



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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October 3, 2019

Governor's Office of Planning & Research

OCT 03 2019

Ms. Marie Luna
City of Lake Forest
Community Development Department
25550 Commerce Center Drive, Suite 100
Lake Forest, CA 92630

STATE CLEARINGHOUSE

Subject: Comments on the Draft Environmental Impact Report for the Nakase Nursery/Toll Brothers Project, Lake Forest, CA (SCH# 2018071035)

Dear Ms. Luna:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced draft Environmental Impact Report (DEIR) for the Nakase Nursery/Toll Brothers project, dated August 2019. The Department provided comments on the Notice of Preparation (NOP) for the project in a letter dated August 14, 2018. The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines §15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code § 2050 et seq.) and Fish and Game Code (FGC) section 1600 et seq. The Department also administers the Natural Community Conservation Planning (NCCP) program. The City of Lake Forest (City) is a Participating Jurisdiction under the Central/Coastal Orange County NCCP/Habitat Conservation Plan (HCP).

The project proposes to develop Nakase Brothers Wholesale Nurseries, a 122-acre commercial plant nursery, into a master community that includes up to 675 single-family residential units, an elementary school, a public park, and designated "open space/habitat restoration". Nakase Brothers Wholesale Nurseries is located at 20621 Lake Forest Drive, with Bake Parkway to the north, Rancho Parkway to the east, and Serrano Creek along its southern boundary. The project site is also within the NCCP/HCP planning area, with the boundary of the NCCP/HCP Reserve System approximately one mile to the northeast. The project area contains 0.28 acres of disturbed maritime succulent scrub, as well as two drainages that are described in the DEIR as a water quality treatment ditch and drainage three. The two drainages are described within the context of the San Diego Creek Special Area Management Plan (SAMP).

The Department offers the following comments and recommendations to assist the City in avoiding or minimizing potential project impacts on biological resources.

1. Based on a preliminary assessment¹the Department disagrees with classifying the ephemeral drainage bisecting the project area from northeast to southwest as a "water quality treatment ditch", particularly as it flows into Serrano Creek, a tributary to San

¹ Based on <https://www.historicaerials.com> (1946) and USGS 7.5-minute "El Toro" quadrangle map (1949).

Diego Creek. The Department requests further discussion of this classification and how this conclusion was reached given that this drainage is connected to larger tributaries within the watershed.

Additionally, the Biological Resources section of the DEIR states that, “[t]he water quality treatment ditch is regularly maintained in order to remain free of vegetation and sediment for maximum capacity, on-site retention, and treatment of flows” (page 4.4-9). The DEIR also classifies 1.84 acres of this drainage as jurisdictional per FGC section 1600 *et seq.* (Table 4.4.B; page 4.4-13). The DEIR should identify any existing permits authorizing the ongoing activities in this drainage, and how the drainages and/or existing agreements may be impacted by project activities. Regarding temporary and permanent riparian impacts for all channels within the project area: the adequacy of mitigation under FGC section 1600 *et seq.* will be evaluated by the Department on these and additional factors at the time the project applicant formally submits a streambed notification package to the Department’s Lake and Streambed Alteration Program.

2. The section of the DEIR discussing the San Diego Creek SAMP states that the United States Army Corps of Engineers (ACOE) and the Department adopted a SAMP for the San Diego Creek Watershed: “[f]or the San Diego Creek Watershed SAMP, CDFW established a Watershed Streambed Alteration Agreement (WSAA) process that will augment Streambed Alteration Agreement (California Fish and Game Code Section 1600) processing procedures within the San Diego Creek Watershed in Orange County, California)” (page 4.4-18). While the Department did draft a SAMP with ACOE in the above-mentioned watershed, the San Diego Creek SAMP was never adopted by the Department, nor did the Department finalize a WSAA for this region. No pre-approved templates, expedited Standard SAAs, nor expedited Master SAAs are available from the Department through the above-referenced plan. The EIR should amend section 4.4 Biological Resources to reflect that neither the SAMP nor a WSAA was adopted by the Department. Additionally, the EIR should include a thorough discussion of how the Department not participating in the San Diego Creek SAMP does or does not change levels of significance of the direct, indirect, and cumulative impacts for the riparian areas that occur within the boundaries of the SAMP. Mitigation measure 4.4.9 should also be amended to reflect the Department not being involved with the San Diego Creek SAMP.
3. The project area appears to provide an opportunity to expand the riparian corridor along Serrano Creek that could be incorporated into the project design. Given the limited riparian mitigation opportunities in Orange County, the Department encourages the City to consider returning Serrano Creek to a more natural configuration as part of project activities. The expansion of the corridor could potentially form a mitigation bank or provide single-user mitigation. More information on the Department’s formal banking process, including templates, fee schedules, and timelines, can be found on the website at <https://www.wildlife.ca.gov/Conservation/Planning/Banking>.

If the restoration of Serrano Creek is currently infeasible, consideration should be given that development associated with the project be located such that it does not preclude future restoration of Serrano Creek to nearer its historic condition.

4. The Department requests clarification regarding whether the fuel modification zones are included within the project boundary. We consider all fuel modification zones to be part of project impacts, and as such they should be included in the calculation of the project's impacts to habitats and species. In the EIR, all fuel modification zones should be assessed as part of the project area and an assessment of biological resources and potential impacts should be discussed.
5. The Department acknowledges that section 3.4.2 Landscaping describes planting of ornamental species that are, "California friendly and drought-tolerant" (page 3.25). The Department encourages the City to specifically include native plants in the landscaped areas adjacent to riparian areas. Use of native plants in landscaping not only minimizes the spread of invasive plant species, which are detrimental to adjacent riparian areas, but also provides additional benefits such as the attraction of native pollinators and further reduced water consumption. The Department requests that the EIR include the plant palette to be used for project landscaping.

The Department appreciates the opportunity to comment on the DEIR for this project and to assist the City in further minimizing and mitigating project impacts to biological resources. We request that a written response to our comments be provided in the EIR, as required per CEQA Guidelines section 15088(d). If you have any questions or comments regarding this letter, please contact Jennifer Turner of the Department at jennifer.turner@wildlife.ca.gov or (858) 467-2717.

Sincerely,



Gail K. Sevens
Environmental Program Manager
South Coast Region

ec: Christine Medak (U.S. Fish and Wildlife Service)
Scott Morgan (State Clearinghouse)

