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Governor's Office of Planning & Research

Dec 26 2023

STATE CLEARINGHOUSE

December 26, 2023

Andrew Myrick
Economic Development and Community Planning Manager
City of Seaside, Economic Development and Community Planning Department
440 Harcourt Avenue
Seaside, California 93955

**Subject: Seaside General Plan Update (Seaside 2040 Plan) (Plan)
Draft Environmental Impact Report (DEIR)
SCH No.: 2017071021**

Dear Andrew Myrick:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (DEIR) from the Economic Development and Community Planning Department for the Plan pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Plan that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Plan 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 & Game Code, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 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., Section 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.

Conserving California's Wildlife Since 1870

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, Section 21069; CEQA Guidelines, Section 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, future projects tiered from this Plan may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & Game Code, Section 1600 et seq.). Likewise, to the extent implementation of future projects tiered from this Plan may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, Section 2050 et seq.), related authorization as provided by the Fish and Game Code may be required. While the comment period may have ended, CDFW would appreciate it if you would still consider our comments.

PLAN DESCRIPTION SUMMARY

Proponent: City of Seaside

Objective: The Seaside 2040 Plan (the proposed project) is a comprehensive update of the City's General Plan and provides a vision for the future of Seaside over the next 20 to 30 years.

Location: The Plan area is all land within Seaside City limits

Timeframe: Not specified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the Economic Development and Community Planning Department in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Plan.

CDFW is concerned that the measures outlined by the Habitat Conservation Plan (HCP) and Habitat Management Plan (HMP) may not be adequate to avoid or reduce impacts to special status species, listed on pages 4.3-10 and 4.3-12 of the DEIR, or be sufficient to ensure compliance with State laws. More specifically, CDFW is concerned with potential impacts to the State fully protected American peregrine falcon (*Falco peregrinus anatum*), the State endangered Seaside bird's-beak (*Cordylanthus rigidus ssp. littoralis*), the State candidate endangered Crotch's bumble bee (*Bombus crotchii*) and western bumble bee (*Bombus occidentalis*), the State threatened and federally threatened California tiger salamander (*Ambystoma californiense*), and the State threatened and federally endangered sand gilia (*Gilia tenuiflora ssp. arenaria*).

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CDFW is also concerned and does not agree with the DEIR conclusions stating that development of undeveloped former Fort Ord lands would have less than significant impact to sensitive plant communities and special status species if all mitigation measures are properly applied.

COMMENT 1: Habitat Conservation Plan (HCP)

Although the Plan area, the City of Seaside, is included in the Fort Ord Multi-Species Habitat Conservation Plan (HCP) as stated in the DEIR, the HCP, which includes minimization and mitigation measures for special status species, was never formally adopted and therefore does not provide take coverage under CESA or the federal Endangered Species Act. As such, the HCP should not be used in the DEIR as a definitive guideline when evaluating the adequacy of mitigation for special status species listed in the DEIR on pages 4.3-10 and 4.3-12. In addition, because the HCP was never adopted, the draft HCP mitigation and conservation measures will not be implemented, save for those that may be required as a condition of approval in another document or plan.

COMMENT 2: 1997 Habitat Management Plan (HMP)

The General Plan references the 1997 Habitat Management Plan (HMP), on page 4.1-23, as a “framework for permittees to conserve and manage special status species, animal communities, and habitat areas on former Fort Ord lands”. Although the HMP at one point did provide framework for species and habitat conservation on former Fort Ord land, it is nearly 30 years old and is not up to date regarding appropriate mitigation for those areas and the species that are federally listed. CDFW is concerned that reliance on the dated HMP may not be sufficient to avoid or reduce species impacts or comply with State and federal laws and should not be referenced to as a guide for mitigating for special status species listed in the DEIR on pages 4.3-10 and page 4.3-12.

COMMENT 3: Construction on undeveloped Ford Ord lands

The General Plan states that through the implementation of regulatory documents and coordination with regulatory agencies, there will be less than significant impact to the former Fort Ord lands.

Even with the implementation of several regulatory documents including: the City of Seaside Municipal Code (Chapter 8.54, Trees), the City of Seaside Municipal Code Title 18 Coastal Zoning, the City of Seaside Local Coastal Program (LCP) (2013), and the Fort Ord Habitat Management Plan (HMP) (1997), CDFW is concerned about potentially significant impacts to special status species that are likely on the undeveloped Ford Ord lands that are being considered for new housing developments. Fort Ord lands are known to have several sensitive plant communities, which include: central maritime

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chaparral, central dune scrub, coastal and valley freshwater marsh, coastal brackish marsh, Monterey cypress forest, Monterey pine forest, Monterey pygmy cypress forest, northern bishop pine forest, and valley needlegrass grassland; alongside several State and federally listed special status species. Even with the guidelines listed in the regulatory documents and with the assistance of regulatory agencies, CDFW is still concerned about potential Project related impacts from new construction on Fort Ord lands.

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, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during any future project surveys to the CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.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://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

Filing Fees

The Plan, 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 Plan approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089.)


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CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the Economic Development and Community Planning Department in identifying and mitigating this Plan's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or evelyn.barajas-perez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gerald Hatler for Julie A. Vance
Regional Manager

ec: State Clearinghouse
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References

Fort Ord Reuse Authority. 1997. Final Environmental Impact Report.
https://www.fora.org/Reports/BRP/BRP_v4_FinalEIR_1997.pdf (accessed March 2023).