

ATTACHMENT 1

Biological Evaluation – Laguna County Sanitation District Class I UIC Permit

Action and Action Area

Since May 2000, Laguna County Sanitation District (LCSD) has operated the LCSD waste injection facility (Facility). LCSD has been operating under a Class I UIC permit (Permit No. CA1090004) issued by EPA in March 2010. In September 2020, LCSD submitted an application to renew its existing Class I permit for the injection of wastewaters from the LCSD wastewater treatment facility. The Facility is located in the City of Rancho Guadalupe, California. The facility consists of one existing UIC Class I well (Union Sugar No. 13). The action area is the injection well and service road located at the Facility as shown in the 2021 project site photographs (see attached).

Impact to Threatened and Endangered Species

Under Section 7 of the ESA, EPA is required to ensure that any action authorized by EPA does not jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. EPA used information from the project site photographs and description of the facility provided in the renewal application. A U.S. Fish and Wildlife Service (USFWS) IPaC report, generated on August 16, 2021, identified eleven (11) threatened or endangered species as potentially occurring in the vicinity of the LCSD injection facility and no critical habitats within the project area. The species are identified in Table 1.

Table 1. Species Determination

| Common Name | Latin Name | Federal Status | Critical Habitat |
|--------------------------------|----------------------------|-----------------------|-------------------------|
| Least Bell's Vireo | Vireo bellii pusillus | Endangered | No* |
| Marbled Murrelet | Brachyramphus marmoratus | Threatened | No* |
| Southwestern Willow Flycatcher | Empidonax traillii extimus | Endangered | No* |
| California Red-legged Frog | Rana draytonii | Threatened | No* |
| California Tiger Salamander | Ambystoma californiense | Endangered | No* |
| Tidewater Goby | Eucyclogobius newberryi | Endangered | No* |
| Vernal Pool Fairy Shrimp | Branchinecta lynchi | Threatened | No* |
| Gambel's Watercress | Rorippa gambellii | Endangered | No |
| La Graciosa Thistle | Cirsium loncholepis | Endangered | No* |

| | | | |
|------------------------|---|------------|----|
| Marsh Sandwort | <i>Arenaria paludicola</i> | Endangered | No |
| Salt Marsh Bird's-beak | <i>Cordylanthus maritimus</i> ssp. <i>maritimus</i> | Endangered | No |

*These species have designated critical habitat outside of the action area

Birds

Least Bell's Vireo's (*Vireo bellii pusillus*) habitat includes dense shrubs and small trees along rivers or streams (<https://www.fws.gov/sacramento>). The action area does not provide suitable habitat to the species because there are no trees or shrubs. The action area consists of dirt, concrete and is surrounded by row crops. Therefore, EPA has determined the action will not effect the Marbled Murrelet

The Marbled Murrelet's (*Brachyramphus marmoratus*) breeding range extends from Bristol Bay, Alaska, south coastally throughout the Alexander Archipelago of Alaska, and through British Columbia, Washington, Oregon, to northern Monterey Bay in central California. Marbled murrelets spend the majority of their lives on the ocean but come inland to nest. They generally nest in old-growth forests, characterized by large trees, multiple canopy layers, and moderate to high canopy closure. In California, nests are typically found in coastal redwood and Douglas-fir forests (https://www.fws.gov/arcata/es/birds/mm/m_murrelet.html). The action area is not adjacent to any forests and contains no suitable large trees for habitat. Therefore, EPA has determined the action will not effect the Marbled Murrelet.

The Southwestern Willow Flycatcher (*Empidonax traillii extimus*) are known to occupy suitable habitat ranging from southern California, through southern Nevada, southern Utah, Arizona, New Mexico, southwestern Colorado, and historically included western Texas and extreme northwestern Mexico. Southwestern Willow Flycatchers require moist microclimatic and vegetative conditions and breed only in dense riparian vegetation near surface water or saturated soil. While wet conditions are uniformly required, the structure and species of vegetation in which they nest vary by region and availability. The birds frequently build nests in vegetation that typically stands of 4–7 m in height (<https://www.nps.gov/articles/southwestern-willow-flycatcher.htm>). The action area has no vegetation that is 4 – 7 m in height, and does not contain riparian vegetation. Therefore, EPA has determined the action will not effect the Southwestern Willow Flycatcher.

Amphibians

The California Red-legged Frog (*Rana draytonii*) is found primarily in coastal drainages of central California, from Marin County, California, south to northern Baja California, Mexico. The California red-legged frog occupies a fairly distinct habitat, combining both specific water (aquatic) and upland (terrestrial) components. California red-legged frog habitat includes nearly any area within 1-2 miles of a breeding site that stays moist and cool through the summer; this includes non-breeding aquatic habitat in pools of slow-moving streams, perennial or ephemeral ponds and upland sheltering habitat such as rocks, small mammal burrows, logs, densely vegetated areas (https://www.fws.gov/sacramento/es_species/Accounts/Amphibians-Reptiles/ca_red_legged_frog/). While it is possible that there are breeding sites within 1-2 miles of the action area and California Red-legged Frogs could potentially pass through the action area, the action area is exposed to the sun and heat

during the summer and does not have densely vegetated areas. Therefore, EPA has determined the action will not effect the California Red-legged Frog.

The California tiger Salamander's (*Ambystoma californiense*) habitat is restricted to grasslands and low foothills with pools or ponds that are necessary for breeding (https://www.fws.gov/sacramento/es_species/Accounts/Amphibians-Reptiles/ca_tiger_salamander/). The action area has no pools, ponds or grasslands. Therefore, EPA has determined the action will not effect the California Tiger Salamander.

Fishes

Tidewater Goby's (*Eucyclogobius newberryi*) live at the bottom of shallow bodies of water. Its habitat is characterized by brackish (somewhat salty) water in shallow lagoons and in lower stream reaches where the water is fairly still but not stagnant. The tidewater goby is mostly restricted to waters with low to moderate salinities in California's coastal wetland habitats. All life stages of the tidewater goby typically are found in lagoons in areas of low to moderate salinity (<https://www.fws.gov/arcata/es/fish/goby/goby.html>). The action area contains no brackish, shallow lagoons or streams. Therefore, EPA has determined the action will not effect the Tidewater Goby.

Crustaceans

Vernal Pool Fairy Shrimp's (*Branchinecta lynchi*) includes vernal pools, seasonal wetlands, and stagnant ditches that fill with water during fall and winter rains and dry up in spring and summer (<https://www.fws.gov/oregonfwo/articles.cfm?id=149489448>). The action area contains no seasonal wetlands or pools. Therefore, EPA has determined the action will not effect the Vernal Pool Fairy Shrimp.

Plants

Gambell's Watercress (*Rorippa gambellii*) historically occurred in interior wetland areas of San Diego, San Bernardino, and Los Angeles counties as well as coastal wetland areas of San Luis Obispo and Santa Barbara counties. Only three populations are known to exist, none of which are at or adjacent to the action area (<https://wildlife.ca.gov/Conservation/Plants/Endangered/Nasturtium-gambelii>). There are no wetland areas in the action area. Therefore, EPA has determined that the action will not effect the Gambell's Watercress.

La Graciosa thistle (*Cirsium loncholepis*) has only been found on the coast of southern San Luis Obispo and northern Santa Barbara counties, and grows in riparian habitat, often around seeps or in marshes (<https://wildlife.ca.gov/Conservation/Plants/Endangered/Cirsium-scariosum-var-loncholepis>). There are no seeps, marshes or riparian habitat in the action area. Therefore, EPA has determined the action will not effect the La Graciosa thistle.

Marsh Sandwort (*Arenaria paludicola*) is a coastal species that was historically known to occur in wetlands and in freshwater marshes. Plants have been documented in areas with or without standing water and in acidic, organic bog soils and sandy substrates with high organic content (https://www.fws.gov/wafwo/species/Fact%20sheets/MarshSandwort_factsheet.pdf). There are no wetlands or freshwater marshes within the action area. Therefore, EPA has determined the action will not effect the Marsh Sandwort.

Salt Marsh Bird's Beak (*Cordylanthus maritimus* ssp. *Maritimus*) is found in disjunct coastal salt marshes of southern and central California and adjacent northern Baja California, Mexico. Plants have naturally patchy distributions in sites subject to only higher tidal influxes in coastal salt marshes (https://www.fws.gov/carlsbad/SpeciesStatusList/5YR/20090813_5YR_CHMAMA.pdf). There are no coastal salt marshes within the action area. Therefore, EPA has determined the action will not effect the Salt Marsh Bird's Beak.

Conclusion

Considering all the information available, EPA concludes that the reissuance of this permit will not affect any of the above listed species. There is no designated critical habitat for any of the listed species within the action area. A copy of the draft fact sheet and permit was provided to the Ventura Field Office of the USFWS for review and comment prior to and during the 30-day public review period. If, in the future, EPA obtains information or is provided information that indicates that there could be adverse impacts to federally listed species, EPA will contact the appropriate agency or agencies and initiate consultation, to ensure that such impacts are minimized or mitigated. In addition, re opener clauses have been included should new information become available to indicate that the requirements of the permit need to be changed.