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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 5, 2020
Sent via email

Governor's Office of Planning & Research

MAY 05 2020

STATE CLEARINGHOUSE

H.P. Kang
City of Hemet
445 East Florida Avenue
Hemet, CA 92543

Subject: Draft Subsequent Environmental Impact Report
Rancho Diamante Phase II Specific Plan Amendment (TTM 36841) Project
State Clearinghouse No. 2016081013

Dear H.P. Kang:

The California Department of Fish and Wildlife (CDFW) received the proposed Draft Subsequent Environmental Impact Report (DSEIR) on March 23, 2020 from the City of Hemet (City) for Rancho Diamante Phase II Specific Plan Amendment Project (TTM 36841) (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW 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, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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 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

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's 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.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Project Location

The proposed Project site is located west of Warren Road and north of Poplar Street in the City of Hemet, Riverside County. APNs: 465-110-020, -021, -022, -023, .027; 465-100-016, -022. Offsite project activities include work in APNS: 465-120-019, -021; and 465-130-016, and -017. The Project site is within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) San Jacinto Valley Area Plan, south of Proposed Noncontiguous Habitat Block 7 and Constrained Linkage B (Hemet Channel). A 62.75-acre portion of the Project Site is located within Criteria Cell 4007 and 20.23-acre portion is located within Criteria Cell 3892 (SU4 Hemet Vernal Pool Areas East).

Project Description

The Project proposes the subdivision and construction of the 245.07-acre site into 588 single family residential lots, park and open space areas, and commercial development. The new community will contain a mix of residential lot sizes, with the smallest lot having a minimum of 5,000 square feet and the largest lot having a minimum of 7,000 square feet, with an average lot size of 6,200 square feet. Paseos are proposed for dispersed open space, pedestrian pathways, and the conveyance of drainage and other water quality benefits throughout the community. Drainage is conveyed to the north to the Hemet Channel or to the south to the existing channel serving TTM 31807 immediately south of the Hemet City limits.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed Project with respect to the Project's consistency with the Western Riverside County MSHCP. CDFW is concerned about the adequacy of the impact analysis and the mitigation measures proposed in the DSEIR and the ability of the Project to mitigate the significant, or potentially significant, direct and indirect

impacts to native habitats and species that rely on these habitats. CDFW recommends that our comments be addressed prior to adoption of the Final Subsequent Environmental Impact Report (FSEIR).

Western Riverside County Multiple Species Habitat Conservation Plan And Permittee Obligations

CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the Western Riverside County MSHCP per Section 2800, *et seq.*, of the California Fish and Game Code on June 22, 2004. The MSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit.

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements.

The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP. In order to be considered a covered activity, Permittees must demonstrate that proposed actions are consistent with the MSHCP and its associated Implementing Agreement. The City is the Lead Agency and is signatory to the Implementing Agreement of the MSHCP.

To ensure the requirements of the MSHCP are properly met, the Project is subject to review through the Habitat Acquisition and Negotiation Strategy (HANS) process (Section 6.1.1 of the MSHCP) and the Joint Project Review (JPR) process (Section 6.6.2.E of the MSHCP), as well as demonstrating consistency with the Urban/Wildlife Interface Guidelines (Section 6.1.4 of the MSHCP) and other MSHCP requirements. To date, the Project has not completed the HANS, JPR, and other MSHCP requirements to demonstrate consistency with MSHCP, as recommended by the CEQA Guidelines Initial Study, Section IV (f). Section IV (f) asks will the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

Joint Project Review

The Project is located within the San Jacinto Area Plan, and portions of the project potentially occur within MSHCP Criteria Cells 4007 and 3892 of the Hemet Vernal Pool Areas East Subunit (SU4). To ensure the requirements of the MSHCP are properly met,

the Project is subject to the Joint Project Review (JPR) process (Section 6.6.2.E of the MSHCP) through the Western Riverside County Regional Conservation Authority (RCA). To date, the Project has not completed the JPR, and other MSHCP requirements, to demonstrate consistency with MSHCP. Because the Project identifies activities within MSHCP Criteria Cells 4007 and 3892, CDFW recommends that the City include a new mitigation measure in the FSEIR conditioning the Project to demonstrate compliance with the MSHCP and its associated Implementing Agreement. CDFW recommends the inclusion of the following new measure in the FSEIR:

MM : Prior to issuance of any grading permit the Project shall demonstrate compliance with the MSHCP and its associated Implementing Agreement, via the completion of the Joint Project Review (JPR) process through the Western Riverside County Regional Conservation Authority (RCA), or via the provision of written correspondence from the RCA, United States Fish and Wildlife Service, and California Department of Fish and Wildlife stating that the Project is not subject to the JPR process.

Other Plan Requirements

The Project is required to demonstrate consistency with other MSHCP requirements which include conducting required surveys for riparian/riverine areas and vernal pools, Narrow Endemic Plant Species, and other species required pursuant to Sections 6.1.2, 6.1.3, and 6.3.2 of the MSHCP. Further, page 6-22 of the MSHCP states that Permittees (i.e., Lead Agencies), may complete an assessment, as part of their preliminary review of projects and conduct of initial study (Article V, CEQA Guidelines). "Information necessary for the assessment includes identification and mapping of riparian/riverine areas and vernal pools. The assessment shall consider species composition, topography/ hydrology, and soil analysis, where appropriate." Where resources are present within project areas, "...Permittees shall ensure that, through the CEQA process, project applicants develop project alternatives demonstrating efforts that first avoid, and then minimize direct and indirect effects to the wetlands mapped pursuant to this section and shall review these alternatives with the Permittee. An avoidance alternative shall be selected, if Feasible. If an avoidance alternative is not Feasible, a practicable alternative that minimizes direct and indirect effects to riparian/riverine areas and vernal pools and associated functions and values to the greatest extent possible shall be selected. Those impacts that are unavoidable shall be mitigated such that the lost functions and values as they relate to Covered Species are replaced as set forth below under the Determination of Biologically Equivalent or Superior Preservation."

The Project proposes impacts to several onsite and offsite Riparian/Riverine and Vernal Pool resources subject to MSHCP section 6.1.2. The Project did not find it feasible to avoid impacts to onsite resources. Because impacts are proposed to these resources,

the Project is subject to the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools (MSHCP section 6.1.2). A DBESP, dated June 2018, was included as an appendix to the DSEIR, however CDFW is unaware that a DBESP for this Project has been submitted to CDFW and the United States Fish and Wildlife Service (USFWS) for review.

The DSEIR contains a detailed proposed mitigation strategy for impacts to resources subject to Fish and Game Code Section 1600 et seq. and MSHCP section 6.1.2, however, CDFW is unable to fully assess the proposed mitigation strategy because a DBESP has not been completed or submitted to CDFW and USFWS for review. CDFW offers the following preliminary comments regarding the proposed mitigation strategy.

As stated in Mitigation Measures 3.5.10.5 and 3.5.10.6, the DSEIR commits to determining mitigation for permanent and temporary impacts to Riparian/Riverine Areas and Vernal Pools by completing a DBESP. CDFW concurs that a DBESP is necessary for the specific project because of the projected permanent and temporary impacts to Riparian/Riverine Areas and Vernal Pools resources. To adequately assess the impacts and mitigation measures proposed in the DSEIR, and the ability of the Project to mitigate the significant, or potentially significant, direct and indirect impacts to native habitats and species that rely on these habitats, CDFW recommends the following modification of Mitigation Measure 3.4.10.6 in the FSEIR (modifications *italicized* and underlined, deletions in ~~strikethrough~~):

MM 3.4.10.6:

Prior to issuance of a grading permit, the project applicant will obtain a Clean Water Act (CWA) Section 404 permit from the United States Army Corps of Engineers (USACE), 1602 Streambed Alteration Agreement from California Department of Fish and Wildlife (CDFW) and a Waste Discharge Requirement (WDR) permit issued by the Regional Water Quality Control Board (RWQCB) pursuant to the California Water Code Section 13260 (Porter-Cologne Act). Additionally, the project applicant shall provide to the City written correspondence from the United States Fish and Wildlife Service and CDFW confirming that the Determination of Biologically Equivalent or Superior Preservation has been approved.

Mitigation for permanent and/or temporary impacts shall be determined as specified in the Determination of Biologically Equivalent or Superior Preservation (DBESP) through consultation with the applicable regulatory agencies CDFW, USFWS, and the Western Riverside County Regional Conservation Authority (RCA). Mitigation may include onsite and/or off-site replacement and/or restoration of ~~USACE/RWQCB jurisdictional waters of the U.S./waters of the State, and/or CDFW jurisdictional~~

~~streambed and associated riparian~~ similar habitat. Off-site mitigation may occur on land acquired for the purpose of in-perpetuity preservation or through the purchase of mitigation credits at an agency-approved off-site mitigation bank. Mitigation shall be subject to pre-approval by USACE, USFWS, CDFW, and RQWCB. This measure shall be implemented to the satisfaction of the City Development Services Department, CDFW, USFWS and the RCA.

Impact Analysis and Mitigation

The DSEIR proposes impacts to 1.52 acres of MSHCP section 6.1.2 resources. Additionally, the DSEIR identifies that the project would impact 13 “nonjurisdictional” features. The acreage of impacts and delineation of Riparian/Riverine and Vernal Pool resources may be subject to changes after CDFW and USFWS review and approval of the DBESP. The project proposes to offset impacts to these resources by purchasing 0.03 acre of establishment/re-establishment credits from the Riverpark Mitigation Bank, rehabilitating and enhancing 3.1 acres of onsite Riparian/Riverine resources, and designing the project to incorporate 19.2 acres of water quality features to compensate the loss of beneficial uses to wildlife. The proposed 3.1 acres of onsite rehabilitation and enhancement lies adjacent to the proposed project footprint and onsite water quality features, because of this CDFW is concerned the proposed onsite mitigation may be subject to ongoing operational maintenance activities (e.g. vegetation removal, desilting, and grading) and vector control activities (e.g. vegetation removal, herbicide and pesticide application, etc.). Due to these activities, CDFW is concerned the proposed mitigation strategy may not be biologically equivalent or superior, and requests that the project also evaluate mitigating for impacts entirely offsite.

Project Consultation

CDFW is concerned at the sufficiency of the proposed mitigation measures to offset impacts to fish and wildlife resources and strongly recommends the City and applicant meet with the CDFW, USFWS, and RCA prior to completion of the HANS, JPR, and DBESP processes to discuss the impact analysis and the proposed mitigation strategies.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations 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 during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the

H. P. Kang
City of Hemet
Draft Subsequent Environmental Impact Report
Rancho Diamante Phase II Specific Plan Amendment (TTM 36841), SCH No. 2016081013
May 5, 2020
Page 7 of 11

CNDDDB field survey form at the following link:
<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link:
<https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

CONCLUSION

CDFW appreciates the opportunity to comment on the DSEIR for the Rancho Diamante Phase II Specific Plan Amendment (TTM 36841) Project (State Clearinghouse No. 2016081013), and recommends that the City address CDFW's comments and concerns prior to adoption of the FSEIR. If you should have any questions pertaining to the comments provided in this letter, please contact Eric Chan at (909) 483-6317 or at Eric.Chan@wildlife.ca.gov.

Sincerely,



Scott Wilson
Environmental Program Manager

Attachment 1: Draft Mitigation Monitoring and Reporting Program for CDFW-proposed Mitigation Measures.

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H. P. Kang
City of Hemet
Draft Subsequent Environmental Impact Report
Rancho Diamante Phase II Specific Plan Amendment (TTM 36841), SCH No. 2016081013
May 5, 2020
Page 8 of 11

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Attachment 1

Mitigation Monitoring and Reporting Program for the City of Hemet’s Rancho Diamante Phase II Specific Plan Amendment (TTM 36841) Project

Mitigation Measure	Timing and Methods	Responsible Parties
Biological Resources		
<p>MM (New): Prior to issuance of any grading permit, the Project Applicant shall complete the Joint Project Review process and provide to the City written correspondence from the Western Riverside County Regional Conservation Authority, United States Fish and Wildlife Service and California Department of Fish and Wildlife confirming that the project is consistent with the Western Riverside County Multiple Species Habitat Conservation Plan Criteria and other plan requirements.</p>	<p>Timing: Prior to issuance of any grading permit</p> <p>Methods: Prior to issuance of a Grading Permit, Project Applicant shall submit to the City of Hemet a Western Riverside County Multiple Species Habitat Conservation Plan Consistency Analysis for Rancho Diamante Phase II (TTM 36841) for review and consistency determination. Upon completion of the City’s review, the Consistency Analysis is transmitted to the RCA and then the United States Fish and Wildlife Service and California Department of Fish and Wildlife for review and consistency determination.</p>	<p>Implementation: City of Hemet</p> <p>Monitoring and Reporting: City of Hemet and Western Riverside County Regional Conservation Authority.</p>
<p>MM 3.4.10.6 (Revised):</p> <p>Prior to issuance of a grading permit, the project applicant will obtain a Clean Water Act (CWA) Section 404 permit from the United States Army Corps of</p>	<p>Timing: Prior to issuance of any grading permit</p> <p>Methods: Prior to issuance of a Grading Permit, Project Applicant shall submit to the City of Hemet the Determination of Biologically Equivalent or Superior</p>	<p>Implementation: City of Hemet</p> <p>Monitoring and Reporting: City of Hemet and Western Riverside County Regional</p>

<p>Engineers (USACE), 1602 Streambed Alteration Agreement from California Department of Fish and Wildlife (CDFW) and a Waste Discharge Requirement (WDR) permit issued by the Regional Water Quality Control Board (RWQCB) pursuant to the California Water Code Section 13260 (Porter-Cologne Act). Additionally, the project applicant shall provide to the City written correspondence from the United States Fish and Wildlife Service and CDFW confirming that the Determination of Biologically Equivalent or Superior Preservation has been approved.</p> <p>Mitigation for permanent and/or temporary impacts shall be determined as specified in the Determination of Biologically Equivalent or Superior Preservation (DBESP) through consultation with the CDFW, USFWS, and the Western Riverside County Regional Conservation Authority (RCA). Mitigation may include onsite and/or off-site replacement and/or restoration of similar habitat. Off-site mitigation may occur on land acquired for the purpose of in-perpetuity</p>	<p>Preservation for Rancho Diamante Phase II (TTM 36841) for review and consistency determination. Upon completion of the City's review, the Consistency Analysis is transmitted to the United States Fish and Wildlife Service and California Department of Fish and Wildlife for review and consistency determination.</p>	<p>Conservation Authority.</p>
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<p>preservation or through the purchase of mitigation credits at an agency-approved off-site mitigation bank. Mitigation shall be subject to pre-approval by USACE, USFWS, CDFW, and RQWCB. This measure shall be implemented to the satisfaction of the City Development Services Department, CDFW, USFWS and the RCA.</p>		
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