

TOPICAL RESPONSE 3: NATURAL RIVER MANAGEMENT PLAN PROJECTS AND MITIGATION

A number of comments raise questions regarding the status of the 57 projects that comprise the Natural River Management Plan (NRMP) and claim that certain threatened or endangered species have disappeared from the NRMP area as a result of its implementation.

Importantly, although the NRMP is a major planning document for the Santa Clara River Watershed, it is a separate, ongoing project that is not part of the proposed Project assessed in this EIS/EIR (*i.e.*, the proposed RMDP and SCP); it is governed by its own federal and state permits and conditions and was subject to its own environmental review under the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA), the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA) prior to its approval in 1998. Therefore, prior and ongoing actions by the U.S. Army Corps of Engineers (Corps), the California Department of Fish and Game (CDFG), the applicant and other parties in connection with the NRMP are not relevant to the feasibility, enforceability or effectiveness of the proposed RMDP/SCP and associated mitigation measures currently under review in this EIS/EIR.

Location and Project Description

The NRMP is a long-term, master conservation and management plan that facilitates the construction of various infrastructure projects on lands adjacent to the Santa Clara River and two of its major tributaries (San Francisquito Creek and Santa Clara River South Fork). The permitted infrastructure includes new bank protection, new or widened bridges, inlet structures, storm drain outlets, and utility line crossings. The NRMP project area covers approximately 1,200 acres and includes portions of the South Fork of the Santa Clara River, Bouquet Creek, San Francisquito Creek, and the mainstem of the Santa Clara River. It applies from the eastern property line of the River Village project to Castaic Creek to the west, and to land located in the unincorporated areas of Los Angeles County (County) and in portions of the City of Santa Clarita (City). Specifically, the NRMP governs that portion of the Santa Clara River mainstem from Castaic Creek to one-half mile east of the Los Angeles Department of Water and Power Aqueduct, as well as portions of San Francisquito Creek and the Santa Clara River South Fork. The purpose of the NRMP is to minimize and mitigate significant impacts of proposed development on aquatic resources, jurisdictional waters, sensitive riparian resources, and other sensitive species.

NRMP Project Allocation

The NRMP project applicant was the Valencia Company -- a corporate entity affiliated with The Newhall Land and Farming Company. However, some of the projects permitted under the NRMP were (and are) to be carried out by the County Department of Public Works (DPW) and/or the City. Of the 32 NRMP projects initiated to date, 22 were implemented by the Valencia Company (*i.e.*, The Newhall Land and Farming Company). The other 10 remain the responsibility of DPW, the City, local utilities, and/or other third parties. Note also that the NRMP is a long-term planning document, and the projects described within the plan were to be implemented over the course of 20 years. This means that some components of

the plan and their associated mitigation measures have not yet been initiated. In fact, 23 of the original 57 projects listed in the NRMP have yet to be initiated.¹

Approval of the NRMP "Hybrid Avoidance Alternative" and the Final EIS/EIR

The Final EIS/EIR for the NRMP was published in August 1998, and identified the "Hybrid Avoidance Alternative" as the preferred alternative. A document entitled "Revised Mitigation Measures" was prepared pursuant to State CEQA Guidelines, section 15088.5, to clarify information regarding mitigation measures contained in the Final EIS/EIR.

On November 30, 1998, CDFG certified that the NRMP EIS/EIR was in compliance with CEQA, adopted written findings, and approved the NRMP Mitigation Monitoring and Reporting Program (MMRP). CDFG also approved the section 1603 Agreement and section 2081(b) Incidental Take Permit with the mitigation measures set forth in the NRMP Final EIS/EIR and the revised mitigation measures set forth in the MMRP. The Corps and the California Regional Water Quality Control Board (RWQCB) approved the Hybrid Avoidance Alternative version of the NRMP and the Final EIS/EIR in November 1998. The Corps issued a Record of Decision (ROD) on December 17, 1998 and the RWQCB issued Waste Discharge Requirements (WDRs) in lieu of section 401 Certification.

Timing of the NRMP Projects and Associated Mitigation

The individual NRMP projects are to be carried out by the Valencia Company, other third parties, utilities, DPW and/or the City as the need for flood control, drainage, transportation and other infrastructure. To date, only 32 of the 57 originally proposed projects have been initiated, three projects have been eliminated, one project added; the remaining 23 projects will be implemented as future development and infrastructure require.

Each project covered under the NRMP is subject to a host of mitigation measures, which address project-related impacts on biological resources and the jurisdictional waters of CDFG and/or the Corps. These mitigation measures are described in the MMRP that was approved along with the NRMP in 1998. The duty to implement these mitigation measures arises only after a particular project is identified for construction. This is true regardless of whether the mitigation duty falls to the Valencia Company, DPW, the City, or some other third party authorized under the NRMP. Should the responsible entity fail to adhere to the terms and conditions set forth in the MMRP, CDFG may take various administrative actions up to and including revocation of the permit(s) to which the mitigation measures attach.

¹ Please note that three of the original 57 projects have been eliminated from the NRMP. Specifically, two stabilization projects along the west bank of San Francisquito Creek, between Newhall Ranch Road and Decoro Bridge (Projects 32 and 33), were eliminated when a more refined analysis showed that the land uses to be protected by the bank stabilization improvements were actually located outside the anticipated flood zone, thereby rendering bank stabilization unnecessary. A third bank stabilization project (Project 24) -- this one to be implemented along the mainstem of the Santa Clara River at River Village -- was eliminated for similar reasons. Finally, one project was *added* to the NRMP. Specifically, following a series of heavy storms in 1998, the mainstem of the Santa Clara River flooded the historic Hart Pony League baseball field, causing extensive damage. To assist the community's effort to restore the field, The Newhall Land and Farming Company agreed to process and implement a bank stabilization project that would protect the field from future flood damage. This project was approved by the City of Santa Clarita in 2003 and completed in 2004.

Status of Species Covered by the Incidental Take Permits Authorized under CESA or Authorized under Federal ESA and other Special Status Species in the NRMP Project Area

Numerous commentors have claimed that certain threatened or endangered species have disappeared from the NRMP area as a result of its implementation. However, special status species surveys conducted for the NRMP between 1998 and the present documented the presence of all species listed in the CDFG Threatened and Endangered Species Incidental Take Permit, 2081 (b), and the Biological Opinion issued by the United States Fish and Wildlife Service (USFWS) for the NRMP, including the arroyo toad, the yellow-billed cuckoo, the least Bell's vireo and the southwestern willow flycatcher. The results of these surveys are included in **Appendix 4.5** of the Draft EIS/EIR, and specifically include surveys for riparian bird species (least Bell's vireo, southwestern willow flycatcher, and yellow billed cuckoo) and arroyo toad. In addition, other unlisted special status riparian bird species were also observed during these surveys. These included the great blue heron, great egret, white-tailed kite, Cooper's hawk, California horned lark, yellow warbler, yellow breasted chat, Southern California rufous crowned sparrow and the tri-colored blackbird.

The areas surveyed were broken into segments. The segments included Bouquet Canyon to upstream 2.5 miles; Bouquet Canyon Bridge to McBean Pkwy; McBean Pkwy to Old Road; Old Road to Castaic Junction; Castaic Creek from I-5 to the Santa Clara River; San Francisquito Creek from Copper Hill Road to the Santa Clara River; and the South Fork of the Santa Clara River from Newhall Creek to the confluence with the Santa Clara River. All of the species listed above, including each of the threatened and endangered species, were recorded in one of more of the surveys and in one or more of the survey areas.

NRMP surveys also documented the presence of the unarmored three-spined stickleback (UTS), arroyo chub, and Santa Ana sucker. CDFG staff continues to document UTS in locations where it was previously known to occur prior to the NRMP project. These include areas along the Santa Clara River and San Francisquito Creek. (See Final EIS/EIR, **Appendix F4.5**, Compliance Biology, Inc. letter, dated March 18, 2010, providing compendia of special status species survey information within Santa Clarita and the Natural River Management Plan Area.)

Arroyo toad surveys conducted between 2002 and 2004 for compliance with federal ESA found tadpoles, adult toads or heard calls for adult toads in upper San Francisquito Creek, the confluence of San Francisquito Creek with the Santa Clara River and at the Castaic Junction at the Santa Clara River and in the Santa Clara River just east of I-5. (See **Appendix 4.5** of the Draft EIS/EIR.)

Based on the results of the surveys required for the NRMP, the CDFG and the Corps have determined that no threatened or endangered, or fully protected species has been eliminated from the NRMP project area as a result of implementation of the NRMP. In addition, the commentors have not provided any evidence to support claims that threatened or endangered or fully protected species have been extirpated from the NRMP project area.

Relationship between the NRMP Projects and Mitigation and the RMDP/SCP EIS/EIR

As mentioned above, the NRMP is a separate, ongoing project that is not part of the proposed Project assessed in this EIS/EIR (*i.e.*, the RMDP and SCP). Therefore, prior and ongoing actions by CDFG, the Corps, the applicant and other parties in connection with the NRMP are not relevant to the feasibility,

enforceability or effectiveness of the proposed RMDP/SCP and associated mitigation measures currently under review in this EIS/EIR. Moreover, the analysis of biological resources in this EIS/EIR, including impacts to threatened or endangered, and fully protected species, accounted for the current status of such species within the NRMP area to the extent necessary to evaluate baseline conditions against which the impacts of the proposed Project were measured. Furthermore, this EIS/EIR analyzed the cumulative impacts to such species from past, present and reasonably foreseeable future projects within the geographic scope of the cumulative effect, including the various NRMP projects.