



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newsom, Governor
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

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Via Electronic Mail Only

Governor's Office of Planning & Research

September 13, 2023

Sep 13 2023

STATE CLEARINGHOUSE

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Subject: Notice of Preparation of a Draft Supplemental Environmental Impact Report for Walnut Business Park Project, SCH #2017101010, City of Walnut, Los Angeles County

Dear Joelle Guerra:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation (NOP) of a Draft Supplemental Environmental Impact Report from the City of Walnut for the Walnut Business Park Project (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§711.7, subdivision (a) & 1802; Pub. Resources Code, §21070; California Environmental Quality Act (CEQA) Guidelines, §15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., §1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, §21069; CEQA Guidelines, §15381). CDFW expects that it may

Joelle Guerra
City of Walnut
September 13, 2023
Page 2 of 12

need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in “take”, as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project Applicant obtain appropriate authorization under the Fish and Game Code.

Project Summary

General Site Description: The Project site is currently developed with an existing business park accommodating primarily commercial and light industrial uses, including a beef jerky manufacturer, chorizo manufacturer, roofing material supplier, a car body shop repair facility, a pizza restaurant, Mexican food supply store, rent-a-car office, and pet food supply outlet. The sparse vegetation spread throughout the site consists of ornamental vegetation in the parking areas.

Location: The Project site is in the southern portion of the City of Walnut in Los Angeles County. The Project site is approximately 25 acres and is bordered by Valley Boulevard to the south, South Lemon Avenue to the west, Paseo Del Prado to the north, and an existing development to the east.

Objective: The Walnut Business Park will include a multibuilding construction for warehouse, office, and distribution uses. The development would consist of four buildings that would encompass a total of 414,778 square feet of building space. The Project would include approximately 1,097 parking stalls, and approximately 115,030 square feet of landscaping, comprising approximately 11.5 percent of the Project site. The existing uses on the Project site would be demolished and Project development would occur in one phase with an anticipated start date of January 2025.

Comments and Recommendations

CDFW offers comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. The DEIR should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub.

Joelle Guerra
City of Walnut
September 13, 2023
Page 3 of 12

Resources Code, §21061; CEQA Guidelines, §§15003(i), 15151]. CDFW looks forward to commenting on the DEIR when it is available.

Specific Comments:

- 1) Nesting Birds. CDFW recommends the DEIR include measures to avoid potential impacts to nesting birds that may find habitat in the ornamental vegetation on site. Project activities occurring during the bird breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.
 - a) Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.
 - b) CDFW recommends that measures be taken to fully avoid impacts to nesting birds and raptors. Ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs.
 - c) If impacts to nesting birds and raptors cannot be avoided, CDFW recommends the DEIR include measures where future housing development facilitated by the Project mitigates for impacts. CDFW recommends surveys by a qualified biologist with experience conducting breeding bird and raptor surveys. Surveys are needed to detect protected native birds and raptors occurring in suitable nesting habitat that may be disturbed and any other such habitat within 300 feet of the project disturbance area, to the extent allowable and accessible. For raptors, this radius should be expanded to 500 feet and 0.5 mile for special status species, if feasible. Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

Joelle Guerra
City of Walnut
September 13, 2023
Page 4 of 12

- 2) Loss of Bird and Raptor Nesting Habitat. The biggest threat to birds is habitat loss and conversion of natural vegetation into another land use such as development (e.g., commercial, residential, industrial). In the greater Los Angeles region, urban forests and street trees, both native and some non-native species, provide habitat for a high diversity of birds (Wood and Esaian 2020). Some species of raptors have adapted to and exploited urban areas for breeding and nesting (Cooper et al. 2020). For example, raptors (*Accipitridae*, *Falconidae*) such as red-tailed hawks (*Buteo jamaicensis*) and Cooper's hawks (*Accipiter cooperii*) can nest successfully in urban sites. Red-tailed hawks commonly nest in ornamental vegetation such as eucalyptus (Cooper et al. 2020). According to eBird, there are multiple observations of red-tailed hawks and Copper's hawks within the City.
- a) CDFW recommends the DEIR provide measures where future housing development facilitated by the Project avoids removal of any native trees, large and dense-canopied native and non-native trees, and trees occurring in high density (Wood and Esaian 2020). CDFW also recommends avoiding impacts to trees protected by any local Tree Ordinance. CDFW also recommends avoiding impacts to understory vegetation (e.g., ground cover, subshrubs, shrubs, and trees).
 - b) If impacts to trees cannot be avoided, trees should be replaced to compensate for the temporal or permanent loss habitat within a project site. Depending on the status of the bird or raptor species impacted, replacement habitat acres should increase with the occurrence of a California Species of Special Concern. Replacement habitat acres should further increase with the occurrence of a CESA-listed threatened or endangered species.
 - c) CDFW recommends planting native tree species preferred by birds. This includes coast live oak (*Quercus agrifolia*) and California sycamore (*Platanus racemosa*) (Wood and Esaian 2020). CDFW recommends Audubon Society's [Plants for Birds](#) for more information on selecting native plants and trees beneficial to birds (Audubon Society 2020).
- 3) Landscaping. CDFW recommends the use of native plants for any project proposing landscaping. CDFW strongly recommends avoiding non-native, invasive plants for landscaping, particularly any species listed as 'Moderate' or 'High' by the California Invasive Plant Council (Cal-IPC 2022). CDFW recommends the use of native species found in naturally occurring plant communities near to the Project area. Finally, CDFW recommends planting

Joelle Guerra
City of Walnut
September 13, 2023
Page 5 of 12

species of vegetation with high insect and pollinator value.

General Comments

- 1) Biological Baseline Assessment. The DEIR should provide an adequate biological resources assessment, including a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place emphasis upon identifying endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project site. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. An environmental document should include the following information:
 - a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2023a);
 - b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas should be included where Project construction and activities could lead to direct or indirect impacts off site;
 - c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at a Project site and within the neighboring vicinity. The [Manual of California Vegetation Online](#) should also be used to inform this mapping and assessment (CNPS 2023).

Joelle Guerra
City of Walnut
September 13, 2023
Page 6 of 12

Adjoining habitat areas should be included in this assessment if the Project could lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions;

- d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by a Project. California Natural Diversity Database in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat. An assessment should include a nine-quadrangle search of the CNDDDB to determine a list of species potentially present at a Project site. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur on the Project site. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)];
- e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of a project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) for established survey protocol for select species (CDFW 2023b). Acceptable species-specific survey procedures may be developed in consultation with CDFW and the USFWS; and,
- f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a 1-year period, and assessments for rare plants may be considered valid for a period of up to 3 years. Some aspects of a proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame or in phases.

Joelle Guerra
City of Walnut
September 13, 2023
Page 7 of 12

- 2) Disclosure. The DEIR should provide an adequate, complete, and detailed disclosure about the effect which a proposed Project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, §15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).
- 3) Scientific Collecting Permit. A scientific collecting permit will be necessary if there is a plan to capture and relocate wildlife. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2023c).
- 4) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental document "shall describe feasible measures which could mitigate for impacts below a significant level under CEQA."
 - a) Level of Detail. Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the Lead Agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4). A public agency "shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures" (Pub. Resources Code, § 21081.6). CDFW recommends the City provide mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be

Joelle Guerra
City of Walnut
September 13, 2023
Page 8 of 12

fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). Adequate disclosure is necessary so CDFW may provide comments on the adequacy and feasibility of proposed mitigation measures.

- b) Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the Project as proposed, the DEIR should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the DEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

- 5) Data. CEQA requires that information developed in environmental impact reports be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and natural communities detected by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2023d). To submit information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2023e). The City should ensure data collected for the preparation of the DEIR be properly submitted, with all data fields applicable filled out. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred.

- 6) Biological Direct, Indirect, and Cumulative Impacts. CDFW recommends providing a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The DEIR should address the following:
 - a) A discussion regarding Project-related indirect impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should

Joelle Guerra
City of Walnut
September 13, 2023
Page 9 of 12

be fully evaluated in the DEIR;

- b) A discussion of both the short-term and long-term effects to species population distribution and concentration and alterations of the ecosystem supporting the species impacted [CEQA Guidelines, § 15126.2(a)];
 - c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures;
 - d) A discussion of Project-related changes on drainage patterns; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site. The discussion should also address the potential water extraction activities and the potential resulting impacts on the habitat (if any) supported by the groundwater. Mitigation measures proposed to alleviate such Project impacts should be included;
 - e) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR; and,
 - f) A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant and wildlife species, habitat, and vegetation communities. If the City determines that the Project would not have a cumulative impact, the DEIR should indicate why the cumulative impact is not significant. The City's conclusion should be supported by facts and analyses [CEQA Guidelines, § 15130(a)(2)].
- 7) CESA. An appropriate take authorization from CDFW under CESA may include an ITP or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW

Joelle Guerra
City of Walnut
September 13, 2023
Page 10 of 12

issue a separate DEIR for the issuance of an ITP for the Project unless the Project's DEIR addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's DEIR should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's DEIR. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's DEIR may not necessarily satisfy mitigation required to obtain an ITP. Please visit CDFW's [California Endangered Species Act \(CESA\) Permits](#) webpage for more information (CDFW 2023f).

- 8) Compensatory Mitigation. The DEIR should include mitigation measures for adverse Project-related direct or indirect impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code, section 65967, the Lead Agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.
- 9) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, a DEIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.

Joelle Guerra
City of Walnut
September 13, 2023
Page 11 of 12

Conclusion

We appreciate the opportunity to comment on the NOP for the Walnut Business Park Project to assist the City of Walnut in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov or (562) 292-8105.

Sincerely,

DocuSigned by:

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Jennifer Turner, acting for:
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Joelle Guerra
City of Walnut
September 13, 2023
Page 12 of 12

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