

## COASTAL CONSERVANCY

Staff Recommendation

August 2, 2012

### **SAN CLEMENTE DAM REMOVAL PROJECT: IMPLEMENTATION PHASE**

Project No. 07-004-03

Project Manager: Trish Chapman and Laura Engeman

**RECOMMENDED ACTION:** Authorize the Conservancy's Executive Officer to 1) disburse the \$4.5 million previously authorized for implementation of the San Clemente Dam Removal Project (the "Project") on May 19, 2011 to California American Water (CAW) instead of the California Ocean Protection Council; 2) disburse to CAW for implementation of the Project an additional \$27.5 million; and 3) execute a grant agreement with CAW for the Project.

**LOCATION:** Carmel River Watershed, Monterey County (Exhibit 1)

**PROGRAM CATEGORY:** Integrated Marine and Coastal Resources Protection

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#### **EXHIBITS**

- Exhibit 1: [Project Location and Site Map](#)
- Exhibit 2: [May 19, 2011 Staff Recommendation](#)
- Exhibit 3: [San Clemente Dam Seismic Safety Project Final Supplemental Environmental Impact Report Number 2, SCC August 2012](#)
- Exhibit 4: [Mitigation Monitoring and Reporting Program, SCC August 2012](#)
- Exhibit 5: [San Clemente Dam Seismic Safety Project Final Supplemental Environmental Impact Report, DWR July 2012](#)
- Exhibit 6: [Notice of Determination, including:](#)  
[Exhibit B: Findings on Environmental Impacts](#)  
[Exhibit C: Statement of Overriding Considerations](#)  
[Exhibit D: Mitigation, Monitoring and Reporting Program.](#)
- Exhibit 7: [Project Funding Summary](#)
- Exhibit 8: [Project Letters](#)

**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Section 31220 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes its Executive Officer to 1) disburse the \$4.5 million previously authorized for implementation of the San Clemente Dam Removal Project (the “Project”) on May 19, 2011 (see Exhibit 2) to California American Water (CAW) instead of the California Ocean Protection Council; 2) disburse to CAW for implementation of the Project an additional \$27.5 million; and 3) execute a grant agreement with CAW for the Project. The State Coastal Conservancy also hereby certifies Supplemental Environmental Impact Report Number 2 for the Project dated August 1, 2012 (Exhibit 3) and adopts the Coastal Conservancy Supplemental Mitigation Monitoring and Reporting Program (MMRP) dated August 1, 2012 (Exhibit 4). This authorization is subject to the following conditions:

1. The net contribution of State of California funds to the Project shall not exceed \$25 million. Funds originating from local government, federal or private sources shall not count towards the \$25 million cap, even if such funds are contributed through a State agency.
2. Prior to the disbursement of funds, CAW shall submit for review and approval of the Executive Officer of the Conservancy a work program, budget, schedule and any contractors to be employed to implement the project.
3. CAW shall comply with the mitigation measures identified in 1) the MMRP adopted by DWR on March 11, 2011 (Exhibit 6, Exhibit D), and as it may be revised by DWR, and 2) the MMRP adopted by the Conservancy on August 2, 2012 (Exhibit 4).”

Staff further recommends that the Conservancy adopt the following findings:

“As discussed in greater detail in the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project remains consistent with Chapter 5.5 of Division 21 of the California Public Resources Code (Section 31220), regarding integrated marine and coastal resource enhancement.
2. The proposed project remains consistent with applicable local watershed management plans and water quality control plans.
3. The proposed project remains consistent with the current Project Selection Criteria and Guidelines.
4. The proposed project is of both regional and statewide significance.
5. A grant to a public agency or nonprofit organization would not be able to accomplish the project.
6. The Conservancy has independently reviewed and considered the information contained in the San Clemente Dam Seismic Safety Project July 2012 Final Supplemental Environmental Impact Report that was certified by the California Department of Water Resources (DWR)

on July 27, 2012 (“July 2012 FSEIR”) pursuant to the California Environmental Quality Act (“CEQA”), attached as Exhibit 5.

7. The Final Supplemental Environmental Impact Report Number 2 (“FSEIR No. 2”) dated August 1, 2012, attached as Exhibit 3, has been completed in compliance with CEQA, has been reviewed and considered by the Conservancy and reflects the independent judgment of the Conservancy.
  8. The July 2012 FSEIR identifies seven significant environmental effects of the proposed project that were not in the 2008 FEIR/EIS; of these, three effects have been avoided or reduced to less than significant through mitigation measures, three are unavoidable effects that cannot be mitigated to less than significant but have been mitigated to the extent feasible and one is an unavoidable effect for which no feasible mitigation measures exist. The Conservancy hereby incorporates into its findings the “Findings on Environmental Impacts” adopted by the Department of Water Resources on July 27, 2012 (Exhibit 6, Exhibit B).
  9. The environmental benefits of the project outweigh the significant unavoidable effects and therefore, the Conservancy adopts the Statement of Overriding Considerations set forth in this staff report.
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#### **PROJECT SUMMARY:**

At its May 19, 2011 meeting, the Conservancy authorized the disbursement of up to \$4.5 million to the California Ocean Protection Council (OPC) to fund implementation of the San Clemente Dam Removal Project on the Carmel River in Monterey County (the “project”), subject to additional future authorizations (see Exhibit 2). At that time, Conservancy staff indicated that it planned to seek additional authorization to disburse a total of \$32 million for the project. Since the May 19, 2011 meeting, there have been three key developments concerning the project:

- 1) The legislature amended the Conservancy’s enabling legislation such that the Conservancy can now grant funds for the project directly to California American Water (CAW);
- 2) Staff has applied for and obtained grants for \$18.75 million for the project as well as commitments for an additional \$4.5 million; and
- 3) There have been changes in the details of the project that have necessitated two supplemental environmental impact reports pursuant to the California Environmental Quality Act (“CEQA”), one of which was prepared by the Department of Water Resources and the other by the Conservancy.

Each of these developments is discussed in greater detail below. Based upon these, staff is recommending that the Conservancy authorize its Executive Officer to substitute CAW as the grantee in place of the Ocean Protection Council (“OPC”), to disburse up to \$27.5 million more in funding for the project, to certify the FSEIR No. 2, and to adopt an additional statement of overriding considerations. This would bring the total authorized funding for construction of the project to a maximum grant amount of \$32 million, which would include no more than \$25 million in State funds.

### **Legislation Authorizing Grant to CAW**

In October 2011, the Governor signed into law Assembly Bill 565, which is codified at Public Resources Code section 31111.5 and authorizes the Conservancy to award a grant to a for-profit entity for the removal of San Clemente Dam. This law enables the Conservancy to provide a grant directly to CAW to implement the project, rather than go through the OPC, which will greatly simplify administrative oversight of the project. The law also caps total state funding for the project at \$25 million. As discussed further below, the Conservancy will be providing funds for the project that are derived from federal and private settlement sources. The Conservancy may also obtain funds from other private sources and local public entities in the future. Because these funds are not state funds, they do not count toward the cap, even if they are provided to the Conservancy through another state entity. For example, all federal Coastal Impact Assistance funds received by the State are funneled through the California Natural Resources Agency. Therefore, while the Conservancy's grant agreement for these funds is with CNRA, since the source of the funds is federal, this grant would not count towards the \$25 million cap.

### **Funding Developments**

As discussed in the May 19, 2011 staff recommendation and previous staff reports and Board updates, the Conservancy, with the assistance of the National Marine Fisheries Service, is securing funding from federal, state, and private sources (the "public funding") to enable CAW to carry out the project. The Conservancy will function as the clearinghouse for this public funding, which could be up to \$35 million, including \$3 million already spent on the design and permitting phase of the project (see Exhibit 7 and Project Financing section below). The proposed resolution would authorize a Conservancy grant of up to \$27.5 million, of which up to \$300,000 million would be funds appropriated to the Conservancy ("Conservancy funds"). This authorization will bring the total grant funds authorized for project implementation to \$32 million.

The source, amount and status of federal, state, and private funds that make up the "public funding" for the project are detailed in Exhibit 7. The current authorization includes accepting and disbursing funds from State, federal, and private sources as identified in Exhibit 7, and delegates this authority to the Executive Officer for the remainder of the project fundraising. Conservancy staff will continue to raise the additional funds needed. Funds will only be included in the grant to CAW once the Conservancy has received either an executed grant agreement from the granting organization or donated funds secured in the Coastal Trust Fund (i.e., the account established by Public Resources Code § 31012 for funds provided to the Conservancy in trust for specific purposes.)

### **Project Changes**

Details of the project need, major project components and land transfer are described in the May 19, 2011 staff recommendation, attached as Exhibit 2. During the design and permitting phase of the project, the project design was developed in more detail and some aspects of the design and construction plan were modified. Some of these modifications resulted in impacts that were not analyzed in the 2008 FEIR/EIS. These impacts were analyzed in the July 2012 FSEIR and the FSEIR No. 2. See the Compliance with CEQA section below for more details.

**Schedule**

Due to the safety hazard posed by San Clemente Dam, expeditious removal of the dam is a high priority for all involved. The preliminary design for the project is now complete and all of the environmental and land use permit applications have been submitted. The project will be constructed in two phases with one contractor undertaking the access road improvements and a design-build (DB) contractor finalizing the design and implementing the other components of the project. Key components of the project schedule are outlined below:

<b>Major Milestone</b>	<b>Schedule</b>
Complete 30% design	Complete
Secure project permits and approvals	January 2011 – March 2013
Secure additional funding	July 2010 – July 2013
Design Build Contractor procurement	July 2011 – January 2013
Final Conservancy Approval	August 2012
Construct Access Roads	September 2012 – April 2013
Complete Final design	January 2013 – April 2013
Construction	April 2013 – November 2015

The proposed authorization would allow the Conservancy to enter into a grant agreement with CAW, and for CAW to initiate the project, before all of the public funding has been secured by the Conservancy. Based on current cost estimates, the Conservancy and NMFS still need to raise \$4.6 million to reach the \$35 million goal. The \$4.6 million gap would mean that the project would start with less than half of the funds budgeted for construction contingency costs (i.e., unanticipated construction costs budgeted at \$7.8 million). If project issues should arise requiring additional contingency funds before they have been secured, then CAW would work with the Conservancy to modify the project and/or prioritize the order of work undertaken. Conservancy staff, as well as CAW, recognizes that by moving forward without all of the funding in place, there is a risk that the project will be delayed or require modification to address the funding shortfall.

Staff recommends this approach due to the continued safety risk posed by the unsafe dam and the significant cost implications of delaying the start of the project. It is estimated that the project costs would increase by approximately \$1.3 million if the start of construction were delayed by a year. Conservancy staff will continue to work with NMFS, CAW, and our conservation community partners to raise the rest of the funds by the end of 2013.

**Site Description:** San Clemente Dam is a 106-foot-high concrete arch dam located approximately 18.5 miles from the Pacific Ocean on the Carmel River. The dam is located just downstream of the confluence of the Carmel River and San Clemente Creek. When the dam was constructed in 1921, it had a reservoir storage capacity of approximately 1,425 acre-feet. Today the reservoir has been filled by more than 2.5 million cubic yards of sediment, leaving a reservoir storage capacity of approximately 70 acre-feet. Several years ago CAW stopped using the dam as a diversion point for water withdrawals from the river, and now the dam no longer provides any services. The dam is owned and operated by CAW, an investor-owned water utility that is regulated by the California Public Utilities Commission (PUC). CAW provides water service to

the Monterey Peninsula. The land adjacent to the dam and reservoir is largely undeveloped, consisting of steep slopes covered with dense chaparral and oak woodland. The nearest residential development, the Sleepy Hollow subdivision, is located approximately one mile downstream from the dam.

**Project History:** In 1992, the California Department of Water Resources (DWR) Division of the Safety of Dams (DSOD) determined that San Clemente Dam could potentially fail in the event of either the maximum credible earthquake or probable maximum flood. As a result, DSOD instructed CAW to develop a project to address this safety issue. CAW funded multiple studies which evaluated options for strengthening, notching, or removing the dam. In August 2000, the Conservancy authorized a \$50,000 grant to the Institute for Fisheries Resources (IFR) to evaluate additional alternatives for modifying or removing the dam in order to improve fish passage and habitat conditions. This grant was augmented in 2001 to a total of \$115,300. IFR evaluated several options for removing the sediment accumulated behind the dam. All of these options were eventually deemed infeasible due to downstream flooding, habitat, and/or transportation-related impacts.

Ultimately, CAW submitted a proposal to strengthen the dam in place. This decision was driven primarily by the fact that it was the most economical way to address the safety issues. In 2006, the Department of Water Resources released the Draft EIR/EIS for the San Clemente Dam Seismic Safety Project which evaluated CAW's proposed project and three alternatives: notching the dam, and two dam removal options. Of these alternatives, the Carmel River Reroute and San Clemente Dam Removal Project (i.e., the project) was deemed by state and federal resource agencies to be the most feasible of the dam removal alternatives.

In 2007, Coastal Conservancy staff, in cooperation with NMFS and the Planning and Conservation League Foundation (PCLF) began working with CAW to develop an approach where public agencies would provide financial assistance so that CAW could afford to remove the dam. The basic concept was that CAW's cost for removal would be equal to the cost of buttressing the dam, and the Conservancy and NMFS would secure up to \$35 million in funding to cover the additional costs of removing the dam. In May 2007, the Conservancy authorized \$500,000 for technical studies to further evaluate the feasibility of the Reroute and Removal project. These studies culminated in the conclusion that the project is feasible. In June 2008, the Conservancy authorized an additional \$3,000,000 of Conservancy's funds, to be matched by CAW funds, for design and permitting of the project.

In December 2008, work was halted on the project due to the State fiscal crisis, and in February 2009, CAW withdrew from participation in the dam removal project and returned to pursuing the dam strengthening project. In July 2009, CAW resumed consideration of the dam removal project and undertook additional feasibility studies in cooperation with the Conservancy. Based on the favorable outcome of these studies, CAW submitted applications to remove the dam to DSOD and the California Public Utilities Commission in January 2010 and September 2010, respectively. The Conservancy and CAW resumed cooperative work on the design and permitting of the project in November 2010.

**PROJECT FINANCING**

*This Authorization for Project Implementation*

<b>Coastal Conservancy</b>	\$300,000
Wildlife Conservation Board	\$7,000,000
California Department of Fish and Game	\$7,000,000
California Natural Resources Agency	\$3,700,000
Coastal Impact Assistance Fund	\$904,000
NOAA Restoration Center	\$1,000,000
CAW Settlement Funds administered by CDFG (estimated)	\$2,000,000
Monterey Bay Funding Campaign (in progress)	\$1,000,000
<u>To be determined</u>	<u>\$4,596,000</u>

***Subtotal This Authorization*** **\$27,500,000**

*Previously Authorized for Project Implementation*

Coastal Conservancy	\$4,500,000
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*Subtotal "public funding for implementation"  
to be bundled in Conservancy grant to CAW* *\$32,000,000*

California American Water	\$46,000,000
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*Subtotal project implementation costs* *\$78,000,000*

*Previously Authorized for Project Design & Permitting*

<b>Coastal Conservancy</b>	\$2,200,000
California Resources Agency	\$300,000
NOAA's Open Rivers Initiative	\$500,000
California American Water	\$3,000,000
<i>Subtotal project planning costs</i>	<i>\$6,000,000</i>

**Net Conservancy Contribution** **\$7,000,000**

**Net CAW** **\$49,000,000**

**Total Project Costs** **\$84,000,000**

As discussed in the Project History section, on May 19, 2011, the Conservancy authorized up to \$4.5 million in Conservancy funds for project implementation. The proposed authorization would provide an additional Conservancy contribution of up to \$300,000 for implementation of the San Clemente Dam Removal Project. In June 2008, the Conservancy authorized up to \$3 million in Conservancy funds for design and permitting work for the project. However, the Conservancy was subsequently awarded \$500,000 from NOAA's Open Rivers Initiative and \$300,000 from the CNRA River Parkway program for design and permitting of the project. Therefore, the net Conservancy contribution is now expected to be \$2,200,000 to design and permitting and \$4,800,000 to project implementation, for a total of \$7 million in Conservancy funds.

The expected source of Conservancy funds for this project is an appropriation to the Conservancy from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84, Public Resources Code section 75001, et seq.). Proposition 84 authorizes the Conservancy's use of these funds for the purposes of protecting beaches, bays, coastal waters and coastal watersheds, including restoration of the natural habitat values of coastal waters and lands through projects undertaken pursuant to the Conservancy's enabling legislation (Division 21 of the Public Resources Code). Proposition 84 specifically allocates Conservancy funding for Monterey Bay and its watersheds, which is defined to include the Carmel River watershed. See Public Resources Code sections 75060(e) and 75072.5. The proposed project will restore the natural habitat values of coastal waters and lands by removing a major fish passage barrier on the Carmel River, and restoring river processes and the ecological connectivity of the river's aquatic and riparian habitats. The proposed project is consistent with the Conservancy's enabling legislation, as discussed in the "Consistency with Conservancy's enabling legislation" section below. The proposed authorization is thus consistent with the funding requirements of Proposition 84.

Proposition 84 also requires that for potential projects that include acquisition or restoration for the purpose of natural resources protection, the Conservancy give priority to potential projects that meet one or more of the criteria specified in Section 75071. The proposed project satisfies the following specified criteria: 1) Watershed protection – the project will contribute to long-term watershed protection by restoring the ecological processes and connectivity of the Carmel River; and 2) Non-state matching contribution – CAW will provide approximately 59% of the project costs (planning and implementation). In addition, \$1.404 million of federal funding has been secured, and \$1 million more is pending final approval.

As discussed in the project summary, the Conservancy will also provide up to \$27.2 million in grant funds awarded to the Conservancy or donated from private sources specifically for this project.

#### **CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The proposed project remains consistent with the Conservancy's enabling legislation, Public Resources Code Sections 31000-31410, as described in the May 19, 2011 authorization. Subsequent to the May 19, 2011 authorization, Section 31111.5 was added to the Public Resources Code.

Section 31111.5 allows the Conservancy to award a grant to a for-profit entity to accomplish removal or alteration of the San Clemente Dam if the project is of regional or statewide significance and a grant to a public agency or nonprofit organization would not achieve removal or alteration of the dam. The San Clemente Dam Removal Project is of state and national importance because restoration of the Carmel River watershed is critical to the recovery of the federally-threatened South-Central California Coast steelhead population. Removal of San Clemente Dam will significantly increase access to spawning and rearing habitat and thus is an important step in the recovery process. In 2006 and 2007, Conservancy staff made concerted effort to find a public agency or nonprofit organization willing to undertake the dam removal project. Due to the perceived potential liability involved with owning and/or removing an unsafe

dam, no public agency or nonprofit organization was willing to undertake the project. Therefore, a grant to CAW is the only option.

Section 31111.5 also stipulates that the total expenditure of state funds for the removal San Clemente Dam shall not exceed \$25 million. The Conservancy's authorization is consistent with this constraint.

**CONSISTENCY WITH CONSERVANCY'S 2007  
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

The proposed project remains consistent with the Conservancy's Strategic Plan Goals and Objectives as described in the May 19, 2011 authorization.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project remains consistent with the Project Selection Criteria & Guidelines as described in the May 19, 2011 authorization. This includes the criteria that the project be of greater than local significance as also required by Section 31111.5.

**CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

The proposed project remains consistent with the Local Coastal Program Policies as described in the May 19, 2011 authorization.

**CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/  
STATE WATER QUALITY CONTROL PLAN:**

The proposed project remains consistent with the Local Watershed Management Plan and State Water Quality Control Plan as described in the May 19, 2011 authorization.

**COMPLIANCE WITH CEQA:**

As part of the May 19, 2011 authorization, the Conservancy adopted a statement of overriding considerations regarding the project's environmental effects after independently reviewing the Final Environmental Impact Report/Environmental Impact Statement (FEIR/EIS) for the San Clemente Dam Seismic Safety Project dated January 2008 prepared by the California Department of Water Resources (DWR). The environmental effects and mitigation measures detailed in the FEIR/EIS are discussed in greater detail in the May 19, 2011 staff report (Exhibit 3).

**July 2012 FSEIR**

On July 27, 2012, DWR prepared a Final Supplemental Environmental Impact Report (July 2012 FSEIR) for the San Clemente Dam Seismic Safety Project (Exhibit 5) that addresses the effects of changes to the project that were developed in the detailed design phase of the project. The changes included the following:

- Change in the public roads that would be used to mobilize large construction equipment to the project site. It was determined that the construction route identified in the FEIR/EIS was too steep and windy for large tractor trailers; therefore, an alternate route was identified.
- Change in the location of the new spur road that needs to be constructed to the reservoir. The alignment was modified to reduce tree impacts.
- Increase in the volume of material to be excavated based on more detailed calculations.
- Decision to allow for the possibility of night work.
- Modification of mitigation measures to resolve conflicts between the mitigation measures identified in the 2008 FEIR/EIS and those required by the regulatory agencies.

The July 2012 FSEIR identified nine impacts that were not previously identified in the 2008 FEIR/EIS. Of these, three were found to be significant environmental effects that could not be mitigated to less-than-significant. These impacts are discussed in greater detail in the “Significant Effects that Cannot be Mitigated to Less-Than-Significant” section, below. The remaining six impacts not previously identified in the 2008 FEIR/EIS will be mitigated to less than significant. The July 2012 FSEIR also reevaluated the impacts identified in the 2008 FEIR/EIS based on the more detailed information now available. As a result, mitigation measures for 16 impacts were revised; one effect identified as less than significant in the 2008 FEIR/EIS was reclassified as significant and unavoidable; and nine of the 26 effects found to be significant and unavoidable in the 2008 FEIR/EIS were reclassified as less than significant. The nine impacts that are now considered less than significant are:

- FI-2: Short –term loss of aquatic habitat from Dewatering River Channels for Construction Purposes.
- FI-4: Short –term loss of aquatic habitat from Diversion of Carmel River and San Clemente Creek Around San Clemente Reservoir for Construction Purposes
- FI-5: Short –term loss of aquatic habitat from Reservoir Dewatering
- FI-13: Short-term alteration of aquatic habitat from Stream Sediment Removal, Storage, and Associated Restoration
- WI-3: Adverse effects to special-status species from Cofferdam Construction and Plunge Pool Dewatering
- WI-10: Effects on California red-legged frog habitat from Reservoir Drawdown or Elimination with Sediment Removal
- WI-11: Destruction of spawning habitat from Sediment Removal.
- WI-13: Bypass Channel Excavation
- AQ-2: Short-term dust and other emissions from Access Road Upgrades

#### **Significant Effects that Cannot be Mitigated to Less-Than-Significant**

The July 2012 FSEIR identifies four significant environmental effects that cannot be mitigated to less than significant; one is a previously identified impact that was reclassified (VQ-2) and three

are increased impacts resulting from the project changes. All four effects are short-term, and three of the four measures can and will be mitigated to the extent feasible. All of the project's potentially significant effects and their mitigation measures are presented in chart form on pages 2-4 through 2-47 of the FSEIR, and are discussed at length in Chapter 4 of the 2008 FEIR/EIS and the July 2012 FSEIR. The new unavoidable significant environmental effects, using the headings shown in the chart, are presented below.

### **Visual Resources (Aesthetics)**

- **VQ-2: Changes to Viewsheds from Residences Adjacent to CVFP and SCD.** *Construction activities within the viewshed. Short-term, significant, unavoidable.*

There is one residence (the Dam Keeper's cottage) located adjacent to the dam that would have views of the construction activities during the course of the project. Due to the location of the residence, dam operations and maintenance activities are routine features of the landscape, however, short-term impacts are considered significant and unavoidable because construction activities would occur both during normal working hours and at night. As a result of the night work, this impact has been reclassified as a significant, unavoidable impact with no available mitigation measures.

- **VQ-5a: Changes to Viewsheds near or on the Jeep Trail.** *Construction activities and construction related use within the viewshed near and on the Jeep Trail. Short-term, significant, unavoidable.*

When using the Jeep Trail, private landowners of the Stone Cabin would have views of construction activities associated with the road improvements needed on the Jeep Trail and would also have views of construction equipment and personnel using the road. These views would substantially degrade the existing visual character or quality of the site and its surroundings during construction. This would be a significant and unavoidable short-term impact. Mitigation would involve revegetation of disturbed areas.

- **VQ-6: Light and Glare from Nighttime Construction Activities.** *Nighttime construction activities within the viewshed and surrounding areas. Short-term, significant, unavoidable.*

Construction activities at the Dam and reservoir site could occur at night, requiring lighting of the work area. Residents at the Dam Keeper's cottage would be directly affected by the project lighting. It is also possible that residents in the surrounding area, could perceive some light in the nighttime sky. Mitigation measures require lighting to be directed down towards the work areas to the extent possible, and would be shielded to reduce sky glow and spillover. However, even with implementation of this mitigation, the impact will remain significant and unavoidable.

### **Recreation**

- **REC-5: Delays for Motorists Travelling to Los Padres National Forest.** *Heavy equipment traversing Tassajara Road/Cachagua Road. Short-term, significant, unavoidable.*

Heavy equipment and material transported by truck-trailers would access the Jeep Trail using Tassajara Road and the segment of Cachagua Road between the Jeep Trail and Tassajara Road. Truck and other heavy equipment use on these roads would delay recreational, and other motorists, traveling to the Los Padres National Forest. To

minimize the impact, mobilization of trailer-trucks and heavy equipment would be coordinated to avoid peak traffic, but the impact would remain significant and unavoidable.

## **FSEIR No. 2**

On August 1, 2012, the Conservancy prepared Final Supplemental Environmental Impact Report Number 2 (FSEIR No. 2) for the San Clemente Dam Seismic Safety Project (Exhibit 3) to address the effects of removing Old Carmel River Dam (OCRD) rather than notching it (i.e., removing a piece of it), as was originally proposed. FSEIR No. 2 found that removing OCRD rather than notching it would not result in any new significant, unavoidable impacts. It would, however, increase the severity of the impact on a historic property (OCRD). The FEIR/EIS classified notching OCRD as a significant, unavoidable impact and it remains significant and unavoidable. Although the impact of removing OCRD is more severe of an impact on the historic resource than notching it, removal is more beneficial to the river ecosystem.

## **Statement of Overriding Considerations**

Staff recommends that in conjunction with authorizing additional funds for the project and in light of the changes to the project, the Coastal Conservancy adopt the following statement of overriding considerations consistent with Section 15093 of the CEQA guidelines:

1. The Conservancy has reviewed the July 2012 Final Supplemental EIR prepared by DWR dated July 27, 2012 and DWR's Findings on Environmental Impacts. The Conservancy has also prepared Final Supplemental EIR No. 2 dated August 1, 2012. The Conservancy continues to conclude that there are no feasible alternatives that can reduce all potentially significant and unavoidable impacts to a less than significant level and that all feasible alternatives have some significant and unavoidable impacts. Further, the Conservancy finds that the project meets numerous objectives of Chapter 5.5 of Division 21 of the Public Resources Code and will help implement the Conservancy's Strategic Plan goals and objectives, specifically Goal 5, Objective 5B (restoration of significant coastal habitats), and Goal 6, Objectives B (restoration of coastal watersheds), D (removal of fish passage barriers) and G (sediment management).

The Conservancy determines that the project cannot be implemented without resulting in the significant and unavoidable environmental effects described in the Final EIR/EIS, the July 2012 FSEIR, and FSEIR No. 2, and summarized in this staff report, the May 19, 2011 staff report, and in DWR's Findings on Environmental Impacts. All potentially significant impacts have mitigation measures associated with them, except for Hydrology and Water Resources, WR-4b (increase in the frequency of high suspended sediment concentrations), Water Quality, WQ-10 (reservoir sediment excavation), Fisheries, FI-13 (stream sediment removal, storage, and associated restoration), and Visual Quality, VQ-2 (changes to the viewsheds from residences adjacent to the dam). Of these four impacts that cannot be mitigated to any extent, only one is a long-term effect: the increase in the frequency of high suspended sediment concentration, and that effect is expected to exceed baseline on 11 occasions in 41 years.

The FEIR/EIS identified 26 potentially significant impacts that cannot be reduced to a less than significant level by incorporated mitigation measures. With changes to the

project design and more detailed analyses, the July 2012 FSEIR and FSEIR No. 2, identify a total of 21 potentially significant impacts that cannot be reduced to a less than significant level by incorporated mitigation measures. All of these have associated mitigation measures that will at least lessen the overall impact, although not to less than significant levels. Further, of these 21 effects, only four are long-term: the loss of brushland and riparian habitat due to the excavation of the bypass channel and three effects relating to the loss of historical structures.

2. The Conservancy determines that the project provides the following public benefits:
  - a. Protects public safety by removing the dam.
  - b. Significantly improves fish passage by removing the dam and rerouting the Carmel River to provide unobstructed flow from the mouth of the Carmel River to Los Padres Dam above the site of the San Clemente Dam.
  - c. Restores the ecological integrity of the Carmel River up- and down-stream of the San Clemente Dam site, thereby helping to restore river functions and habitats.
  - d. Protects 928 acres for watershed conservation and compatible public access.
3. The Conservancy has balanced the economic, legal, social, technological, and other benefits of the project and finds that the benefits of the project outweigh its unavoidable adverse environmental effects.

Upon the Conservancy's approval of the proposed authorization, staff will file a CEQA Notice of Determination.