United States Department of the Interior
U.S. FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008

In Reply Refer to:
FWS/CDFW-2022-0067313

July 25, 2022
Sent Electronically

Chris Jacobs
City of Santee
City Hall, Building 4
10601 Magnolia Avenue
Santee, California 92071

Subject: Recirculated Sections of the Final Revised EIR for the Fanita Ranch Project, City of Santee (SCH 2005061118)

Dear Mr. Jacobs:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department), collectively referred to as the Wildlife Agencies, reviewed the Recirculated Sections of the Final Revised Environmental Impact Report (EIR) for the Fanita Ranch Project (Project) dated June 2022. The Project details referenced herein are based on information provided in the EIR and associated documents.

The primary concern and mandate of the Service is the protection of fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and threatened and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), including habitat conservation plans (HCP) developed under section 10(a)(l)(B) of the ESA. The Department is a Trustee Agency with jurisdiction over natural resources affected by the project [California Environmental Quality Act (CEQA) Guidelines §15386] and is 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 Section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) Program, a California regional habitat conservation planning program. The City of Santee (City) is in the process of developing an NCCP/HCP Subarea Plan under the Multiple Species Conservation Program (MSCP) Subregional Plan; however, a Subarea Plan has not yet been adopted by the City of Santee (City) or permitted by the Service or the Department. The Wildlife Agencies continue to meet frequently with the City in an effort to achieve a Subarea Plan which will be brought forward for public review.

The Project proposes a planned community located within the northwest portion of the City that includes up to 3,008 housing units, commercial uses, parks, agricultural areas and open space. Approximately 1,650 acres would be designated as a Habitat Preserve (Preserve). The Recirculated Sections of the EIR were prepared in response to a March 2022 ruling issued by the San Diego County Superior Court that identified deficiencies in the 2020 EIR related to CEQA processes and insufficient analysis of wildfire risk and evacuation. The Recirculated Sections include revisions to the Project Description and Land Use and Planning sections (3.0 and 4.10, respectively), as well as a fully revised Wildfire section (4.18), new Fire Protection Plan (Appendix P1), and new Wildland Fire Evacuation Plan (Appendix P2).

Per the EIR, the description of the Fanita Ranch Project has not changed from the Final Revised EIR (dated May 2020) except that the off-site extension of Magnolia Avenue has been added back into the Project and the description of discretionary actions has been revised. Changes to the discretionary actions are a result of the recent certification of the Fanita Ranch Project as an Essential Housing Project pursuant to the City's Essential Housing Program (established in August 2021). Accordingly, per the Recirculated Sections the Project no longer requires a General Plan Amendment, Specific Plan, Rezone, or Development Agreement. The EIR states that no new or modified mitigation measures are required. This response letter only responds to the topics identified in the Final Revised EIR. The Wildlife Agencies continue to work with the City and the project proponent to ensure that impacts to species are addressed consistent with section 10 of the ESA and the NCCP Program.

The Wildlife Agencies offer the following comments and recommendations to assist the City in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources and to ensure the Project is consistent with ongoing regional habitat conservation planning efforts:

1. Magnolia Avenue Expansion: The revised project description includes the previously proposed but subsequently removed expansion of Magnolia Avenue from Princess Joann Road to Cuyamaca Street (evaluated in the Draft EIR but removed prior to finalization). The removal of the road expansion was documented in the Second Errata to the Final Revised Fanita Ranch EIR (Second Errata, September 2020). Magnolia Avenue is an existing north-south City street that currently terminates at the northern edge of the existing neighborhood, southeast of the Project site. The proposed expansion would extend Magnolia Avenue 0.5 mile from its northern terminus, curving west to intersect with the extended off-site segment of Cuyamaca Street. Per Section 1.3.2.2 of the Second Errata, impacts associated with the Magnolia Avenue extension total 14.35 acres, including 8.0 acres of impacts to sensitive habitats and wetlands.

We recommend the Mitigation, Monitoring, and Reporting Program (MMRP) be revised to include mitigation requirements for impacts associated with the Magnolia Avenue expansion being added back into the Project, including preconstruction surveys and avoidance/minimization measures for special-status plants and wildlife species, restoration of temporary impacts

(including success criteria for that restoration), compensatory mitigation for permanent impacts, and mitigation measures to minimize potential impacts to species' movement and habitat connectivity across Magnolia Avenue, particularly through installation of appropriately sized culverts and inclusion of directional fencing or other features to facilitate safe wildlife movement. The effectiveness of measures to ensure connectivity for wildlife should be monitored and reported annually until such time as this responsibility may be taken over as part of an approved NCCP/HCP.

2. Essential Housing Program: In August 2021, the City adopted an Essential Housing Program (Ordinance 592) by which certain qualifying residential housing projects can be deemed in compliance with the City's General Plan and, therefore, not subject to General Plan Amendments in order to move forward with entitlements. The determination as to whether a project qualifies as an Essential Housing Project is ministerial and made by the Director of Development Services based upon objective criteria set forth in a Checklist (City of Santee Essential Housing Program). In December 2021, the Fanita Ranch Project was certified as an Essential Housing Project by the City. Both adoption of the Essential Housing Program ordinance and the certification of Essential Housing projects were determined to be exempt from CEQA by the City.

It is not clear whether the City has determined that projects approved ministerially in this manner are entirely exempt from CEQA or whether projects approved in this manner will still be subject to CEQA but may move forward without a general plan amendment. This is an important distinction because the Wildlife Agencies look to the General Plan to provide guidance on how the City would approve the build-out of development projects as well as achieve conservation goals and objectives of the Subarea Plan. Additionally, certain provisions of the NCCP/HCP are required to be amended into the General Plan upon issuance of the state and Federal permits to ensure compliance with the terms of the NCCP/HCP; therefore, it is important for the Wildlife Agencies to understand how the General Plan, ministerial actions, and requirements of the NCCP/HCP will be applied on forthcoming projects. We would appreciate clarification on this point.

Under the MSCP, jurisdictions responsible for implementing subarea plans have used CEQA to officially notify the public and the Wildlife Agencies about projects or activities proposed to be covered under the NCCP/HCP and to solicit feedback on NCCP/HCP consistency. We look forward to working with the City to ensure that the subarea plan includes a well-defined process for the Wildlife Agencies to review and provide feedback on projects proposed for NCCP/HCP coverage at the appropriate point in the planning process regardless of the CEQA review process. In addition, public involvement is a key consideration of the NCCP Act, so the Department encourages the City to develop a process that provides the public an opportunity to review and comment on projects or activities addressed by the NCCP/HCP regardless of the CEQA review process.

3. Fuel Modification Zones: Fuel modification zones (FMZs) are proposed as part of the Fanita Ranch development to provide buffers between wildfire fuels associated with existing vegetation that would remain on-site (e.g., within the proposed Preserve) and the proposed development structures. Additional FMZs are currently existing or proposed on the project site along existing development immediately offsite. The proposed project's FMZs would be extensive and include "code-exceeding" 115 to 165-foot-wide FMZs, up to 50 feet of roadside FMZ, and provisions for a 100-foot wide FMZ adjacent to neighboring residential areas to the south. The proposed FMZs would provide some separation from the unmaintained vegetation occurring outside the FMZs. As proposed, the landscape throughout the project and on its perimeter would be highly maintained, with much of it irrigated (all proposed zone 1 setback areas, common areas throughout the community and private yards). As proposed, the FMZs would include low-fuel, maintained vegetation, including 65 feet of irrigated zone, resulting in high vegetation moisture in these areas.

Exotic Argentine ants likely do not occupy the vast majority of the project site currently, due to the natural dryness across most of the site and its location away from the immediate coast. Argentine ants are expected to invade large portions of the proposed Preserve if the project is implemented as proposed. Natural sites located within 200 meters of urban areas or artificial irrigation in coastal southern California are more likely to be invaded by Argentine ants, largely due to the artificial water resources provided by these land uses (Richmond *et al.* 2021). Within invaded sites, native ants are largely displaced by Argentine ants, and the species richness of native ants typically declines by more than 60 percent compared with uninvaded sites (Holway and Case 2000; Achury *et al.* 2021). In colonized areas, the Argentine ant drives substantial ecological changes in biodiversity, community structure, and ecosystem function (Charles and Dukes 2008; Lach 2008; Rodriguez-Cabal *et al*. 2009; Hanna *et al.* 2015), particularly in areas with a Mediterranean climate (Suarez *et al*. 2001, Holway *et al.* 2002) such as the project site. For example, case studies have reported that Argentine ants eliminated species of *Camponotus* ants that are highly important prey for the San Diego horned lizard (*Phrynosoma coronatum blainvillii*) (Suarez and Case 2002; Glenn and Holway 2008). Control of Argentine ants within natural areas in southern California is extremely difficult, in part because killing worker ants does little to control an Argentine ant colony, and because as few as 1.0 percent of a colony's foraging worker ants are able to provide sufficient food to support nestbound queens and larvae; additionally, finding an effective number of Argentine ant nests is very difficult and usually not practicable (Skaife 1955; UC Davis 2017). While the killing of Argentine ants is possible with pesticides, these pesticides can also have negative effects on native species (Buczkowski and Wossler 2019).

The applicant has proposed Argentine ant control measures as part of negotiations with the Wildlife Agencies for prospective NCCP and ESA section 10 permits for the proposed project. Control of Argentine ants in the natural areas (Preserve) of the project site within 200 meters of any artificial irrigation would likely need to be perpetual and ongoing. Further, eradication of Argentine ants within the areas adjacent to artificial irrigation is likely extremely difficult or

impossible, and effective control of Argentine ants is likely to be very difficult as well. Therefore, we recommend that such irrigation be minimized to the extent compatible with public safety along the edge of the Preserve. Any reduction of irrigation areas along the edge of the Preserve (including adjacent to proposed roads that would cross or share a boundary with natural areas) would likely result in a concomitant reduction in the ecological impacts of Argentine ants in the Preserve.

4. Homeowner's Association (HOA) Roles: Per Appendix P1, responsibility for the monitoring, maintenance, enforcement, and funding of the FMZs would fall to the HOA. As currently contemplated in Fanita Ranch planning documents, the HOA will also have responsibility for overseeing management of the Fanita Ranch Preserve, Argentine Ant Control Plan, trail system maintenance, maintenance of private roads and fire protection systems, fuel modification and vegetation management, enforcement, landscape plan review/approval, and educational outreach on wildfire safety. The Wildlife Agencies are concerned that an HOA will not be able to effectively implement the numerous responsibilities envisioned by the Project. Likewise, the Wildlife Agencies request additional coordination with the City and project proponent to discuss the oversight of the HOA maintenance activities; assurances that will be in place in the event that the HOA does not fulfill the identified obligations; the process by which any disputes about the management or funding provided by the HOA will be resolved; and how the funds will be obligated and managed to complete the various tasks identified in the Fanita Ranch planning documents. Based on the uncertainties described above, the Wildlife Agencies have not yet agreed that this arrangement will satisfy the requirements of the NCCP/HCP.

5. Avian Nesting Season Avoidance: Section 6.2.15 of Appendix P1 states that vegetation maintenance for fuel modification activities will occur throughout the year. Nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918 (Code of Federal Regulations, Title 50, § 10.13) is also prohibited under Fish and Game Code section 3513. In order to avoid impacts to nesting birds, we recommend that maintenance activities be scheduled and conducted outside of the avian breeding season (generally February 15–September 15).

The avoidance, minimization, and mitigation measures associated with the Project for nesting bird species will be identified in the final NCCP/HCP Subarea Plan and will be implemented accordingly.

6. Subsequent CEQA/NEPA: We anticipate that aspects of the Project will undergo subsequent CEQA/NEPA analysis as a proposed hardline project under the NCCP/HCP Draft Subarea Plan. Please clarify if that is the expectation of the City.

The Wildlife Agencies have worked with the City and the proposed Fanita Ranch project proponent to reach the goal of issuance of a NCCP/HCP. The many years of collaboration has included the City receiving two section 6 grants to support the City in achieving the NCCP/HCP. We appreciate the opportunity to comment on the EIR and look forward to our continued collaboration in developing the City's Subarea Plan. If you have questions or comments regarding this letter, please contact Heather Schmalbach[1] of the Department at 858-637-5511 or Jon Avery[2] or Mary Beth Woulfe[3] of the Service at 760-431-9440.

Sincerely,

JONATHAN SNYDER
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