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MEMORANDUM

TO: Aaron Yue
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FROM: J. Michael Eichelberger, Ph.D. 
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DATE: October 1, 2013

SUBJECT: BIRD IMPACT AVOIDANCE AND MINIMIZATION PLAN TOPOCK
GROUNDWATER REMEDIATION PROJECT

PCA: 22120 SITE CODE: 540015-48

Background

At the request of the DTSC project manager, ERAS is providing review and comment on the Bird Impact Avoidance and Minimization Plan for the Topock Groundwater Remediation Project. The plan was prepared to address requirements of the Topock Compressor Station Groundwater Remediation Project, Final Environmental Impact Report, Mitigation Measure BIO-2a.

Document Reviewed

ERAS reviewed "Bird Impact Avoidance and Minimization Plan Topock Groundwater Remediation Project", dated July 2013, and prepared by CH2MHILL, (Sacramento,

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California). ERAS received the report for review via an Envirostor request dated September 26, 2013.

Scope of the Review

The report was reviewed for scientific content related to the Technical Memorandum summary of Media-to-Plant Uptake Models and their Application in the Topock Human and Ecological Risk Assessments. Grammatical or typographical errors not affecting the technical meaning were not noted.

General Comments

ERAS reviewed the report and additional references to verify habitat requirements and nesting behavior of the 8 special status species described on pages 3-1 through 3-6 of the report, and, concurs that habitat is marginal for many of the special status species. However, as the report indicates, the potential for these species to occur at the site cannot be summarily ruled out. The report proposes temporal and spatial avoidance for these species as well as Migratory Bird Treaty Act (MBTA) and the California Department of Fish and Game (now California Department of Fish and Wildlife) Code (CDFC) protected species. Distances from protected bird nests are proposed for individual species; please see Specific Comment 3.

Specific Comments

1. Page 2-2, Section 2.1.2.3, California Species of Special Concern. The report indicates this provision is applicable to amphibian, reptile, bird and mammal species but the provision is also applicable to fish. The proposed scope of work is terrestrial and the report is specific to bird avoidance, but if the terrestrial activities impacts the adjacent Colorado River, possible adverse effects on special status species fish would need to be addressed.
2. Page 3-4, Section 3.3.4, California black rail (*Laterallus jamaicensis coturniculus*). The report states '*...the species was not detected in the project area during 2012 protocol surveys that included all potential habitat areas and is therefore unlikely to occur.*' It might be better stated that 'the black rail was not shown to be present during 2012 protocol surveys'.
3. Page 5-2, Table 5-1, Potential Activity Effects. The effects categories are based on an ICF International and H.T. Harvey and Associates (ICFI) (2013) report. Although referenced in the Topock Bird Impact Avoidance and Minimization Plan (TBIAMP), the ICFI report is not included for review. The TBIAMP would be strengthened with inclusion of the ICFI report. Without the criteria of how the avoidance distances (presumed to be described in the 2013 ICFI report) that are listed as Standard Buffer, Medium Impact Minimum Buffer, or High Impact Minimum Buffer as shown in Table 6-1, are determined for each bird species, it is difficult to determine if the avoidance distances for each bird species are adequate.

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Nonetheless, ERAS defers to the California Department of Fish and Wildlife on determination of the adequacy of the distances of disturbances to specific protected species nests.

4. Appendix A. Migratory Bird Treaty Act Protected Species. ERAS does not believe that the Eurasian collared dove and rock pigeon should be on the list. Both are introduced, non-native species.

Conclusions

ERAS generally agrees with the reports opinion on the occurrence of special status bird species within the area of the Topock site that is proposed to be impacted by the groundwater remediation project. ERAS defers to the California Department of Fish and Wildlife regarding the temporal and spatial avoidance plan.

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