



East Bay Municipal Utility District **Wildcat Pumping Plant Project** **Final Biological Resources Technical Report**

June 2021

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1 Introduction

1.1 Project Overview

The East Bay Municipal Utility District (EBMUD) is proposing to construct a new Wildcat Pumping Plant (PP) at EBMUD's existing Road 20 Rate Control Station (RCS) site in the City of San Pablo in Contra Costa County (Figure 1 and Figure 2). The Wildcat PP would replace the existing Road 20 PP (approximately 10-million-gallon-per-day [mgd] capacity). The Wildcat PP Project (project) is necessary to improve the reliability of water service to major portions of the Aqueduct Pressure Zone (PZ) and to provide transmission capacity south from the Sobrante Water Treatment Plant (WTP) during Orinda WTP, Claremont Tunnel, and Wildcat Aqueduct planned and unplanned outages that could occur due to maintenance and inspection or emergency shutdowns. Although the existing Road 20 PP and San Pablo WTP have been providing service in the event of outages, the Road 20 PP is a temporary facility that cannot meet all the demands in the Aqueduct PZ and upper cascades, and the San Pablo WTP is an aging facility that is planned to be decommissioned. The project will also allow EBMUD to distribute water that is stored in San Pablo Reservoir and treated at Sobrante WTP to EBMUD's West of Hills service area, particularly in drought years.

The project includes the following primary components:

- Construction of a new 25-mgd Wildcat PP (shown in Figure 3) at the existing Road 20 RCS site at the intersection of El Portal Drive and Road 20 in the City of San Pablo;
- Replacement of a 4-inch slow-venting air valve near 1303 Walnut Street in the City of Berkeley and installation of a new 2-inch slow-venting air valve at Crockett PP, west of San Pablo Avenue at Robert Miller Drive in the City of San Pablo;
- Construction of an onsite stormwater drainage system that would connect to a new manhole and storm drain pipeline on El Portal Drive, which would extend westerly for approximately 725 feet before connecting to an existing curb inlet on the south side of Road 20; and
- Construction of approximately 170 feet of new 36-inch-diameter suction and discharge pipelines, which would be installed on site to connect the new Wildcat PP to the existing Wildcat Aqueduct.

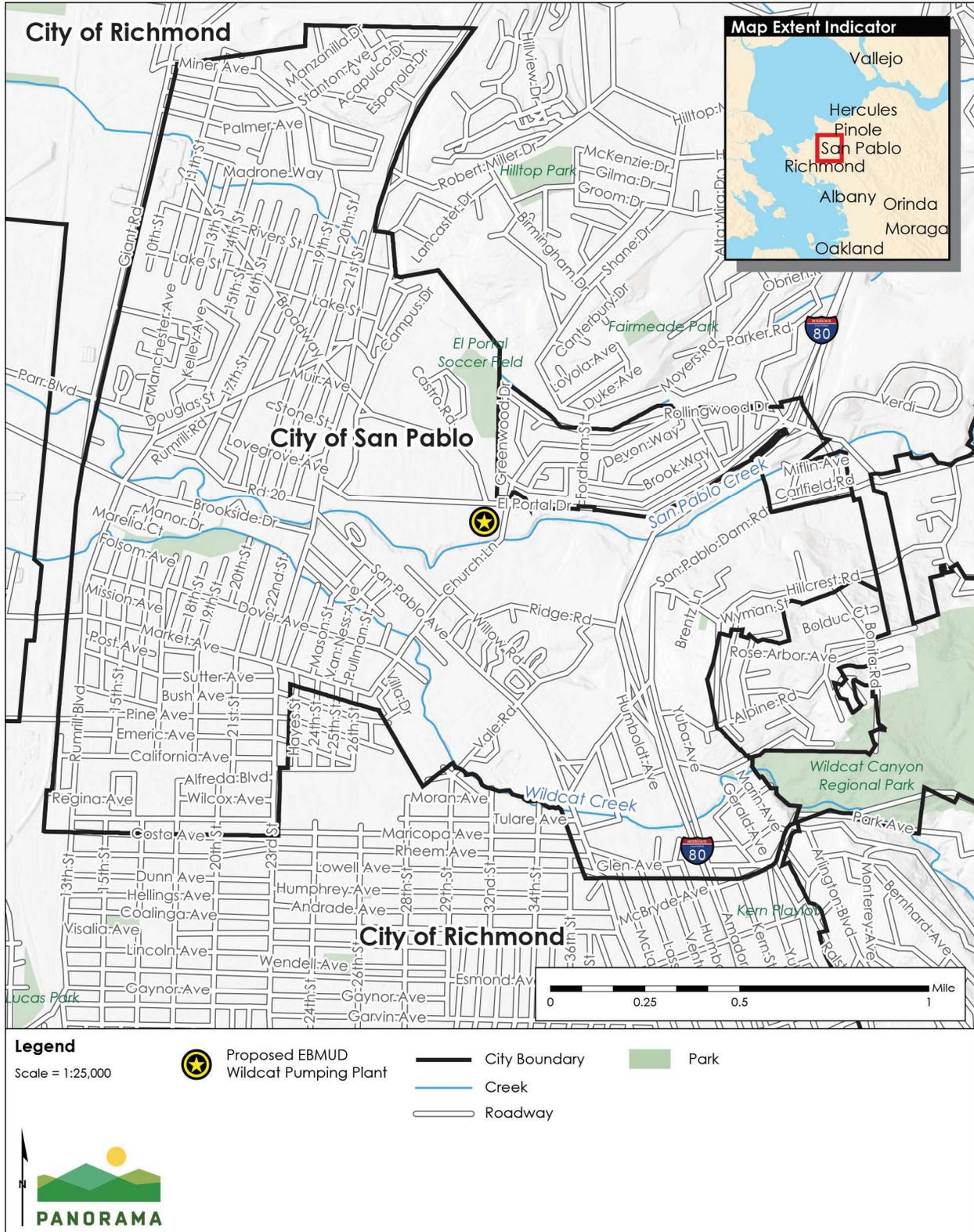
The Wildcat PP would consist of four approximately 8-mgd variable frequency drive pumps (for a total capacity of 25 mgd) and associated mechanical and electrical equipment located inside an approximately 40-foot-wide, 80-foot-long, and 24-foot-tall building. The site will be

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enclosed by an eight-foot-high, black-vinyl coated security chain link fence on all sides with the exception of the south and southeastern sides where an eight-foot-high concrete masonry unit (CMU) wall topped with barbed wires will be installed in place of the chain link fence. The Wildcat PP would include an approximate 25-foot-tall antenna (from the ground floor), outdoor light fixtures; site access double swing gates; a parking area; outdoor transformer and switchgear; auto-transfer switch; generator control panel; and staging areas for a temporary emergency generator, portable diesel tank, and portable pumps. The existing Road 20 PP will be removed from the project site after the project is constructed. However, the existing portable pump connections will remain for emergencies and unplanned outages of the Wildcat PP. The project would also include building architectural and landscape treatments, as well as stormwater bioretention features, as described in the *East Bay Municipal Utility District Wildcat Pumping Plant Project Aesthetics Conceptual Design Report* (Panorama Environmental, Inc., MWA Architects, and Dillingham Associates, 2021).

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Figure 1 Regional Location



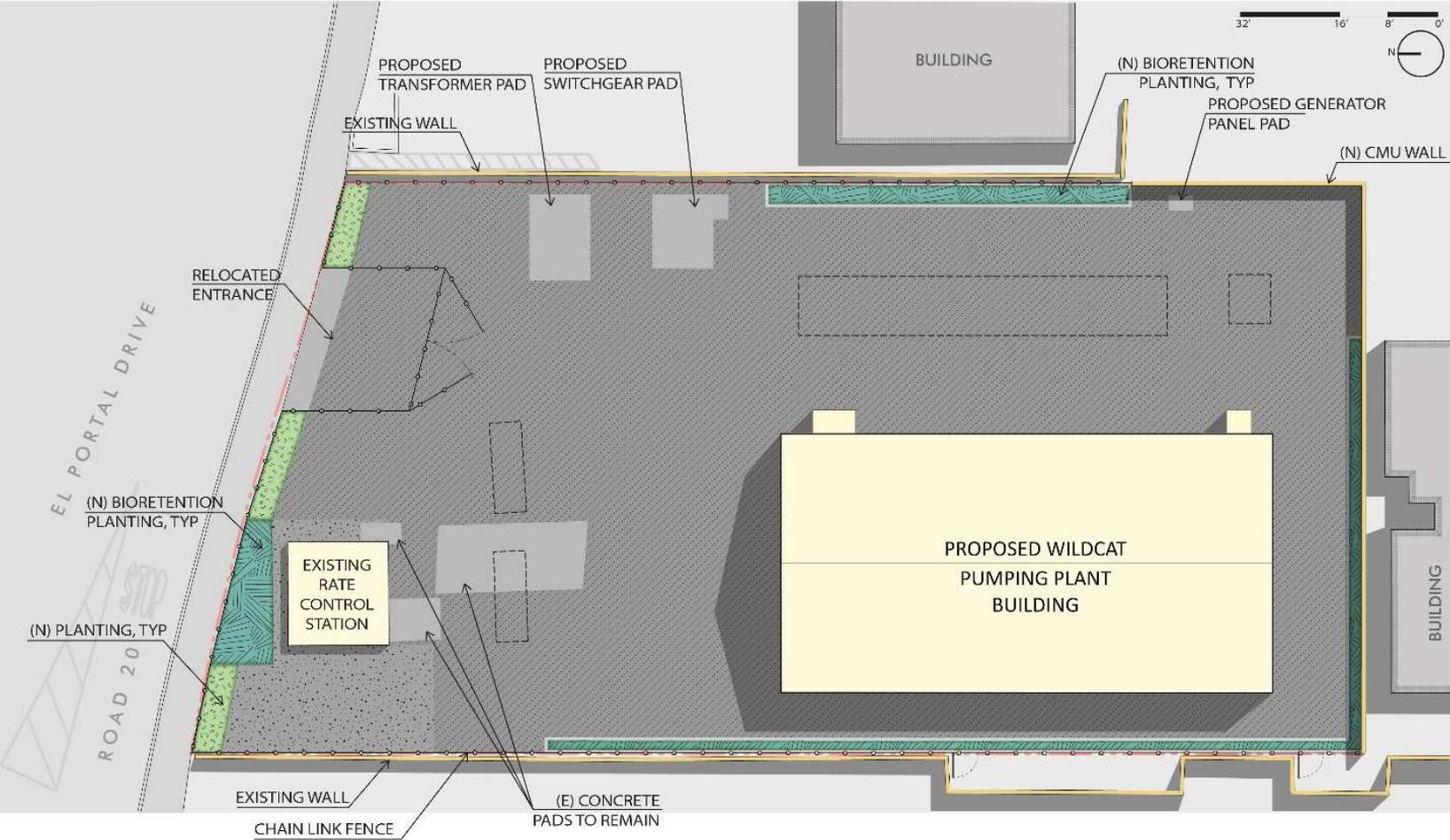
1 INTRODUCTION

Figure 2 Wildcat Pumping Plant Site and Road 20 Storm Drain Pipeline Alignment



1 INTRODUCTION

Figure 3: Wildcat Pumping Plant Site Plan



LEGEND

| | | | | | |
|-----------------|----------------|---------------|-----------------------|----------------|----------------------------------|
| CONCRETE PAVING | ASPHALT PAVING | GRAVEL PAVING | BIORETENTION PLANTING | PLANTING STRIP | TEMPORARY EQUIPMENT STAGING AREA |
| | | | | | |

Source: (EBMUD, 2021)

2 Environmental Setting

2.1 Overview

The project site is located in the City of San Pablo in northwestern Contra Costa County, approximately 2 miles east of the San Francisco Bay. The project site is located in an urban setting, surrounded by developed residential and commercial land uses on all sides, and is mostly paved. Vegetation at the site is limited to small, landscaped areas with ornamental trees and shrubs. Approximately 13 mature, ornamental trees are present within the project site. The trees are located between 60 and 200 feet away from the nearest public right-of-way of El Portal Drive; therefore, none of the trees on the project site are considered street trees. The new storm drain pipeline on El Portal Drive would be installed entirely within existing paved roadways.

2.2 Desktop-Level Review

A desktop-level review was conducted to establish a baseline understanding of the biological setting of the project area. Specific sources that were reviewed include:

- City of San Pablo Municipal Code, Master Landscape Plan, and General Plan (City of San Pablo, 2011; City of San Pablo; City of San Pablo, 2015)
- U.S. Fish and Wildlife Service (USFWS) San Pablo Bay National Wildlife Refuge Comprehensive Conservation Plan (USFWS, 2011)
- East Contra Costa County Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP) (East Contra Costa County Habitat Conservation Plan Association, 2006)
- California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB) records (CDFW, 2021)
- Special Vascular Plants, Bryophytes, and Lichens List (CDFW, 2021)
- Special Animals List (CDFW, 2021)
- USFWS Information for Planning and Consultation (IPaC) (USFWS, 2021)
- USFWS Official Species List (USFWS, 2021)
- California Native Plant Society (CNPS) Electronic Inventory records (CNPS, 2021)
- CNPS list of Rare, Unusual and Significant Plants of Alameda and Contra Costa Counties (CNPS, 2021)

Queries of online databases were conducted on April 21, 2021. CNDDDB and CNPS electronic inventory databases were queried for one quadrangle (Richmond quad). The CNPS list of Rare, Unusual and Significant Plants of Alameda and Contra Costa counties was queried for the “FIN – Flatlands (North)” region. The USFWS IPaC database was queried for the project site and the new storm drain pipeline alignment, in accordance with the database query procedure

2 ENVIRONMENTAL SETTING

recommended by USFWS. Species identified from federal and state databases are considered special-status and included in this report if listed under the Federal Endangered Species Act, State Endangered Species Act, CDFW Fully Protected status, CDFW Species of Special Concern, or the CNPS Rare Plant Ranking system. All special-status species that were returned from the database queries are included and evaluated for their potential to occur at the project site in Appendix A.

2.3 Special-Status Species

Because the project site is located in an urban setting and is mostly paved with limited ornamental vegetation, the project site does not provide suitable habitat for any special-status species with known occurrences in the region, as defined by the project quadrangle according to CNDDDB and CNPS electronic inventory databases, the FIN-Flatlands (North) region for the CNPS list of Rare, Unusual and Significant Plants of Alameda and Contra Costa counties, and the extent of the internal species occurrence ranges managed by USFWS for the IPaC database¹. Therefore, based on field observations and a desktop-level review of species habitat requirements and CDFW, CNPS, and USFWS species occurrence databases, no special-status species have the potential to occur at the project site and along the new storm drain pipeline alignment. Appendix A lists all the special-status plant and wildlife species that were identified to occur in the project region, as defined above. Appendix A also provides an evaluation of each species' potential to occur within the project site.

2.4 Nesting Birds

The project site contains manmade structures and landscaped vegetation, including several mature ornamental trees, that may provide nesting habitat for resident and migratory birds. Active bird nests (i.e., nests that contain eggs or young) are protected under the Migratory Bird Treaty Act and the California Fish and Game Code (USFWS, 2004; CDFW, 2007). Raptors are not expected to nest near the project site due to the lack of foraging and nesting habitat, but the ornamental trees on site could support nesting by some common passerine bird species, such as Anna's hummingbird (*Calypte anna*) and northern mockingbird (*Mimus polyglottos*). The bird

¹ To query the IPaC database, USFWS directs the user to input the boundaries of the area where specific project activities will occur. The IPaC system then automatically generates a list of special-status species that have the potential to occur within that project impact area, based on USFWS's internally managed data on species ranges. Therefore, for an IPaC query, USFWS internally determines the extent of a project region and the species with potential to occur in a project impact area. The species ranges and extent of a project region are not publicly available.

2 ENVIRONMENTAL SETTING

nesting season generally occurs between February 1 and August 31 each year, which represents the time period when trees and vegetation may have the potential to contain an active bird nest.

2.5 Sensitive Natural Communities, Wetlands, and Migratory Corridors

Vegetation at the project site is limited to small, landscaped areas with mature ornamental trees and shrubs. Based on field observations and a review of aerial imagery, no riparian habitat, sensitive natural communities, wetlands, wildlife movement corridors, or native wildlife nursery sites are present at the project site and along the new storm drain pipeline alignment. Riparian habitat associated with San Pablo Creek is present approximately 200 feet south of the project site, with a developed apartment complex (Kona Apartments) located in between.

2.6 Habitat Conservation Plans

The project site and new storm drain pipeline alignment are not located within any HCP areas. The nearest identified HCP areas to the project site are the San Pablo Bay National Wildlife Refuge Comprehensive Conservation Plan area located approximately 10 miles to the north and the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan area located approximately 17 miles to the east (USFWS, 2011; East Contra Costa County Habitat Conservation Plan Association, 2006).

3 Regulatory Setting

3.1 Federal Regulations

3.1.1 Endangered Species Act

The federal Endangered Species Act (ESA) provides protection for plants and animals listed as threatened or endangered by USFWS and the National Oceanic and Atmospheric Administration Marine Fisheries Service (USFWS, 1973). Section 9 of the federal ESA (50 Code of Federal Regulations [CFR] 17.3) prohibits the take, possession, sale, or transport of any federal ESA-listed species. Take is defined as “to harass, harm, pursue, hunt, shoot, wound, kill, capture, collect, or attempt to engage in any such conduct” (16 U.S. Code [USC] Section 1532[19]). Federal regulation 50 CFR 17.3 further defines the term harm in the take definition to mean any act that actually kills or injures a federally-listed species, including significant habitat modification or degradation. For plants, the federal ESA prohibits removing, possessing, maliciously damaging, or destroying any listed plant on areas under federal jurisdiction, and removing, cutting, digging up, damaging, or destroying any listed plant on non-federal land in knowing violation of state law (16 USC Section 1538[a][2][B]).

3.1.2 Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) provides protection for migratory birds (USFWS, 2004). Conditions for permits to “take” migratory birds (as defined in the MBTA) are set forth in 50 CFR Part 13 (General Permit Procedures) and 50 CFR Part 21 (Migratory Bird Permits). Unless expressly authorized in the regulations or by permit, activities such as hunting, pursuing, capturing, killing, selling, and shipping migratory birds are prohibited. This protection extends to all migratory birds, parts, nests, and eggs. The full list of species protected under this act is found in 50 CFR 10.13.

3.1.3 Clean Water Act of 1977

Clean Water Act of 1977

The Clean Water Act (CWA) is intended to restore and maintain the chemical, physical, and biological integrity of the nation’s waters (33 CFR 1251) (U.S. Environmental Protection Agency, 1972). The regulations implementing the CWA protect “Waters of the United States,” including streams and wetlands (33 CFR 328.3). U.S. Army Corps of Engineers and U.S. Environmental Protection Agency have jurisdiction over waters of the U.S., which include areas classified as Wetlands, Navigable Water, or Other Waters, and include marine waters, tidal areas, stream channels, and associated wetlands. Under federal regulations, wetlands are defined as “those areas that are inundated or saturated by surface or ground water at a frequency and duration

3 REGULATORY SETTING

sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions” (33 CFR 328.3[b]).

3.2 State Regulations

3.2.1 California Endangered Species Act

The California ESA provides protection for candidate plants and animal species as well as those listed as threatened or endangered by CDFW (CDFW, 1984). The California ESA prohibits the take of any such species unless authorized. Take is defined in the Fish and Game Code Section 86 as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill” (California Fish and Game Code Section 86). CDFW administers the act and authorizes take through Section 2081 agreements, Section 2080.1 consistency determinations (for species that are also listed under the federal ESA), or NCCPs.

3.2.2 California Fish and Game Code

California Fish and Game Code requires state agencies to comply with regulations that promote the protection and conservation of threatened and endangered species (CDFW, 1957).

Regulations in place include:

- **California Species Preservation Act.** Provides for the protection and enhancement of listed species in California
- **Raptor Protection.** Prohibits killing of raptor species and destruction of raptor nests
- **Protection for Birds.** Sections 3503 and 3503.5 make it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird; it is also unlawful to take possess or destroy of birds of prey or their nests or eggs
- **Native Plant Protection Act.** Prohibits the take of rare, threatened, or endangered plants
- **Protection for Wetland and Riparian Habitats.** Requires a lake or streambed alteration agreement for activities that impact these habitats
- **Take of Rare Plants.** CDFW may issue permits, plans, or programs that authorize rare plant impacts
- **Fully Protected Species.** Sections 3511, 4700, 5050, and 5515 of the California Fish and Game Code provide guidelines to protect wildlife species that are designated as “fully protected” by the CDFW. Before the implementation of California ESA and federal ESA, the State of California designated species as “fully protected” to provide protection for species that were rare or threatened with possible extinction/extirpation. Many of these “fully protected” species have since been listed under CESA as threatened or endangered species. Most “fully protected” species cannot be harmed, taken, or possessed at any time, because the designation as “fully protected” provides the same level of protection as a listed species. CDFW may permit the incidental take of “fully

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protected” species pursuant to a NCCP plan approved by CDFW, as long as the plan’s conservation and management guidelines adequately protect these species, and the species is covered under the plan.

3.2.3 Porter-Cologne Water Quality Control Act and Clean Water Act Section 401

The State Water Resources Control Board administers the Porter-Cologne Water Quality Control Act and Section 401 of the Clean Water Act, typically through its Regional Water Quality Control Boards (California State Water Resources Control Board, 2021). The Porter-Cologne Water Quality Control Act, Water Code Section 13260, requires that, “any person discharging waste, or proposing to discharge waste, within any region that could affect the ‘waters of the state’ to file a report of discharge” with the Regional Water Quality Control Board. Waters of the state as defined in the Porter-Cologne Act (Water Code § 13050 [e]) are “any surface water or groundwater, including saline waters, within the boundaries of the state.”

3.3 Local Regulations

3.3.1 Overview

Pursuant to California Government Code Section 53091, EBMUD, as a local agency and utility district, is not subject to building and land use zoning ordinances (such as tree ordinances) for projects involving facilities for the production, generation, storage, treatment, or transmission of water. However, EBMUD’s practice is to work with local jurisdictions and neighboring communities during project planning, and to consider local environmental protection policies for guidance.

3.3.2 San Pablo General Plan 2030

The San Pablo General Plan 2030 contains the following policy related to biological resources (City of San Pablo, 2011).

LU-I-11. Enhance the City's unique identity and image by adopting a consistent palette of landscaping, street trees, lighting, and signage within the public right-of-way for neighborhood and street improvements.

Large canopy street trees, such as oaks or the London Plane tree, can create a distinct character for San Pablo. They also provide important environmental benefits.

3.3.3 City of San Pablo Master Landscape Plan

The City of San Pablo adopted a Master Landscape Plan which provides guidelines for planting, maintenance, and removal of street trees, as well as selection of appropriate species for street trees based on location and conditions (City of San Pablo).

3.3.4 San Pablo Municipal Code

Chapter 17.48 of the San Pablo Municipal Code outlines standards for landscaping in the city, and Section 17.48.080 of this chapter contains requirements that apply to the removal of trees

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under development projects (City of San Pablo, 2015). Section 17.47.080 of the code specifies that the applicant of any new residential or commercial development is required to retain a certified arborist to evaluate protected tree resources on the project site, identify trees that will be retained, and identify appropriate tree protection measures. Removal of qualifying protected trees may require approval from city officials as well as tree replacement according to specified guidelines.

Section 17.48.020 of the San Pablo Municipal Code outlines the applicability of all of Chapter 17.48, and describes conditions under which a project may be exempt from all the requirements of the chapter. One exemption listed under Section 17.48.020 includes “Any project with a landscaped area less than 1,000 square feet. (Ord. 02-004 Section 1 (part), 2002).”

3.3.5 EBMUD Standard Construction Specifications

EBMUD Standard Construction Specifications set forth the contract requirements for environmental compliance to which construction workers must adhere and stipulate that the construction contractor is responsible for maintaining compliance with applicable federal, state, and local requirements. These specifications are implemented on all EBMUD projects as part of standard construction procedures. Specifically, Standard Construction Specification 01 35 44, Environmental Requirements, requires implementation of measures to minimize potential impacts to special-status species and nesting birds (EBMUD, 2020a).

In accordance with Section 3.8, Protection of Birds Protected Under the Migratory Bird Treaty Act and Roosting Bats, of Standard Construction Specification 01 35 44, Environmental Requirements, the EBMUD and its contractor would be required to implement the following measures for potential nesting birds:

- It is unlawful to pursue, hunt, take, capture, or kill any migratory bird without a permit issued by the U.S. Department of the Interior.
- If construction commences between February 1 and August 31, during the nesting season, EBMUD must conduct a preconstruction survey for nesting birds within 7 days prior to construction to ensure that no nest will be disturbed during construction.
- If active nests of migratory bird species (listed in the MBTA) are found within the project site, or in areas subject to disturbance from construction activities, an avoidance buffer to avoid nest disturbance must be constructed. The buffer size will be determined by EBMUD in consultation with CDFW and is based on the nest location, topography, cover, and species’ tolerance to disturbance.
- If an avoidance buffer is not achievable, a qualified biologist provided by EBMUD will monitor the nest(s) to document that no take of the nest (nest failure) has occurred. Active nests must not be taken or destroyed under the MBTA and, for raptors, under the CDFW Code. If it is determined that construction activity is resulting in nest disturbance, work should cease immediately and the contractor must notify the engineer who will consult with the qualified biologist and appropriate regulatory agencies.

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- If preconstruction surveys indicate that nests are inactive or potential habitat is unoccupied during the construction period, no further action is required. Trees and shrubs within the construction footprint that have been determined to be unoccupied by special-status birds or that are located outside the avoidance buffer for active nests may be removed. Nests initiated during construction (while significant disturbance from construction activities persist) may be presumed to be unaffected, and only a minimal buffer, determined by EBMUD's biologist, would be necessary.

4 Project Impacts and Mitigation Measures

4.1 Significance Criteria

Consistent with Appendix G of the CEQA Guidelines, the project is considered to have a significant impact related to biological resources if it would:

- a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.
- b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS.
- c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

4.2 Impacts and Mitigation Measures

Impact Biological Resources-1: Potential to have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. (*Less than Significant*)

Construction

Special-Status Species

As discussed under Section 2.3, no habitat for special-status species is present at the project site. As such, the project has no potential to impact special-status species.

Nesting Birds

Implementation of the proposed project would result in removal of vegetation within the project site, including shrubs and approximately 13 mature trees. If vegetation removal

4 PROJECT IMPACTS AND MITIGATION MEASURES

activities occur between February 1 and August 31, these activities have the potential to adversely impact nesting birds if an active bird nest is present within the vegetation.

As detailed in Section 3.3.5, EBMUD standard practices and procedures, applicable to all EBMUD projects, that would be implemented as part of the project would reduce the project's potential to impact nesting birds. Section 3.8, Protection of Birds Protected Under the Migratory Bird Treaty Act and Roosting Bats, of EBMUD Standard Construction Specification 01 35 44, Environmental Requirements, would be implemented as part of the project and requires the implementation of the following requirements:

- It is unlawful to pursue, hunt, take, capture, or kill any migratory bird without a permit issued by the U.S. Department of the Interior.
- If construction commences between February 1 and August 31, during the nesting season, EBMUD must conduct a preconstruction survey for nesting birds within 7 days prior to construction to ensure that no nest will be disturbed during construction.
- If active nests of migratory bird species (listed in the MBTA) are found within the project site, or in areas subject to disturbance from construction activities, an avoidance buffer to avoid nest disturbance must be constructed. The buffer size will be determined by EBMUD in consultation with CDFW and is based on the nest location, topography, cover and species' tolerance to disturbance.
- If an avoidance buffer is not achievable, a qualified biologist provided by EBMUD will monitor the nest(s) to document that no take of the nest (nest failure) has occurred. Active nests must not be taken or destroyed under the MBTA and, for raptors, under the CDFW Code. If it is determined that construction activity is resulting in nest disturbance, work should cease immediately and the contractor must notify the engineer who will consult with the qualified biologist and appropriate regulatory agencies.

Because compliance with existing regulations is mandatory and EBMUD and its contractor would implement EBMUD Standard Construction Specifications 01 35 44, Environmental Requirements, as part of the project, and requires completion of preconstruction surveys for nesting birds and implementation of avoidance buffers or biological monitoring around any active nests to ensure no take of the nest occurs, impacts to nesting birds from construction of the project would be less than significant.

Operation

As discussed under Section 2.3, no habitat for special-status species is present at the project site. Operation of the proposed project would not involve any removal of vegetation or structures, or any other activities that could potentially affect special-status species or nesting birds. Therefore, operation of the project has no potential to impact special-status species or nesting birds. No impact would occur.

4 PROJECT IMPACTS AND MITIGATION MEASURES

Impact Biological Resources-2: Potential to have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS. (No Impact)

Construction and Operation

As discussed under Section 2.5, no riparian habitat or sensitive natural communities are present at the project site and along the new storm drain pipeline alignment. Therefore, the project has no potential to impact riparian habitat or sensitive natural communities. No impact would occur.

Impact Biological Resources-3: Potential to have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. (No Impact)

Construction and Operation

As discussed under Section 2.5, no wetlands are present at the project site and along the new storm drain pipeline alignment. Therefore, the project has no potential to impact wetlands. No impact would occur.

Impact Biological Resources-4: Potential to interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (No Impact)

Construction and Operation

As discussed under Section 2.5, no migratory wildlife corridors or native wildlife nursery sites are present at the project site and along the new storm drain pipeline alignment. Therefore, the project has no potential to impact any wildlife corridors or nursery sites. No impact would occur.

Impact Biological Resources-5: Potential to conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. (No Impact)

Construction

Construction of the proposed project would involve the removal of approximately 13 mature ornamental trees on the project site. The San Pablo General Plan 2030 and City of San Pablo Master Landscape Plan contain policies and guidelines that apply to street trees; however, none of the trees within the project site are considered street trees as they are all located over 60 feet away from the nearest public right-of-way of El Portal Drive. Therefore, the removal of trees within the project site would not conflict with any policies or guidelines listed in the San Pablo General Plan 2030 or the City of San Pablo Master Landscape Plan.

Chapter 17.48 of the San Pablo Municipal Code contains tree evaluation and replanting requirements that apply to development projects that contain trees within the project footprint. However, Section 17.48.020 of the San Pablo Municipal Code specifies conditions under which a project may be exempt from all the requirements of Chapter 17.48, and includes an exemption for any project with a landscaped area less than 1,000 square feet. (Ordinance 02-004 Section 1 [part], 2002). The proposed project site contains less than 1,000 square feet of landscaped area

4 PROJECT IMPACTS AND MITIGATION MEASURES

(Panorama Environmental, Inc., MWA Architects, and Dillingham Associates, 2021). Therefore, the proposed project is exempt from the tree evaluation and replanting requirements listed under Chapter 17.48, and removal of the trees within the project site during construction would not conflict with the San Pablo Municipal Code. Construction of the proposed project would not conflict with the San Pablo General Plan 2030, City of San Pablo Master Landscape Plan, San Pablo Municipal Code, or any other local policy or ordinance protecting biological resources. No impact would occur.

Operation

No vegetation removal or any other activity that could potentially conflict with a policy or ordinance protecting biological resources would occur during operation of the proposed project. No impact would occur.

Impact Biological Resources-6: Potential to conflict with the provisions of an adopted HCP, NCCP, or other approved local, regional, or state habitat conservation plan. (*No Impact*)

Construction and Operation

As discussed under Section 2.6, the project site is not located within the coverage area of any adopted HCPs, NCCPs, or other approved local, regional, or state habitat conservation plan. Therefore, the project has no potential to conflict with such a plan. No impact would occur.

5 References

- California State Water Resources Control Board. (2021). *Porter-Cologne Water Quality Control Act*.
- CDFW. (1957). *Fish and Game Code*.
- CDFW. (1984). *California Endangered Species Act*.
- CDFW. (2007). *California Fish and Game Code Chapter 1. General Provisions Section 3500-3516*.
- CDFW. (2021). *California Natural Diversity Database*. Retrieved from <https://wildlife.ca.gov/Data/CNDDB>
- City of San Pablo. (2011). *San Pablo General Plan 2030*.
- City of San Pablo. (2015). *City of San Pablo, California Zoning Ordinance; Municipal Code Title 17*.
- City of San Pablo. (n.d.). *Master Landscape Plan*.
- CNPS. (2021). *Database of Rare, Unusual and Significant Plants of Alameda and Contra Costa Counties*. Retrieved from <https://ebcnps.org/ebrare-plant-database/>
- CNPS. (2021). *Inventory of Rare and Endangered Plants of California*. Retrieved from <http://www.rareplants.cnps.org/>
- East Contra Costa County Habitat Conservation Plan Association. (2006). *Final East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan*.
- EBMUD. (2020a). Standard Construction Specification. 01 35 44, *Environmental Requirements*.
- EBMUD. (2021, February 4). Wildcat Pumping Plant Draft Project Description.
- Panorama Environmental, Inc., MWA Architects, and Dillingham Associates. (2021). *East Bay Municipal Utility District Wildcat Pumping Plant Project Aesthetics Conceptual Design Report*.
- U.S. Environmental Protection Agency. (1972). *Clean Water Act*.
- USFWS. (1973). *Endangered Species Act of 1973*. Washington, D.C.: Department of the Interior.
- USFWS. (2004). *16 USC 703-712 Migratory Bird Treaty Act*. Retrieved from <https://www.fws.gov/le/USStatutes/MBTA.pdf>
- USFWS. (2011). *San Pablo Bay National Wildlife Refuge Final Comprehensive Conservation Plan*.

5 REFERENCES

USFWS. (2021). *Information for Planning and Consultation*. Retrieved from <https://ecos.fws.gov/ipac/>