heather Vasquez</i>	108 Gold Tunnel Rd. Nr. 95957
Julio Quintana	<i>Julio Quintana</i>	3226 Garfield Ave
Wayne Armbrust	<i>Wayne Armbrust</i>	18899 Del Puerto Canyon Rd.
Jannet Villaseñor	<i>Jannet Villaseñor</i>	635 Hillstock Ct.
Nancy Villaseñor	<i>Nancy Villaseñor</i>	783 Bertwood Ln Patterson
James Moriz	<i>James Moriz</i>	501 Poppy Ave Patterson
Carrie Miller	<i>Carrie Miller</i>	1515 Phlox Drive Patterson
Laura Presley	<i>Laura Presley</i>	595 Marisa Dr. Patterson
Donna Linares	<i>Donna Linares</i>	250 Romanov Ct. Patterson

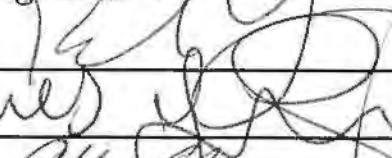
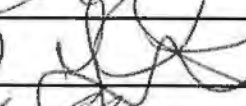




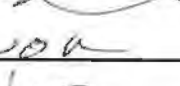

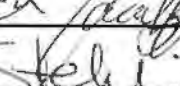

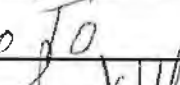
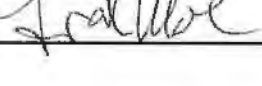




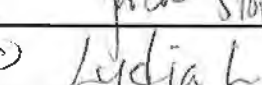
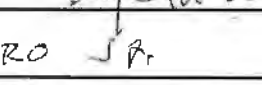
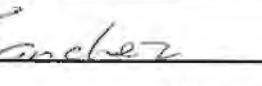

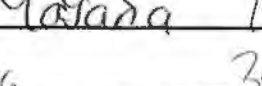
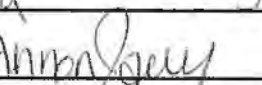

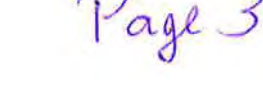

Print Name:	Sign name:	Address:
Stuart Presley	[Signature]	555 - Marisa Dr.
Rosalie Fernandez R. Fernandez	[Signature]	44 Image Ct Patterson
Dominic Verducci	[Signature]	1100 Yellowhammer Drive
Emel Crawford	[Signature]	137 Heartland Ranch Patterson
BARRY BOULTON	[Signature]	1134 IMPERIAL LANE Dr, PATTERSON
Tom Biglione	[Signature]	1501 El Camino Ave #1 Sacramento, CA 95815
Sean Murray	[Signature]	1217 N. Dome Ct Merced CA 95340
Ursula Stock	[Signature]	1217 N. Dome Ct Merced 95340
Rod Webster	[Signature]	345 E 20th St Merced 95340
Nancy Jewett	[Signature]	1256 Casual Lane Turlock 95382
Jeanette Okun	[Signature]	10181 Olive Ave. Livingston 95334
David Costa	[Signature]	538 Towland Ln, Patterson CA 95265
Gloria Hopkins	[Signature]	X. Lophis P.O. Box 1255 PATTERSON
Veronica Renteria	[Signature]	1326 Moonflower Ct. Patterson
Patricia Verducci	[Signature]	1100 Yellowhammer Dr. Patterson Ca. 95365
Emely Avila	[Signature]	463 Squash Creek Ln.
Juianne Dittman	[Signature]	505 Amberina St.
Cesar Durazo	[Signature]	137 Heartland Ranch
Asia Durazo	[Signature]	137 Heartland Ranch
Cassandra Olvera	[Signature]	137 Heartland Ranch
Kelley Crawford	[Signature]	210 N 3rd, Patterson CA
Alejandra Crawford	[Signature]	210 N 3rd Patterson CA
Kenneth McCall	[Signature]	210 North 3rd Street Patterson, Ca
Karen Willard	[Signature]	208 Barrus St Patterson, CA



Print Name:

Sign name:

Address:

Kendra Young		16 Arabian Way
<del>Wesley</del>	<del></del>	313 Finster
Alfonso Haro		16827 S Del Puerto
Krista Cunningham		16312 Sycamore Ave, Patterson
Tracey Bailey		346 Condor Ct.
<del>Rosana GAGNON</del>	<del></del>	191 Fall <sup>and</sup> <del>Patterson</del> 95363
John B Taylor		1321 Thorach <del>and</del> <del>SET</del>
Carlos Custawida		16319 Clover Ave
Kathleen D. Stehli		235 Northmead way 95363
Edna Anida		137 Lavender Ln Patterson
Vivian de So Jo		" " "
Frank Molina		457 Bella Flaca Ln Patterson
Jose Ruiz		2121 Orange AL <sup>Ca.</sup>
Teresa Vazquez		2121 Orange Ave Patterson
Cheyenne Sanders		113 S 5th St Patterson <sup>Ca.</sup>
Veronica Hawkins		1137 Ganga Way
Lyn Cheen Russell		1977 Leslie Ave 95360
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Lydia L. Quiro		Lemon Blossom <sup>Patterson, CA</sup>
MACARIO QUIRO JR.		LEMON BLOSSOM PATTERSON <sup>CA.</sup>
Christopher Sanchez		553 Pittscottie Lane.
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Mercedes L. Morada		1404 Angus St Patterson 95363
Jannet Garcia		344 Roadrunner Dr Patterson
Shannon Jacoby		1319 Sutter Creek Ct Patterson 95363

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Gerónimo Aguilar-Dybbare	Gerónimo Dybbare	131a Satter Creek Ct Patterson
Julian Hurtado		421 Meadow creek-patterson
Blz GARCIA R		152 MARGUERITE PATTERSON
Jessica Padilla	Messica P	809 Ruben rd Crawshaw
Latorya Ross	J Ross	1301 Pioneer Turlock
Trisha Bailey	Tysha B	346 Condor Ct
Genoveva Garza		551 MEGHAN DR PATTERSON
Alvaro Granados		19724 paradise ave patterson.
Marieno Chalaca		VAN GOSH 1113
Christina Delgado		716 Walnut ave-patterson
Shawna Lustre		1439 Dylan Creek drive patterson
Elizabeth Kordak		9108 Golf Canyon Dr. Patterson
Teresa Goornol	Juseland	518 Morning Glory Dr Patterson
Ruth & VLR		518 SW +8 patterson-ca
Alex Fabiola Agapito F. Alex Fabiola		115 N Salado Ave. Patterson, CA
Emmalda Jasmin Agapito		115 N Salado Ave patterson CA.
Antorio R AGAPITO-C.		115 N Salado Ave, Patterson CA
VALERIE M. ARNOLD	Valerie M. Arnold	534 FLOURMILL RD, NEWMAN,
Juana Guerrero		103 Lemon Blossom Ln.
Janette Lagutan		236 Scarlet Lane, Patterson
Jessica Garza		138 Paint Wg, Patterson
Elizabeth Hernandez		412 N. 2nd ST Patterson
Saul Tamez		412 N. 2nd ST. Patterson
Chas E. Davis		1425 Woodcreek Dr PATTERSON
John Walls		1425 Woodcreek Dr Patterson

Print Name:

Sign name:

Address:

Graciela Miranda	Graciela Miranda	140 Paramatta dr. Patterson 95365
MARIA PEREZ	Maria Perez	418-Patterson
Graciela Lopez	Graciela Lopez	9519 Junete
Caren Hook	Caren Hook	219 Spring Ave Patterson
Cottar Gangwer	Cottar Gangwer	9642 CROSS Landing
Zoraida Gonzalez	Zoraida Gonzalez	1004 Deer Hollow DR Patterson
Monica Michel	Monica Michel	1344 Thoroughbred St
Efrain Michel	Efrain Michel	1344 Thoroughbred St
Nicholas Sosa	Nicholas Sosa	529 Moray Way
Joel Sosa Lopez	Joel Sosa Lopez	529 Moray Way
Jessica Orozco	Jessica Orozco	701 Bonney Ct.
Polly Marble	Polly Marble	452 Darpino Ct Patterson
Aileen Marble	Aileen Marble	452 Darpino Ct.
Gabina Ferrer	Gabina Ferrer	243 Scarlet Ln Patterson
Marice Munoz	Marice Munoz	243 Scarlet Ln Patterson
Josefina	Josefina	120 Heartland Ranch
Breene Choirez	Breene Choirez	1227 Grebe Ln. Patterson
Carlos Lizaraga	Carlos Lizaraga	1020 Barcelona dr Livingston CA 95334
JERROD LEE	JERROD LEE	814 RADFORD BLVD ALBANY GA.
Kari Thomas	Kari Thomas	2030 Park Circle New
Connie Ramirez	Connie Ramirez	1063 Bear Hollow Ct
JOSE MORENO	JOSE MORENO	1063 Bear Hollow Ct.
Myrlene Hider	Myrlene Hider	555-1st St & R
Larry Hider	Larry Hider	525 OSPROD Dr
Loisel Sifuentes	Loisel Sifuentes	209 - 475-4966



Print Name:

Sign name:

Address:

Haley Williams Haley Williams

N/A

Yellie Renteria

Jeffrey M. Rodriguez

3007 Fink

hog Ranch

Rachel & Newcomb

Rachel Newcomb

Tadgyn Murphy

Tadgyn Murphy

244 E St. Apt. A

Wilmet Green

Wilmet Green

Cherry Blossom

Cherry Blossom

Treci Ramirez

Treci Ramirez

31 Shorthorn St

Mary Solari Brane

Mary Solari Brane

200 N. 4th  
Patterson

Adela Sotelo

Adela Sotelo

1434 Tegenburg St.

Silvia Escobar

Silvia Escobar

121 Raint Way.

Erika Ramirez

Erika Ramirez

577 S 3rd St

Carlos Martell

Carlos Martell

527 S 3rd St.

Ramon Ramirez

Ramon Ramirez

527 S 3rd St.

Angelo Zermudez

Angelo Zermudez

636 Hillblock St

Beatriz Ayala

Beatriz Ayala

421 1/2 S. 3rd

Victoria Gutierrez

Victoria Gutierrez

850 Nth and St #8

Gerry Garcia

Gerry Garcia

506 W. Las Palmas

Antonio Perez

Antonio Perez

411 1/2 Roxanne Dr Patterson

Patricia

Patricia

772 E. La Pal Ave

Julie A. Rapp

Julie A. Rapp

545 Amberina Ct; Patterson

Kim Ramos

Kim Ramos

Patterson CA

Camelia Dobrica

Camelia Dobrica

20744 Fairway Drive Patterson

Tora Jordan

Tora Jordan

555 McMurphy Ct

Latasha Sledge

Latasha Sledge

139 Marguerite Ln  
Patterson, CA 95363

Kamari Washington

Kamari Washington

Patterson, CA 95363

Print Name:

Sign name:

Address:

LEONARD DE LA Cruz	Leonard Cruz	320 W 15th Ave. GUSTINE
Jeff Hill	Jeff Hill	153 Daylily Ln.
Christa Dahlen	Christa Dahlen	2115 2nd Ave 21st St
Hilda Hill	Hilda Hill	153 Daylily Lane
Juana Chavez	Juana Chavez	725 Yellowhammer
<del>Jeff Hill</del>	<del>Jeff Hill</del>	<del>1205 Yellowhammer Dr.</del>
Nicole R. Sisk	Nicole R. Sisk	114 Lemon Blossom Ln.
Ludyn Granados	Ludyn Granados	8900 Walt Ave
Kelvin Joe	Kelvin Joe	6200 Pine Creek Ln
Giselle Pena	Giselle Pena	841 Moray Way
Nathaniel Mena	Nathaniel Mena	1481 Horizon Ln
Cheryl L. Young	Cheryl Young	16 Arabian Way
Kim Remonda	Kim Remonda	2107 Moran Rd. <sup>crossed</sup>
Norma A. Mejia	Norma A. Mejia	1244 Shearwater Dr. <sup>45213</sup>
Miguel Mejia	Miguel Mejia	1244 Shearwater Dr.
Elias Penya	Elias Penya	606 Trout Creek Ct. <sup>721</sup>
Luis Castro	Luis Castro	1403 Hunter Creek Dr
Maria Castro	Maria Castro	1403 Hunter Creek Dr
Isabel Huie	Isabel Huie	1317 Wilcox Dr. <sup>711105</sup>
Christina Felix	Christina Felix	1244 Fawn Lily Dr. Patterson
Mark Gaches	Mark Gaches	1229 Imperial Lily Dr. Patterson
Anna Gehring	Anna Gehring	363 Wolfpack Ct.
Gloria Campbell	Gloria Campbell	1127 Yellowhammer Dr
Virginia Melius	Virginia Melius	232 Sorrel Ct. Patterson
Andrea Douglass	Andrea Douglass	441 Sanderling Dr

Print Name:

Sign name:

Address:


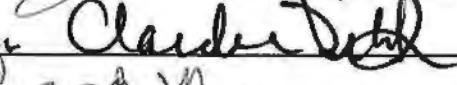
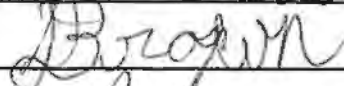
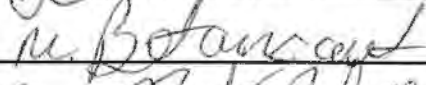

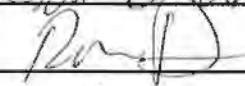
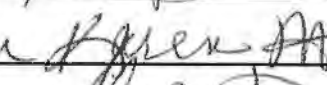
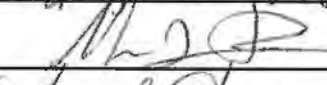
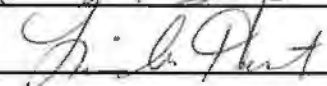
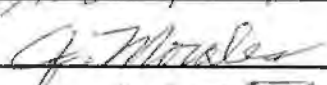
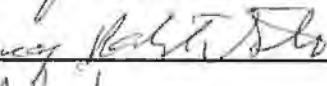
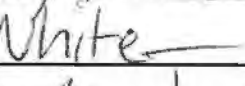
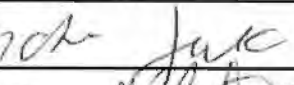

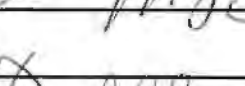

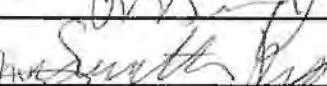
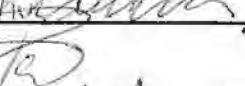

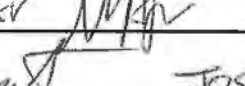
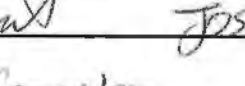
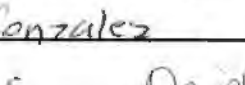


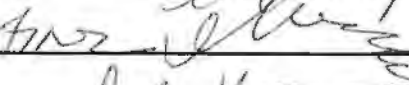
JESSE RAMERO		124 SHEARWATER DR. PATTERSON, CA
Laraine Cruz	[Signature]	1108 Marsh Wren Ct.
Janelle Garcia	[Signature]	207 W 5th Street
Lanette Chavez	[Signature]	300 W 5th Street
Rhonda Perez	[Signature]	1231 Grand Canyon - Patterson
Gregory Savage	[Signature]	255 Decollet Lane, Patterson, 95363
Abraham Espinoza	[Signature]	1136 Yellow Hammer Dr.
Patricia Magana	[Signature]	451 Ridge Creek Lane
Oh. H. H. H.	[Signature]	Cousar Creek Dr.
Raul Perez		1174 TERN WAY PATTERSON
Ashley Rose Sanchez		2142 Hidden Canyon Way, Newman, CA
Angel Rubalcaba		4000 S. Commons Rd, Turlock 95360
Andrew Ybarra		9501 Sarazen Ln, 95363 Patterson
Patricia Gallardo	[Signature]	545 CLOVER AVE PATTERSON Patterson
Kevin McCafferty	[Signature]	531 Chesterfield Dr
Sarah McCafferty	[Signature]	313 Orange Blossom
Jose L. Cortez		1313 THOROUGHbred St, PATTERSON, CA
Kelly Martinez	[Signature]	115 Washburn St.
Connie Villanueva	[Signature]	310 Unidad Ct. Patterson
Victor Fernandez	[Signature]	" "
Rhonda Carnine	[Signature]	1305 Shasta Creek Ct Patterson
Shane Carnine	[Signature]	" SAME "
James Jacura	[Signature]	1063 BEAR HOLLOW CT.
Carlos Galan Jr.	[Signature]	537 Traina Dr Patterson CA. 95363
Cheryl Wilson	[Signature]	445 D'Arpino Ct Patterson, CA



Print Name:

Sign name:

Address:

Travis Preble		524 PLACER CREEK DR.
Claudia Delgado		829 Kirkwell way
Wilmet Brown		Ceresides
Cynthia M. Botancourt		600 Ward Ave. Patterson, CA
Randy White		848 Orkney Dr Patterson, CA
Ronald Durnin		1403 Dylan Creek Dr.
Karen Markum		127 S. 5th St, Patterson
Shane Beard		809 periwinkle Dr. Patterson
Linda Hutton		133 Lemon Blossom Ln Patterson
Juanita Morales		1118 M St. #126 Newman, CA 95360
Robert Stenning		240 Rogers Rd Patterson <sup>(P)</sup> 95363
Melissa White		848 Orkney Dr. Patterson <sup>(P)</sup> 95363
Cheryl Wick		1309 Zinnia Ct Patterson
Maria Lopez		215 Abelia Ln Patterson
Andrew Perry		750 E Las Palmas Ave #70 Patterson
Bina Singh		1801 Apple Dr Patterson
Samantha Smith		112 Barros St
Adrian		112 Barros St
Jose M Aguilar		9017 GOLF LN Dr, Diablo Grande, CA <sup>95363</sup>
Joe H. Bettencourt		JOSE H. BETTENCOURT - 180 TISSOT DR. PATTERSON
Alfonso Gomez Gonzalez		Phx 1552 Dr Patterson
Danielle Wilkins		1573 Phoenix Drive Patterson Ca
Susana Figueroa		1457 Cliff swallow Dr Patterson
Manuela Martinez		637 Snow Creek Ln Patterson
Jessica Romero		1244 Shearwater Dr Patterson

Print Name:

Sign name:

Address:

Angelica Gallardo	Angelica Gallardo	6008 Hillstock Ct.
Margarita Funes	Margarita Funes	500 S. 4th Street
Gregory Walker	Gregory Walker	228 Tissot Dr.
Dustin Atkins	Dustin Atkins	115 Lemon Blossom
Marilyn Saks	Marilyn Saks	670 "E" St.
Daphna Rodriguez	Daphna Rodriguez	670 "E" St.
Sharon Hansen	Sharon Hansen	537 Tired Place
Eleanor Arellano	Eleanor Arellano	145 Lemon Blossom Ln
Blanca Hatter	Blanca Hatter	3016 Ethan Allen Lane Turlock
Jay Hatter	Jay Hatter	3016 Ethan Allen Lane Turlock
ROGER ERIC LOHMANN	Roger Eric Lohmann	1120 YELLOWHAMMER DR. PATTERSON 95363
Arturo Narraezan	Arturo Narraezan	328 Knutson Patterson CA
Melvin Patterson	Melvin Patterson	20819 Grapevine Dr 95363
Sue Silveria	Sue Silveria	303 N. 4th St Patterson
Gabriel Lung	Gabriel Lung	1325 Marigold Dr. Patterson (95363)
Maria Blafon	Maria Blafon	513 Denise Pl Patterson,
Gustavo Leon Sr	Gustavo Leon Sr	421 Mark Crater Dr Patterson
Sandy Bourgeois	Sandy Bourgeois	2130 Creek
Jocelyn Bravo	Jocelyn Bravo	4161 Creekside Dr Patterson, CA
Tony Garcia	Tony Garcia	4161 Creekside Dr Patterson CA
LAURA CARDENA	Laura Cardena	1524 Sperry Ave Patterson
Valentina Delgado	Valentina Delgado	1441 Wood Creek Dr.
Lauren Hatter	Lauren Hatter	3016 Ethan Allen Lane Turlock
Nancy Singh	Nancy Singh	1527 Oasis Ln Patterson.
Rosalva Astoja	Rosalva Astoja	527 Oasis Ln Patterson

Print Name:

Sign name:

Address:

Ginella Sinesco 1314 Morabot 95363  
Linda Palla Laitan 616 Totman Ct.  
YAVONNE BRYANT Yavonne Bryant 1460 Henley Pkwy  
Evan Bryant Evan Bryant 1460 Henley Pkwy  
Sandro Ortega Locoroberto 1464 Angus St.  
Jennelle Maller J. Maller 1217 Sweet Pea Dr. Patterson CA 95363  
CRISTIAN FERNANDEZ C. Fernandez 1400 Mt. St. Creek Dr.  
Stephanie Jimenez S. Jimenez 444 Eider Dr.  
Flora Jimenez FLORA JIMENEZ 444 Eider Dr.  
Maria C. Munoz 1104 Marshwood Dr.  
FRANCIS GREGG F. Gregg 548 - Travis  
ABEL Ramirez A. Ramirez 400 14th St  
Carlos Ramirez 311 17th 4th 5th  
Kristi Lopez Kristi Lopez 452 Red Robin Dr.  
Melissa Cruzinski Melissa Cruzinski 405 Osprey Dr. Patterson  
Loretta Martinez Loretta Martinez 1635 Creighton Ct Newman  
Oben Owens O. Owens 1305 Oasis Ln  
Patterson, CA  
Jorge A. Medina 1835 Creighton Ct.  
Newman, CA 95360  
Christopher Faldon C. Faldon 240 Faldon Pkwy  
Nichole Pruitt N. Pruitt 1422 Berrendas St Patterson  
Jessica Lopez Jessica Lopez 215 Abelian Lane Patterson  
Troy McOmally T. McOmally 630 Pine Creek Lane Patterson  
Maria C Gallardo M. Gallardo 608 Hillstock Ct.



Print Name:

Sign name:


Address:

Stella Usanga	<i>Stella Usanga</i>	5200. S Faith Home Rd
Ange No	<i>Ange No</i>	416 Sanderling Dr
Gloria Oliver	<i>Gloria Oliver</i>	Lorena, Ocala
Ben Muma	<i>Ben Muma</i>	1042 Curlew
Propp Hany	<i>Propp Hany</i>	604 Roadrunner Dr
Theresa Tany	<i>Theresa Tany</i>	P.O. Box 702
Jose Rodriguez	<i>Jose Rodriguez</i>	632 Lore's Lane
Yakira Morelos	<i>Yakira Morelos</i>	Patterson CA
Marlene Finar	<i>Marlene Finar</i>	120 portrait LN
Elizabeth Cane	<i>Elizabeth Cane</i>	John Chan Dr.
Henry Agunder	<i>Henry Agunder</i>	651 Lola ct Patterson
Karen Agunder	<i>Karen Agunder</i>	651 Lola ct Patterson
Leslie Hernandez	<i>Leslie Hernandez</i>	Hannah Dr Patterson
Lon Gonzalez	<i>Lon Gonzalez</i>	1018 El Palmas Ave.
EVA LESTKOVA	<i>Eva Lestkova</i>	670 N 6th St. Patterson
JUDY SILBER	<i>Judy Silber</i>	1059 S ST. NEWMAN, CA 95360
Martha Sanchez	<i>Martha Sanchez</i>	710 Snowcreek
RUBEN PARRILLA	<i>Ruben Parrilla</i>	107 SNOOK CREEK LN
JOSE SEGURANO JR	<i>Jose Segurano Jr</i>	310 S. 4th St Patterson 95360
Jose Lopez	<i>Jose Lopez</i>	785 OAKWOOD LANE
Celia Pineda	<i>Celia Pineda</i>	425 Peregrine Dr.
Ennie Pineda	<i>Ennie Pineda</i>	425 Peregrine Dr.
Eileen Godwin	<i>Eileen Godwin</i>	Diablo Canyon
Denise Gonzales	<i>Denise Gonzales</i>	546 Tarland Ln
Pamela Gibbs	<i>Pamela Gibbs</i>	18706 Sympson Ave

Print Name:

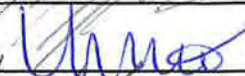
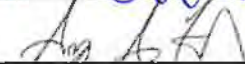
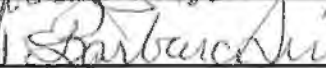
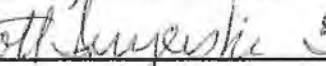
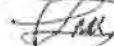
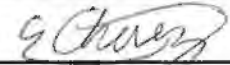
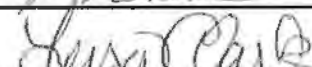
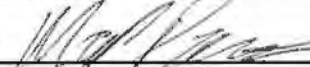
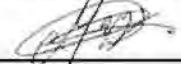

Sign name:

Address:

CESARIO FLORES  537 TRINA DR

Maria C Chalaca M - C CH 1113 BANGOR LN

Mariano Chalaca MCH 1113 BANGOR LN

RICHARD MARTINEZ  226 FAIR AVEMeliza Reyes Cantu  259 N. First St #7Angel A. FLORES  HENLY PARKWAYThomas Guest  620 Spooner CtSarah Emestone  620 Spooner Ct.BARBARA SUYEISHI  520 E Las Palmas #50Scott SUYEISHI  520 E Las Palmas #50Yolanda Cardona  620 WALNUT AVENUELORENA Palafox  1406 Hunter Creek DrEmmanuel Chavez  1406 Hunter Creek DrMartin Chavez  " " " "Robert Chen  104 Lemay Plaza Cal R.Leisa Clark  Puffin Ct PattersonCorliss Patterson  102 Point Way PattersonMARK PATTERSON  102 Point Way PattersonEmmanuel Jimenez  707 Beck Creek LnMarycruz Morgado  1424 Dylan Creek DrMario Rodriguez  1424 DYLAN CREEK DRJohn Gibbs  18104 Sycamore AVEDonna Sanford  1256 CALVINSON PKWYNorma Wilson  1511 10th St PittAdrian Rodriguez  465 Henly Parkway

Print Name:

Sign name:

Address:

ALAN DINA	Alan Dina	MacLiffy Dr.
Gleora Benoit		MacLiffy Dr.
Tanya Wright		158 Squash Creek
Thelma Gary	Thelma Gary	1143 T. St. Newman
Wendy Kelly	Wendy Kelly	1241 Bhearway / Patterson
Michelle Green	Michelle Green	Sunflower Dr.
Justin Beard		Sunflower Dr. Patterson
Lizbeth Sanchez	Lizbeth Sanchez	Beck creek in
Mariano Navarro	Mariano N.	144 ard'a Ln.
Selina Hopkins	Selina Hopkins	Armore ct.
VINCE RAMIREZ	Vince Ramirez	39 Roadrunner Drive
Salvador Sanchez Jr		300 Berlin way
Margaret Soto		H St.
Jill Dennis	Jill Dennis	229 South 4th St.
Faith MacKinnon		5B Portrait Ln.
FRANCES DEW	Frances Dew	459 Henley Parkway
Lilyann Toral		70 James Burke
Linda Newton	Linda Newton	E Street Patterson
Denise Bickle	Denise Bickle	Wendycreper Ct Patterson
Chris Green	Chris Green	900 Arroyo Dr. Patterson
Matt Gue		519 Roadrunner Dr
Natasha Ceramelo	Natasha Ceramelo	Steel Creek Dr. Patterson
JAMES CORONADO		STEEL CREEK DR. PATTERSON
Bridget Roman	Bridget Roman	433 1/2 Main St Newman
Alberto E. Lopez IV		1445 Mendocino Creek Dr.



Print Name:	Sign name:	Address:
Vanessa Lopez		1445 Mendocino Creek Dr. Patterson
Maria Repeda		Blue Heron Dr. Patterson
Juan Leon		1455 Granite Creek Dr
Douglas Thompson		405 4th St Pitt
Christine May		Finster St. Patterson
Brandee Nanney		455 Poppy Ave Patterson
Antonio Sanchez		232 Dawitchev Dr, Patterson
Marie Dick		20770 Old Victory Lovelock NV
Maria Gallegos		1037 Gold Fint Patterson CA
Aaron Howard		556 Agadoni Ct. Patterson CA
Aletha Gomez		131 Weber Ave Patterson CA 95363
Tyler Drouin		131 Weber Ave Patterson CA 95363
Karen Rapp		545 Amberina Ct. Patterson CA 95363
Jose Archuleta		620 Kinshir Way
Isabel Garcia		326 Condor Ct
Estela Garcia		326 Condor Ct.
Iveth Fuentiga		305 5th St Patterson CA
Maria L. Laxari		3055 4th St Patterson CA
Moises Martinez		
Lucio Madryd Frank		217 Heartland Ranch
Kanwarbir Chima		537 Philomena Ct Patterson CA
Guadalupe Soto		13559 Sycamore Ave Patterson CA
Ryan Segoviano		223 N 5th St
Jessica Fairchild		438 Taogenburg St
Johnnie R		Johnnie R

Print Name:

Sign name:

Address:

Rhonda Perez	Rhonda Perez	1231 gannet lane Patterson
Andrew Pappalardo	Andrew Pappalardo	Newman, 95360
Marie Poirngle	Marie Poirngle	507 Leather Ct. LP.
Kennall Johnson	Kennall Johnson	P.O. BOX 881
Portia Swenson	Portia Swenson	P.O. BOX 881
Maria	Maria	606 throat creek
Enn Keeney	Enn Keeney	Palomino Patterson
Mark Richards	Mark Richards	1107 Ridge Rd. Patterson
Sam Livers	Sam Livers	1148 E market st.
Linda Newton	Linda Newton	543 South 9th St.
Alvaro Flores	Alvaro Flores	11213 Cox Rd Patterson
Ruby Hernandez	Ruby Hernandez	1529 Daisy Dr
JAMIE JOHNSON	JAMIE JOHNSON	1213 FAIR LILY DR PATTERSON
Kenny Johnson	Kenny Johnson	255 Cherry Blossom Ln. Patterson
Brittany Chruska	Brittany Chruska	1311 Marigold
Amy Sandoval	Amy Sandoval	Bullfinch Dr Patterson
Lizette Sandoval	Lizette Sandoval	850 Mackilhaffy Dr. Patterson
Zack Dina	Zack Dina	850 Mackilhaffy Dr. Patterson
Jeff Vanderbilt	Jeff Vanderbilt	820 Toyon Ln Patterson
Erica Claid	Erica Claid	Horizon lane
Leticia Diaz	Leticia Diaz	1106 Cabanel Ln. Patterson
Alexa Magana	Alexa Magana	Red Robin Dr., Patterson
Emily Muciel	Emily Muciel	Walnut Ave, Patterson
Melissa Ramirez	Melissa Ramirez	1143 Yellowhammer Dr. Patterson
Tim Hernandez	Tim Hernandez	1143 Yellowhammer Dr. Patterson



Print Name:

Sign name:

Address:

Marco	Mar Car	Jasmine dr
SHAWN	[Signature]	OSPREY DR
Jackson	[Signature]	Echo Court
Wang Michelle	[Signature]	Dylan Crk.
Juan Gutierrez	[Signature]	Margaret Ln PATTERSON
Aliyan Robles	[Signature]	aliyanrobes41995@gmail.com
Anna Kiesser	[Signature]	Buckskin Way
Rachel Kiesser	[Signature]	Buckskin Way
Aleyah Brown	[Signature]	CLIFF SWALLOW DR
ANNE FREITAS	[Signature]	250 E. La Palma #23
Socorro Nava	[Signature]	Yolo creek lane
Lisa Rodriguez	[Signature]	P.O. BOX 244
Rasteda Gibbs	[Signature]	Condor Ct
Haniyyah Musahid	[Signature]	Hunter creek Dr.
Robert Deloria	[Signature]	CLIFF SWALLOW
Lois Maldonado	[Signature]	fern Way
Imelda Gutierrez	[Signature]	Sanderling Dr. Patterson, CA
Nathan Hughes	[Signature]	Osprey Dr Patterson
Kayla Cirka	[Signature]	Osprey Dr Patterson
Jamie Henderson	[Signature]	Ender dr.
Lorraine Godinez	[Signature]	SBP Train Dr Patterson
Angelina Dunbar	[Signature]	Walker Ranch
Erma H. Olvera	[Signature]	604 Sears Dr Patt CA
Mariela Rosas	[Signature]	Paramatta Dr. Patterson CA
Esperanza Luquin	[Signature]	Spooner Ct, Patterson

Print Name:

Sign name:

Address:

Kyarrabellamy Kyun

152 Daylilly Ln

D'Angelo Bellamy ~~D'Angelo~~

152 Daylilly Ln

Rose Rodriguez

Bennett Dr.

Aisha Lewis

303 Lavender Ln.

Maria Borges MariaBorgs

725 Skimmer Dr.  
Patterson, CA

Nendy Garcia

416 Henley Pkwy Patterson CA 95363

Edith JARA

Edith

713 Bonness Ct Patterson CA

ROSA JARA

Rosa Jara

713 Bonness Ct Patterson

Alejandra Rubio

Alejandra

Phlox Drive

CA

SARA RECORD

SARA

1167 Kestrel dr. Patter

Brenda Mireles Jacinto

Brenda Mireles Jacinto

1273 Duck Blind Newman

Alma Fagundes

Alma

1318 Morab Court Patterson

Lisa K. Bos

Lisa K. Bos

1248 E. Las Palmas Ave. CA 95363

Boris Rivadeneyra

Boris

Creekside Dr.

Melissa Ramirez

Melissa

636 Lodge Creek Lane

Lidia Gutierrez

Lidia

Walker Ranch Pkwy.

Brianna Parra

Brianna

Red Robin

Luis Armas

Luis

332 Kautson St Patterson

Christa Soto

Christa

615 Palmas Ave

Faquinone

Faquinone

L St Patterson

U. Bearup

Ernelinda Flores-Bearup

N. 4th St. Patterson

Dayana Bearup

Dayana

N. 4th St. Patterson

Rocio Chavez

Rocio Chavez

1513 E. Las Palmas Ave.

Marisol Ayala

Marisol Ayala

468 Thrush Dr.

Print Name:

Sign name:

Address:

Roberto Gozale	1491 RST Newman CA.
Sally Gillet	2237 Deer Creek Manor
Paulina Delgado	9519 Pomelo Ave
MARIO SIERRA	3401 Street Patterson
Mohamed	1320 SANTA CRUZ K
Francisco Ramirez	539 Messer Place.
Angelica Vargas	2507 K A Pt 2
Yvonne Lepeda	524 Furland Ln Patterson, CA
Anna	513 Franquette St.
Nora Chavez	1017 Deer Hollow Dr. Patterson
Angel Nelson	Angel Nelson
Aracelia Thomas	327 S. 4th St Patterson
Pablo Tovar - Pablo Tovar	327 S. 4th St Patterson
Stacy Prevost	223 S. 7th Patterson
Martha Gonzalez	1220 Jasin dr Patterson
Carmen	208 Tyler St Patterson
Alberto Reynoso	1055 Bear Hills Ct Patterson, CA
CARLOS Ruiz	572 Millwood Dr.
M <sup>ra</sup> Angelina Orey	572 Millwood Dr Patterson
Marissa Frye	1253 Blue Flax 95363
Michelle Muir	2245 Scarlet Lane
Marcia Ambriz	P. O. Box 494 Patterson, CA 95363
JODA CHAMORRO	Dec Puerto CA
Fernando Lucero	92 Marguerite Lane
Christina Lucero	92 Marguerite Lane

(50)

Print Name:

Sign name:

Address:

Hector Alfaro	<i>Hector Alfaro</i>	518 south 9th Street Patterson
Andrea Lua	<i>Andrea Lua</i>	512 S 4th Street Patterson CA 95363
Fernando Vega	<i>Fernando</i>	512 S 4th Street Patterson
Rosaura Lua	<i>R</i>	512 S 4th Street
Elena Lopez	<i>Elena Lopez</i>	508 S 9th ST Patterson CA 95363
Jesus Lopez	<i>Jesus Lopez</i>	508 S 9th ST Patterson CA 95363
Viviana Lopez	<i>Viviana Lopez</i>	508 S 4th ST Patterson CA 95363
Delfina Lopez	<i>Delfina Lopez</i>	25 Weber Ave. Patterson CA 95363
Cecilia Delfina Ochoa	<i>Cecilia Delfina Ochoa</i>	32181 West Ave. Patterson
Jacinto Cantu	<i>Jacinto Cantu</i>	125 Washington 95363
ADAM Avila	<i>ADAM Avila</i>	
MARIA Rice	<i>MARIA Rice</i>	210 - 5th St. PATT
Danny Torres De Jesus	<i>Danny Torres De Jesus</i>	667 Columbia St Turlock 95350
Franchesca Alfaro	<i>Franchesca Alfaro</i>	1067 Columbia St Turlock 95380
Evaresto Segoviano	<i>Evaresto Segoviano</i>	550 Chesterfield Dr 95363
Norman Rodriguez	<i>Norman Rodriguez</i>	1443 Burendas St 95363
Paul Fino	<i>Paul Fino</i>	1209 Yellowhammer Dr 95363
Rosalinda Cantu	<i>RUCAT</i>	Paxanas Drive Patterson
Gregorio Martinez	<i>G.M.S.</i>	
Maria L Mendoza	<i>Maria L Mendoza</i>	1419 Dylan Creek Dr.
Mary Cait	<i>Mary Cait</i>	Stonechat Lane
Theresa Solarez	<i>Theresa Solarez</i>	301 Bantch Ave
Joe y Tesla	<i>Joe y Tesla</i>	Flicker Ln Patterson
David Kartiro	<i>David Kartiro</i>	535 morning glory dr
Bryan Aguilar	<i>Bryan Aguilar</i>	619 Sims Dr

(25)



Print Name:

Sign name:

Address:

Christian S. Christian S. 548 Millwood Dr.

Francisco Perez Francisco Perez sorrel ct

Sarah Nunez EC-Solito Village

Ruth Salsi McCracken

Luisa Palk 2204 Lains Potrero CA 94601

Virginia Arroya 1126 Bullfinch drive Patterson

Guadalupe Catalan 2376 Garden patch way

Christine Sanchez 232 Dawitcher Dr.

Jennifer Morales 4607 S. River Rd. Vernalis

Michael Ranson Gastine

Joy Rodriguez 9th St. Patterson

RHONDA MORAN 809 CRAIG LAURE CA 95318

Moses Rio Rio 1468 CLIFF Wallow Dr

Bobby Rhymer Bobby 21162 GRAPVINE DR 95310

Rose Rastmiller 21162 Grapevine Dr. Granger

Vicente Gutierrez-Vuente 54000 PO BOX 599 Westley

John Fisher 250 E Las Palmas 95363 95367

Kenny Santana 107 WASHBURN PT.

Veronica Gonzalez 616 Berlin Way

Carolina Aguilar 264 Cherry Blossom Ln.

MARICORAE ZUVERA 435 THURSH DR. PATTERSON CA 95763

Heather McDermid 114 Lilac Ave. Patterson, CA 95363

Andrew Scott-McKay 1144 Ten Way, Patterson CA 95363

Yolanda McQuinn 1423 Hubian ST 95363

Alida Madrigal Sorko Ave

Print Name:

Sign name:

Address:

Sandra Chapate	Sandra Chapate	596 Marisa
Arnold Chapate	Arnold Chapate	596 Marisa
Robert Chapate	Robert Chapate	596 Marisa
Mike Garcia	Mike Garcia	520 Red Robin
ITZURI ESPARZA	ITZURI ESPARZA	BLUE HERON
Diane Mesa	Diane Mesa	Lorelei Ln
Erlinda Perez	Erlinda Perez	1102 Blue heron dr.
NINA GREGORIS	NINA GREGORIS	1116 Tern Way
Jared Latta	Jared Latta	1260 FAIRWAY LANE
ADOLFO A. SAENZ	ADOLFO A. SAENZ	449 OSPREY DR
JADE FREITAS	JADE FREITAS	6210 DUNE CT
Veronica Vasquez	Veronica Vasquez	315 Unidad Ct
Victoria Vasquez	Victoria Vasquez	315 Unidad Ct.
Maria Mandujano	Maria Mandujano	218 NTE SPATTERSON
VERNA TRITT HART	VERNA TRITT HART	21900 G ST CROSS
Robert Lewis	Robert Lewis	21900 6 ST Crows
Dr. Christopher W. Pop	Dr. Christopher W. Pop	325 North Mesquite
Desann Perez	Desann Perez	325 Northwood
Cassandra Hansen	Cassandra Hansen	831 Sperry Ave
Rain Hernandez	Rain Hernandez	831 Sperry Ave.
Glenn Godino	Glenn Godino	1370 Tuggerbush St
Tyiesha Isom	Tyiesha Isom	1134 Cabanel Lane
Elizabeth Perez	Elizabeth Perez	1704 JESSIE AVE.
Jasmine Perez	Jasmine Perez	DAISY DR.
CARLOS McIVER	CARLOS McIVER	THRUSH DRIVE

Print Name:

Sign name:

Address:


Peter Rodriguez  Weber Ave.

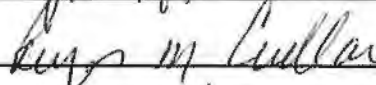
ERIC BENDIX  Bowditch Dr

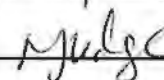
Jeremie Tadel  641 pierceell Ln

Lynda Averett  17105 Locust Ave.

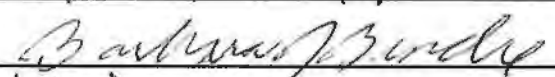
Joyce Corks Mackenroth  315 Garden Patch Way

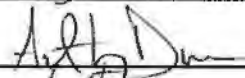
JUSTIN MACKENROTH  315 GARDEN PATCH WAY

Reyes M. Cuellar  317 Avenida St. Patterson ca.

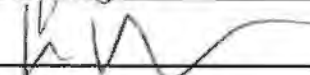
Naveet Judge Sangha  1456 Shearwater's drive, ca

Michael Sultov  835 Justine ave apt 22

BARBARA BENDIX  Bowditch Dr.

Anthony Duran  263 Orkney Dr Patterson ca.

James Felt  20613 S. ruzar PL

James Gallegos  Pinto Way

Andrew Robarte  Finster Street Patterson

Elias Funez  500 S. 4th St. Patterson CA, 95363

This petition, formed Sunday July 28<sup>th</sup>, 2019 is to state that those that have signed their names here, are against the proposed 200 foot high dam of Del Puerto Canyon as well as any other development of that area that doesn't include full protection of the Del Puerto Creek drainage through the unique, historic, and culturally significant Del Puerto Canyon Gateway.

Print Name: Sign name: Address:  
Jim Phillips 534 Tarland Ln Jim Phillips

Name: Sign name: Address:  
Dina Phillips 534 Tarland Ln Dina Phillips

Name: Sign name: Address:  
Jeff Gonzalez 546 Tarland Ln Jeff Gonzalez

Name: Sign name: Address:  
x Leonor Dela Rosa 221 So 4th Leonor Dela Rosa

Name: Sign name: Address:  
x Divaldo Dela Rosa Divaldo Dela Rosa

Name: Sign name: Address:  
x Ozile Dela Rosa 11217 So 4th Ozile Dela Rosa

Name: Sign name: Address:  
Elizabeth Van Tol 1241 Sweet Briar Dr Elizabeth Van Tol

Name: Sign name: Address:  
x Lisa Pittman Lisa Pittman 1536 Phlox Dr

Name: Sign name: Address:  
Robert Giasponi 1536 Phlox Dr Robert Giasponi

Name: Sign name: Address:  
Kene Schell 1536 Phlox Dr Kene Schell

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Name: Sign name: Address:





*Prepared by: Woodard & Curran  
2175 N. California Blvd., Suite 315  
Walnut Creek, CA 94596  
925.627.4100*



*Solving the region's needs through local partnerships*