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December 15, 2022

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Subject: Pacific Rock Quarry Expansion Project, Recirculated Draft Environmental Impact Report, SCH #2017081052, Ventura County

Dear Ms. Fogg:

The California Department of Fish and Wildlife (CDFW) has reviewed Ventura County's (County; Lead Agency) Recirculated Draft Environmental Impact Report (RDEIR) for the Pacific Rock Quarry Expansion Project (Project).

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'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 & Game 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 (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game 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 & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description and Summary

Objective: The County and Pacific Rock, Inc. (Applicant) are proposing the Project. The original and complete version of the DEIR was circulated in early 2021. The recirculated DEIR includes additional Biological Resources data and analysis. Additions to the document include the new appendix C-3 "Bat Habitat Assessment for Pacific Rock Quarry Expansion Project" within its Biological Resources Appendices and additional mitigation measures to reduce potential impacts to biological resources.

The existing facility is an active quarry that supplies large rock for the production of riprap and various sizes of crushed rock, aggregate materials to public works and private projects in Ventura County. The Applicant is requesting the approval of a Conditional Use Permit (CUP) modification to extend the life of the existing permitted operations for an additional 30 years. As part of the Project the CUP boundary would be extended from 115.5 acres to 204.5 acres, an increase of 89 acres. A significant expansion of the mining area is also proposed which will extend the area from 55 acres to 172.5 acres, an increase of 117.5 acres. The maximum depth of mining activities is 180 feet. The 172.5-acre excavation area will be subject to reclamation. Operational days will be extended from six days to seven days per week. Material hauling and load out would occur between the hours of 5:30am and 10pm on the additional day, Sunday. The Applicant is also proposing a limited number of extended 24-hour operations (60 days maximum per year), which can occur on any day of the week (Sunday-Saturday). New recycling operations are also included within the proposed CUP which would involve crushing and screening of concrete debris between the hours of 7am-4pm on Monday-Saturday. The proposed modification would allow for construction and mobile mining equipment to be staged in outdoor storage areas and allow for imported material to be used in reclamation fill. Finally, the existing onsite mobile home will be replaced to be used as a 24-hour security trailer.

The Applicant is requesting that the County approve a CUP modification to extend the life of the permit and continue to operate on property zoned Open Space (OS-160) and Agricultural Exclusive (AE-40). Both parcels occur within a Habitat Connectivity and Wildlife Corridor overlay zone, pursuant to [Ventura County's Zoning Ordinance](#). The request includes expansion of the mining area to the east and onto recently acquired adjacent land. Impacts to vegetation communities, individual rare plants, sensitive habitats, and wildlife corridors are anticipated. Approximately 1,110 rare plants may be impacted with the extension of the Project's CUP boundary and an additional 60 rare plants were found within the 200-foot study area buffer which may still be impacted by "inadvertent disturbance". CESA-listed Conejo Buckwheat is included in the list of special status plants to be impacted by the project. This species is endemic to Ventura County. According to the RDEIR of the 166.98 acres anticipated to be impacted, 74.42 acres are ranked vegetation communities. Temporal and permanent losses of ranked- and unranked-natural communities will result in the loss of habitat to a multitude of special status and common species.

The proposed Project is expected to impact 19 of the 23 unnamed on-site drainage features. No impacts are anticipated to the detention pond. Many of the 23 unnamed drainage features are hydrologically connected to Conejo Creek and emergent wetlands downstream. In total, over 18,000 linear feet of ephemeral streams within the Project footprint will be impacted. The acreage of impacts to streams and corresponding were not provided.

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The Applicant is also requesting approval of an amendment to the existing Reclamation Plan to account for the proposed expanded mine area and to amend specifications for reclaimed conditions at the site. The proposed Reclamation-Plan amendment specifies land uses as "open space" on the benched portions, and "agriculture" on the remaining areas, where grasses would be planted for cattle grazing. The proposed reclamation would also involve import and placement of fill material at the site.

Location: The Project is located within the westernmost portion of the Santa Monica Mountains and within the Santa Monica–Sierra Madre Connection (Connection). The Project is located approximately 1.5 miles east of Lewis Road and approximately two miles south of State Highway 101 off a private road (Howard Road) in unincorporated Ventura County. The physical address for the site is 1000 South Howard Road, Camarillo, California 93012. The existing quarry is located within Assessor's Parcel Number (APN) 234-0-060-220. Proposed expansion areas are within additional portions of APN 234-0-060-220 and a portion of APN 234-0-060-190.

Comments and Recommendations

CDFW previously commented on the proposed Project's NOP on October 2, 2017, and on the DEIR January 21, 2021. CDFW offers the comments and recommendations below to reassert our concerns and to assist the County in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

Specific Comments

Comment #1: Impacts to Conejo Buckwheat (*Eriogonum crocatum*)

Issue: The Project will impact populations of Conejo buckwheat, an endemic CESA-listed and California Rare Plant Rank (CRPR) 1B.2 species. Conejo buckwheat also has a State and Global ranking of 1 (S1/G1).

Specific impacts: The Project as proposed could potentially remove 54 to 89 individual Conejo buckwheat plants. 54 individual plants are within the proposed expanded mining boundary and 34 are within 200 feet of the boundary.

Why impacts would occur: Conejo buckwheat is a CESA-listed species and is a CRPR 1B.2 that meets the definitions of CESA of the California Fish and Game Code (CEQA Guidelines §15125; (c) and §1538) and is afforded protections under state law. Although the project has included additional focus surveys, baseline surveys, flagging, seed collection, topsoil salvage, and other mitigation measures, the Project as proposed will still remove over 50 individual plants. Within the RDEIR it states, "If take or adverse impacts to Conejo buckwheat and/or other CESA-listed species cannot be avoided, the Permittee shall obtain an Incidental Take Permit (ITP) from CDFW prior to such take or adverse impacts." In order for CDFW to issue an ITP it must be determined that adequate avoidance and minimization measures have been undertaken to fully mitigate potential impacts to the species. Conejo buckwheat is endemic to the Conejo Valley and surrounding regions in Ventura County (Calscape 2022). As an endemic species Conejo buckwheat has limited opportunities for occurrence. An S1 ranking indicates there are less than 6 occurrences of this community in existence in California (Sawyer et al. 2008). The removal of these populations may cause the local extirpation of the species from the

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area. As such, CDFW supports developing and selecting alternatives that reduce or completely avoid Conejo buckwheat.

Evidence impact would be significant: Impacts to special status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS). Additionally, plants that have a California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS [Rare Plant Ranks](#) page for additional rank definitions (CNPS 2022).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Given the constraints of CESA permitting CDFW recommends the Applicant consider Project alternatives that avoid Conejo buckwheat given the rarity of the plant. Possible options include the adoption of Alternative B within the 2020 DEIR. Possible configurations could involve moving the proposed mining boundary back to avoid the large cluster of Conejo buckwheat on the northwest corner of the mine, closest to the entrance road.

Recommendation #1: Throughout the document Conejo buckwheat is often referred to as a rare plant, Conejo buckwheat is protected by law under CESA. As such, CDFW recommends that it is made more evident throughout the document so that readers do not minimize its value and rarity.

Comment #2: Impacts to Wildlife Corridors and Linkages

Issue: Expansion of the Project boundary will narrow the width of the Santa Monica-Sierra Madre wildlife corridor such that it may affect the function of the wildlife passage.

Specific impacts: Expansion of the disturbance boundary will directly impact the wildlife corridor by physically narrowing the passage to nearly half of its current width from 1,500 feet to 800 feet. Further, due to the nature of the Project, indirect impacts such as increased noise, light, dust, and human activity may further degrade the function of the corridor.

Why impacts would occur: The Project lies completely within the Santa Monica-Sierra Madre wildlife corridor overlay zone. This overlay zone is associated with the Ventura County ordinance to regulate development within habitat connectivity and wildlife corridors (Ventura 2019). The purpose of this ordinance is to “preserve functional connectivity for wildlife and vegetation throughout the overlay zone by minimizing direct and indirect barriers, minimizing loss of vegetation and habitat fragmentation and minimizing impacts to those areas that are narrow, impacted or otherwise tenuous with respect to wildlife movement.” Implementation of the Project goes against the very purpose of the ordinance and the goals of the County to

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maintain functional connectivity of wildlife corridors by expanding the disturbance zone, removing acres of sensitive natural communities, and physically narrowing the corridor.

The Santa Monica-Sierra Madre wildlife corridor is especially important in terms of preservation as it is one of few coastal to inland connections remaining in the South Coast Ecoregion (South Coast Wildlands 2008). As stated within the EIR, "Mining in the proposed expansion areas east of the existing mining area would narrow the [Santa Monica-Sierra Madre] Connection at this location to approximately 800 feet. Mining in other portions of the proposed expansion area would also reduce habitat quality in areas designated as habitat connectivity and wildlife corridor areas." CDFW is concerned that 800 feet is not an appropriate amount of space to maintain the function of the corridor, especially for focal species such as mountain lion (see comment 2). Minimum corridor width varies based on the region-specific situation at minimum, given the present situation CDFW is of the opinion that the corridor should remain 1,000 feet wide to ensure continued use and to minimize edge effects (Bond 2003). As stated in CDFW's 2017 comment letter, "[t]he proposed construction footprint extends close to the edge of the parcel boundary and adjoins protected open space on parcel 234-0-080-380 managed by the Mountains Recreation and Conservation Authority (MRCA) (103 acres). The MRCA-open-space parcel and adjacent wildlife habitats lie between the existing quarry footprint and the Dos Vientos residential housing tract; the habitat is about 1,000 feet wide at its narrowest under current conditions. This location represents a functioning wildlife movement area allowing plant and animal species to reside there and move spatially between Conejo Mountain and the western Santa Monica Mountains. Proposed quarry expansion would remove habitat in this area, further reducing the width of this movement corridor by 1/3 or more. The MRCA-open-space parcel would not be providing an effective buffer to neutralize adverse edge effects associated with the nearby mining." CDFW is still of the opinion that these impacts will degrade the current wildlife values in this location. It is not clear if there are currently protections on the remaining adjacent parcels.

Within the RDEIR it also states, "[t]he Project's reduction in available habitat for wildlife Santa Monica-Sierra Madre Connection is not expected to significantly affect wildlife movement through the area as compared to baseline conditions, since mining operations would be generally consistent with existing operations." CDFW does not agree with this statement. Impacts to the corridor will only be exacerbated given the nature of the work that will be performed. Mining includes loud noises from blasting, excavating, rock crushing, loading, and hauling out materials. Additionally, these operations will be conducted at hours that will most impact wildlife (dusk and dawn) and will be done seven days a week with the proposed extension of work hours into Sunday.

The RDEIR did include a noise study to assess noise generated by the Project. Implementation of noise reducing equipment was also offered; however, CDFW is still concerned with the cumulative noise generated by daily operations. The noise study conducted onsite aimed to assess noise within the remaining corridor and the Dos Vientos residential community. However, the noise receptor (R3) and all subsequent receptors along the passage were near the far edge of the corridor near the residences and did not span across the width of the corridor. Likewise, potential project noise was generated towards the middle of the quarry, in the location of the existing aggregate plant. The proposed mining boundary extends far beyond this point. The aggregate plant is approximately 2,000 feet away from receptor R3 while the proposed mining boundary is only 390 feet away. Heavy machinery and noise generating activities will likely be conducted much closer to the corridor. Readings performed under the

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aforementioned conditions already yielded a cumulative noise level of 59.6 dBA. Substantial noise may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55-60 dB (Barber et al. 2009). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt, and have been found to have a high likelihood of occurrence in the area. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Moreover, although lighting design and features will follow guidelines outlined within Ventura County's wildlife corridor ordinance the expansion of the mining boundary will push wildlife closer to the residential tract where ambient light will be increase. Increased ambient lighting levels can increase predation risks and disorientation and disrupt normal behaviors of wildlife in adjacent feeding, breeding, and roosting habitat (Longcore and Rich 2004).

Further, the Santa Monica-Sierra Madre connection which stretches from the Santa Monica Mountains at the coast inland to the Santa Susana Mountains and the Sierra Madre Ranges of Los Padres National Forest includes substantial public ownership. Currently 34% (43,249 of 125,613 acres) of the connection is receiving some level of conservation protection that protects natural habitats from development (South Coast Wildlands 2008). Implementation of this Project will undermine the goals of these conservational efforts by creating a chokepoint to wildlife movement. Lands protected for the purposes of maintaining resources and movement corridors for wildlife species may not be as readily accessible to a multitude of species with the implementation of this Project. Future development may occur and further truncate the corridor. Finally, wildfires have occurred at higher frequency and severity within California. A wildfire that occurs within the corridor may burn and remove vegetation within the remaining segment, which could further hamper wildlife movement through the passage.

Evidence impact would be significant: On May 12, 2019, Ventura County established Ordinance number 4537, the non-coastal zoning ordinance to regulate development within the habitat connectivity and wildlife corridors, and the critical wildlife passage areas overlay zones. This ordinance was established to "preserve functional connectivity for wildlife and vegetation throughout the overlay zone by minimizing direct and indirect barriers, minimizing loss of vegetation and habitat fragmentation and minimizing impacts to those areas that are narrow, impacted or otherwise tenuous with respect to wildlife movement." According to the ordinance the purpose of the ordinance is as follows:

- a) Minimize the indirect impacts to wildlife created by outdoor lighting, such as disorientation of nocturnal species and the disruption of mating, feeding, migrating, and the predator-prey balance.
- b) Preserve the functional connectivity and habitat quality of surface water features, due to the vital role they play in providing refuge and resources for wildlife.
- c) Protect and enhance wildlife crossing structures to help facilitate safe wildlife passage.
- d) Minimize the introduction of invasive plants, which can increase fire risk, reduce water availability, accelerate erosion and flooding, and diminish biodiversity within an ecosystem.

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- e) Minimize wildlife impermeable fencing, which can create barriers to food and water, shelter, and breeding access to unrelated members of the same species needed to maintain genetic diversity.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the Project fully avoid further encroaching into the Santa Monica-Sierra Madre wildlife corridor. CDFW recommends redesigning the project to avoid impacts to the wildlife corridor. Alternatives such as pit mining should be considered to avoid further encroachment. Under alternative B of the 2020 document the Project would reduce the mine expansion area.

Mitigation Measure #2: CDFW recommends the Applicant retain contiguous land parcels surrounding the corridor. APN numbers 234-0-080-790, 234-0-080-380, and undisturbed portions of 234-0-060-220 and 234-0-060-190 should be protected in perpetuity (if not already protected) from encroachment and development to ensure the preservation of the Santa Monica-Sierra Madre wildlife corridor. The mitigation lands should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code, sections 65965-65968. Under Government Code, section 65967(c), 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. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities and prior to the County's issuance of grading permits.

Mitigation Measure #3: Due to the sensitive nature of the wildlife corridor, CDFW recommends the Applicant conduct an additional noise study. Receptors should be placed across the width of the corridor to assess noise more accurately throughout the corridor.

Mitigation Measure #4: CDFW recommends the Project restrict use of equipment and lighting to hours least likely to disrupt wildlife (e.g., not at dusk or in early morning before 9 am). In addition to the implementation of mitigation measure NV-1 CDFW recommends the Applicant maintain noise receptors and a written record of noise readings from sensitive noise receptors. These readings should be retained for one year and made available to the Ventura County Planning Division to ensure that noise generated from the project are within appropriate thresholds for wildlife. Noise levels should not exceed 55 dBA at sensitive receptors. If readings do exceed these thresholds further measures should be implemented to reduce impacts from noise such as sound barriers.

Recommendation #1: CDFW recommends that Project's hours of operation not be extended, nor should operations extend into Sunday. The proposed hours of operation will occur both at dusk and dawn when wildlife is most active and have the potential to change behavior in wildlife, including special status species. Likewise, the absence of noise one day out of the week may give wildlife an opportunity to move more freely within the wildlife corridor.

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Comment #3: Impacts to Mountain Lion (*Puma concolor*)

Issue: CDFW acknowledges and appreciates the Applicant's efforts in reducing impacts to mountain lion in the RDEIR. However, even with the implementation of natal den surveys and pre-disturbance surveys CDFW is still concerned that significant impacts will still occur as a result of narrowing of the wildlife corridor and removal of mountain lion habitat due to Project implementation.

Specific impacts: Narrowing of the Santa Monica-Sierra Madre wildlife corridor may affect the functionality of the passage to CESA-candidate mountain lion. The RDEIR also did not disclose the acreage of habitat potentially impacted due to Project activities. Project implementation would directly impact mountain lion habitat through vegetation removal, grading, and extension of the disturbance area. Indirect impacts include increased levels of noise, vibration, sound, and human activity in the area.

Why Impacts will occur: The Santa Monica-Sierra Madre wildlife corridor which connects patches of habitat blocks in the area will be narrowed. The Applicant has only provided mitigation measures that will aid in the detection and avoidance of mountain lion dens. Other measures offered included mitigation to lessen impacts from noise and light.

Project implementation would reduce the width of the Santa Monica-Sierra Madre corridor from 1,500 feet to 800 feet. CDFW is concerned that narrowing the corridor to 800 feet will impact mountain lion movement and make blocks of surrounding habitat less accessible. Based on literature available, it is not concretely known as to how wide a corridor should be to facilitate movement and long-term gene flow between species. However, absent of this data a general rule of thumb should be applied according to Beier in a 2018 report, *A rule of thumb for widths of conservation corridors*. "A corridor should be at least 2 km wide, except at unavoidable bottlenecks such as freeway crossing structures (Beier 2018)." The corridor is already far narrower than the recommended 2 km (6,562 feet). The effectiveness of a corridor is further affected by the type and extent of human activities and land use practices within and adjacent to the corridor (Harrison 1992). In a more recent study, it was found that "...most species' movement in corridors less than 400 m wide will be negatively influenced by the presence of people along the edge of the corridor. Corridor widths need to be even greater if residential development, trails, or human activity are permitted within the boundaries of the designated wildlife corridor." The impacted portion of the Santa Monica-Sierra Madre corridor is flanked by the Project's mining operation and residential communities. Both contribute to increased noise, light, and human activity. Further, the Powerline trail cuts parallel through the impacted section of the corridor, increasing the likelihood of human-wildlife interactions. These elements increase levels of disturbance in the corridor, thus CDFW is of the opinion that 800 feet is not an appropriate width. These cumulative elements coupled and ecological importance of this segment of the corridor necessitate a greater minimum width to minimize potential impacts to mountain lion movement.

With the extension of the Project's CUP boundary, acres of suitable hunting and denning habitat will also be lost due to grading and vegetation removal or become less viable due to increased noise, light, and human activity. As such, replacement habitat should be provided for mountain lion to minimize impacts. Within the RDEIR is a table that discloses acreage of suitable habitat of special status species impacted within Appendix C-1. Mountain lion was not included on this table although it is a CESA-candidate with a high probability of occurrence. Conserving and

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restoring suitable habitat and connectivity areas and corridors is essential for mitigating impacts to mountain lions. Loss of this species from Southern California, and from the Sierra Madre-Santa Monica Mountains region in particular would run counter to extensive public investments in parks and open spaces designed to protect biodiversity for future generations (Penrod 2006). Mitigation for habitat removed is especially critical in the face of climate change driven habitat loss and increased frequency of fires (Yap 2019). Much of the chaparral habitat in southern California that provide habitat for mountain lions may be climactically highly stressed by the year 2070 (Thorne 2016).

Evidence impact would be significant: Mountain lion is a specially protected mammal in the State (Fish and Game Code, § 4800). In addition, on April 21, 2020, the California Fish and Game Commission accepted a petition to list an evolutionarily significant unit (ESU) of mountain lion in southern and central coastal California as threatened under CESA (CDFW 2020a). As a CESA-candidate species, the mountain lion in southern California is granted full protection of a threatened species under CESA.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the Project fully avoid further encroaching into the Santa Monica-Sierra Madre wildlife corridor (see comment 2, MM 1).

Mitigation Measure #2: If avoidance is not possible CDFW recommends moving the proposed boundary such that the wildlife corridor remains at least 1,000 feet wide in areas that are most narrow. This would require the Project to move the boundary back by 200 feet in applicable segments. Maintaining a 1,000-foot minimum buffer will help deter impacts from edge effects and maintain function of the passage.

Mitigation Measure #3: If impacts cannot be avoided, habitat should be replaced to compensate for the temporal or permanent loss of habitat. As stated within CDFW's 2021 comment letter to the Applicant, CDFW recommends setting aside a minimum of 110.3 acres of replacement habitat. CDFW recommends the replacement habitat be located adjacent to the County's Wildlife Linkage and Corridor in order to widen the corridor at locations where the corridor is less than one mile. There should be no net loss of suitable habitat for mountain lions. The County should consult and collaborate with CDFW to conserve areas beneficial to the southern California mountain lion population that may improve chances of survival and reproduction of mountain lions in the face of climate change. The mitigation lands should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code, sections 65965-65968. Under Government Code, section 65967(c), 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. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities and prior to the County's issuance of grading permits.

Mitigation Measure #4: If impacts to movement corridors occur the Project may also include plans to implement or help fund wildlife crossing structures or passages with directional wildlife

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fencing to mitigate impacts to mountain lion. The Applicant should provide minimum criterion for design features, dimensions, and locations of potential crossings and associated fencing.

Recommendation #1: CDFW recommends providing habitat impact acreage for mountain lion within the Observed and Potentially Occurring Special-Status Species table (Appendix C-1 Pages 29-36) as it is a species with high probability of occurrence and affords protections under CESA as a CESA-candidate (see Comment 5).

Comment #4: Lake and Streambed Alteration Agreement (LSAA), impacts to streams and associated habitat

Issue: The Project would impact 18,686 linear feet of streams protected by the State.

Specific impacts: The Project includes the modification of 19 unnamed ephemeral streams. Although a Stream delineation surveys were recommended as part of CDFW's January 2021 comment letter a formal delineation was not included in the RDEIR to quantify acreage of impacts to streams and associated habitat. The PDEIR did not include a plan to mitigate for loss of streambed and associated riparian habitats as a result of the Project.

Why Impacts will occur: As previously stated in CDFW's 2017 and 2021 comment letters, CDFW is still concerned about impacts to streams. The only mitigation proposed for streams within the RDEIR is a future delineation associated with an LSA notification (BIO-5) and measures that would reduce impacts to water quality (BIO-2(h), WR-2(a), WR-2(b), and WR-2(c)). Within the RDEIR, the Project anticipates impacts to 19 of the 24 on-site water features (W1-W24) that are subject to Fish and Game Code, section 1600 *et seq.* Water features W6, W11, W18, and W24 (detention pond) are not expected to be impacted. However, this would still result in impacts to approximately 18,686 linear feet of streambed and an undisclosed acreage of associated riparian habitat. Modification of these features may result in the loss of streams, associated watershed function, and biological diversity. Replacement of streambed acreage and riparian habitat will be necessary to reduce impacts to less than significant. Within CDFW's January 2021 comment letter staff provided this statement, "Please provide CDFW with the updated information, including any information regarding jurisdictional delineations of State waters, for review. Upon review, CDFW may provide additional comments, as necessary." The Applicant has still not provided this updated information. Thus, CDFW is not able to provide the most appropriate mitigation for the Project nor adequately assess the feasibility of proposed mitigation. Collectively, this would result in the potential loss of several acres of natural drainage patterns, soils, and associated vegetation.

Additionally, within the recirculated biological section of the EIR it states, "[h]owever, surface water flows from the Project site converge with Conejo Creek via an off-site swale only during high flow events when runoff into the detention pond overtop the pond's outflow elevation." Therefore, altering these drainage features will also alter natural hydrologic and geomorphic processes and likely diminish on-site and downstream water quality in Conejo Creek and emergent wetlands. It is also unclear whether the detention pond will be able to store a higher volume of water, the modification of these water features may cause more frequent overflow events into Conejo Creek.

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Evidence impact would be significant: The Project may impact streams and associated riparian habitats. CDFW exercises its regulatory authority (Fish and Game Code, section 1600 *et seq.*) to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code, section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

CDFW requires a Lake and Streambed Alteration Agreement (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources.

For reasons discussed above, the Project continues to have a substantial adverse effect on streams and associated riparian habitat through direct removal, filling, hydrological interruption, or other means.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: The Project applicant (or “entity”) should provide written notification to CDFW pursuant to Fish and Game Code, section 1600 *et seq.* The Project should notify CDFW prior to any Project construction or activities. Based on this notification and other information, CDFW determines whether a LSA with the applicant is required prior to conducting the proposed activities. Please visit the [Lake and Streambed Alteration Program](#) webpage to obtain a notification package for an LSA (CDFW 2021b).

CDFW’s issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the Lead Agency for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code, section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the streams or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA.

Mitigation Measure #2: Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: avoidance of resources, on-site or off-site creation, enhancement, or restoration, and/or protection and management of mitigation lands in perpetuity.

Mitigation Measure #3: CDFW recommends fully avoiding impacts to waters and riparian/wetland vegetation communities. If feasible, CDFW recommends redesigning the Project to avoid impacts to the existing drainage features that support sensitive vegetation communities. CDFW also recommends the County consider Project alternatives that could incorporate the unnamed streams into the planned development. Design alternatives should

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attempt to retain as much surface flow and natural hydrologic processes as possible. CDFW recommends taking an inter-disciplinary approach to involve landscape architects, engineers, and wildlife biologists, and hydrologists to develop design alternatives that could fully avoid or lessen impacts to waters and riparian/wetland vegetation communities.

Mitigation Measure #4: If impacts to streams are unavoidable, CDFW recommends that mitigation occur at a CDFW-approved bank. Mitigation bank credits should be purchased, approved, or otherwise fully executed prior to implementing Project-related ground-disturbing activities and prior to the County's issuance of grading permits.

Mitigation Measure #5: If credits at a CDFW-approved mitigation bank are not available, CDFW recommends setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. Mitigation lands should be in the same watershed as the Project site and support in-kind vegetation. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities prior to the County's issuance of grading permits.

Mitigation Measure #6: The Applicant has not disclosed the acreage of associated habitat through a formal delineation. As previously stated within CDFW's 2021 comment letter to the Applicant, the LSA should be conditioned such that potential impacts to riparian habitat, such as arroyo willow thicket, mulefat thicket, and cattail marshes be mitigated at no less than 3:1 if avoidance is not feasible. Mitigation ratios should increase if on-site mitigation is not possible. CDFW recommends that an on-site Habitat Mitigation and Monitoring Plan (HMMP) be developed. An HMMP should provide specific, detailed, and enforceable measures.

Mitigation Measure #7: CDFW recommends that all on-site mitigation sites for impacts to waters and riparian/wetland vegetation communities be protected in perpetuity from public encroachment and structural intrusion. This should include all water features on site, including ephemeral and perennial bodies.

As stated within CDFW's 2021 comment letter, CDFW recommends the County fund a minimum of 10 years of initial restoration and maintenance. If applicable, mitigation lands (unnamed creeks, surrounding natural areas) should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities and prior to the County's issuance of grading permits.

Recommendation #1: As part of the LSAA Notification process, CDFW requests a map showing features potentially subject to CDFW's broad regulatory authority over streams. CDFW also requests a hydrological evaluation of the 200, 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.

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Comment #5: Habitat loss for Special Status Wildlife Species

Issue: CDFW acknowledges the efforts of the Applicant in including additional surveys and measures to reduce impact to special status species, however a significant amount of habitat will be lost or inaccessible to wildlife as part of the Project.

Specific impacts: The Project as proposed may impact a multitude of species and their habitats including but not limited to:

Table 1. Acreage of habitat potentially impacted for wildlife species as noted by the Project.

Wildlife Species	Protection Status	Suitable Habitat Acreage Impacted
Burrowing owl	SSC	72.53
Coastal California gnatcatcher	ESA-Listed; SSC	72.25
Coastal whiptail	SSC	85.5
Crotch bumblebee	CESA-candidate	85.26
San Diego desert woodrat	SSC	84
Loggerheaded shrike	SSC	72.25
Santa Monica grasshopper	G1/S1	85.5
Golden eagle	FP, WL	71.02
Sharp-shinned hawk	WL	71.02
Burrowing owl	SSC	72.53
Bat Species (Combined)	SSC	69.52

**Table composed based on information provided on "Observed and Potentially Occurring Special-Status Species table (Appendix C-1 Pages 29-36) and Bat Habitat Types and Acreages within study area table (Appendix C-3) within the RDEIR. Key: Endangered Species Act (ESA) listed, California Endangered Species Act (CESA) listed, Species of Special Concern (SSC), Fully Protected (FP), Watch List (WL).

Why impacts would occur: Although the Applicant has provided new information and mitigation measures regarding biological resources the document lacked measures to replace habitat temporarily or permanently lost due to Project implementation. Although extension of the disturbance area will be done incrementally, undisturbed habitat within the proposed mining boundary may be less accessible to wildlife. Likewise, restoration and reclamation activities performed in areas no longer utilized will take time to restore resources and function. Replacement habitat should be provided to reduce impacts to special status species to less than significant.

Evidence impact would be significant: CEQA provides protection not only for Endangered Species Act (ESA-) and CESA-listed species, but for any species including but not limited to Species of Special Concern (SSC) which can be shown to meet the criteria for State listing. SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Take of CESA protected species could require a mandatory finding of significance (CEQA Guidelines, § 15065).

Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

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Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated, through appropriate disclosure of the proposed mitigation measures, below a level of significance. The RDEIR has yet to provide mitigation for the Project's potential impact on habitat of special status species. Accordingly, the Project continues to have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or U.S. Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends first avoiding any potential impacts to habitat utilized by special status species. If avoidance is not possible the Applicant should replace habitat at a ratio appropriate to maintain a no net loss of habitat values, acreage, and function. CDFW recommends setting aside replacement habitat to be protected in perpetuity under a conservation easement. CDFW highly recommends protecting the adjacent land parcels held under ownership of the Applicant. By protecting the adjacent parcels similar habitat lost due to project implementation would be preserved and the Santa Monica-Sierra Madre corridor would not be further truncated. Conservation easements should be dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012), which amended Government Code sections 65965-65968. Under Government Code section 65967(c), 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. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A mitigation land should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that should be addressed include, but are not limited to, restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and increased human intrusion. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project related ground disturbing activities.

Mitigation Measure #2: If protecting the adjacent parcels is not feasible, CDFW recommends participation in a mitigation bank. Off-site mitigation should increase replacement ratios to achieve a no net loss of habitat values and function. CDFW recommends that mitigation occur at a state-approved bank. Mitigation bank credits should be purchased, approved, or otherwise fully executed prior to implementing Project related ground disturbing activities. Mitigation credits purchased must be appropriate for the above impacts.

Comment #6: Alliance Characterization of Sensitive Natural Communities

Issue: Characterization of vegetation communities within the RDEIR were not identified according to alliances outlined within the Manual of California Vegetation Communities (MCV).

Specific Impact: Within the RDEIR natural communities identified include laurel sumac scrub, California sage brush scrub, giant wild rye grasslands, mountain mahogany scrub, and disturbed chamise/ceanothus chapparal. These communities are not characterized to the alliance level. To characterize vegetation to the alliance level the community must adhere to criteria included within the MCV. Thus, current community characterizations do not provide the level of detail necessary to assess mitigation measures provided.

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Why impacts would occur: The vegetation communities within the RDEIR do not categorize vegetation communities consistent with the MCV. Plant communities present should be identified and described based on their alliances and association as described in the MCV to accurately identify the biological resources onsite and potential impacts from the Project. Without accurate characterization of a plant community to the alliance level CDFW is unable to clearly determine the effectiveness of proposed mitigation including revegetation and reclamation activities. Plant community alliances have specific membership rules for identification, either a community meets this criterion or doesn't. Vegetation alliances differ in canopy, shrub layer, and understory layer composition. To properly replace alliance communities lost due to Project implementation revegetation Plans should adhere to the specific membership rules of the alliance. Within the RDEIR it states, "All areas currently vegetated with native and non-native plant communities (97.66 acres) and the unvegetated disturbed and developed areas (69.32 acres) would be revegetated with the upland scrub/grassland and agricultural grassland seed mixes, resulting in 166.98 acres of reclaimed and revegetated land." The seed mix proposed within Table 3.5-9 is not appropriate for blanket use, as previously stated revegetation of plant alliance should adhere to membership rules to replicate composition and function. It is also unclear where these mixes will be sourced from. If seed mixes must be used, seeds should be from the same geographical area and be genetically similar to the surrounding vegetation.

Evidence impact will be significant: Collectively, Upland Scrub and Grassland habitats currently support or provide suitable habitat for plants and wildlife, including rare plants and wildlife.

Pursuant under CEQA Guidelines, section 15125(c), CDFW considers southern California coastal sage scrub habitats as locally significant. The absence of mitigation for many of the habitats listed above will result in significant loss of viable and valuable habitat. As a result, the Project may continue to have a significant change on the environment absent appropriate mitigation for the unavoidable direct and indirect, permanent or temporal losses, of native and undisturbed vegetation and habitat (CEQA Guidelines, § 15382). Inadequate avoidance, minimization, and mitigation measures for impacts will result in a Project(s) continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To determine the rarity ranking of vegetation communities on a specific Project site(s), CDFW utilizes vegetation descriptions found in the MCV. The MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system (found online at <http://vegetation.cnps.org/>).

Mitigation Measure #2: The Applicant should develop alliance-specific revegetation plans for alliances impacted. Plans should be based on membership criteria of each specific alliance. Revegetation Plans should include each species layer and include at least 70% of diversity by layer. Each alliance-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum:

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- 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted);
- 2) location of on-site mitigation and adequacy of the location(s) to serve as mitigation;
- 3) assessment of appropriate reference sites;
- 4) scientific [genus and species (subspecies/variety if applicable)] of plants being used for restoration;
- 5) location(s) of propagule source;
- 6) species-specific planting methods (i.e., container or seed);
- 7) measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover);
- 8) long-term monitoring, and;
- 9) adaptive management techniques.

Mitigation Measure #3: Success criteria should be based on the specific composition of the vegetation communities being impacted. Success should not be determined until the site has been irrigation-free for at least 5 years and the metrics for success have remained stable (no negative trend for richness/diversity/abundance/cover and no positive trend for invasive/non-native cover for each vegetation layer) for at least 5 years. In the revegetation plan, the success criteria should be compared against an appropriate reference site, with the same vegetation alliance, with as good or better-quality habitat. The success criteria should include percent cover (both basal and vegetative), species diversity, density, abundance, and any other measures of success deemed appropriate by CDFW. Success criteria should be separated into vegetative layers (tree, shrub, grass, and forb) for each alliance being mitigated, and each layer should be compared to the success criteria of the reference site, as well as the alliance criteria in the MCV ensuring one species or layer does not disproportionately dominate a site but conditions mimic the reference site and meets the alliance membership requirements.

Recommendation #1: CDFW highly encourages the collection of on-site seed over the use of nursery sourced seed mix. Seed collection should include each species layer.

Comment #7: Impacts to Sensitive Natural Communities and Rare Plants

Issue: CDFW is concerned that replacement ratios provided within the RDEIR are insufficient to reduce impacts to less than significant for sensitive natural communities and rare plants.

Specific Impact: Direct impacts to rare plants that occur onsite or within the immediate vicinity of the Project are likely to occur. This may result in mortality, reduced reproductive capacity, population declines, or local extirpation of a sensitive or special status plants. Within the RDEIR minimum replacement ratios were offered at 1:1 for sensitive natural communities and individual rare plants. CDFW is concerned that ratios provided are not sufficient for the rarity and ecological value of these resources.

Why impacts would occur: The proposed 1:1 ratio may not be sufficient in replacing the acreage, value, or function of communities and individual rare plants removed by the Project. Within the RDEIR it states, "The biological functions and values of the revegetated areas are expected to be less than those that currently exist in the Project site until the revegetated communities mature." Although the characterization of the plant communities identified within the RDEIR is in question the following communities will be impacted through Project implementation:

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- 71.02 acres of laurel sumac scrub (S4/G4; Locally important)
- 0.14 acres California sage brush scrub (S5/G5; Locally important)
- 1.50 acres giant wild rye grasslands (S3/G3; Locally important)
- 0.19 acres cattail marsh (S5/G5)
- 0.23 acres mountain mahogany scrub (S4/G5; Locally important)
- 1.34 acres disturbed chamise/ceanothus chaparral (S5/G5; Locally important)

Replacement ratios were not provided for cattail marsh. Within the RDEIR it states, "Protection of sensitive upland scrub vegetation communities and special-status plant species should be at a minimum of a 1:1 ratio for the 74.23 acres of sensitive upland scrub vegetation communities that will be impacted by the Project." Although this is a tentative minimum replacement ratio pending the composition of the Upland scrub and Special Status Plant Species Monitoring Plan, CDFW recommends increasing minimum replacement ratios within the future Monitoring Plan to reflect the ecological value and rarity of each community and/or rare plant population. The majority of the alliances are S4/S5 are of local importance and should necessitate a higher replacement ratio. Additionally, if mitigation is performed offsite then proposed replacement ratios should be increased. Within the RDEIR it states, "If the adjacent Permittee-owned lands do not support the upland scrub communities or special-status plant species that would be impacted by the Project and if the adjacent Permittee-owned lands do not provide sufficient restoration opportunities for the special-status plants, then the mitigation and monitoring plan should include an appropriate offsite alternative for mitigation." The Applicant should provide potential replacement ratios for offsite mitigation. Likewise, replacement ratios should have been provided for cattail marsh at it is a riparian vegetation community. Only five to 10 percent of California's original riparian habitat (which includes cattail marsh) exists today and much of the remaining habitat is in a degraded condition.

According to the October 23, 2018, memorandum within the RDEIR approximately 1,110 rare plants may be impacted with the extension of the Project's CUP boundary. An additional 60 rare plants were found within the 200-foot study area buffer and may be affected by edge effect or "inadvertent disturbance". Within the RDEIR it states, "Additionally, inadvertent disturbance outside of the Project's planned disturbance area would have the potential to adversely affect common and sensitive vegetation communities in those adjacent areas..." The Project also provided a 1:1 replacement ratio for these rare plants. CDFW is of the opinion that this ratio is insufficient to reduce Project impacts. Rare plants are habitat specialists that require specific conditions to persist such as vegetation composition (species abundance, diversity, cover), soils, substrate, slope, hydrology, and pollinators. Accordingly, mitigation for impacts to rare plants should also include habitat.

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Table 2. Number of individual special status plants within the proposed CUP boundary and study area provided within the RDEIR.

Scientific Name	Common Names	Number of Plants within Proposed CUP Boundary	Number of Plants within 200-foot Buffer Area
<i>Calochortus catalinae</i>	Catalina mariposa-lily	180	4
<i>Calochortus clavatus</i> var. <i>clavatus</i>	Club haired mariposa lily	13	
<i>Dudleya blochmaniae</i> ssp. <i>blochmaniae</i>	Blochman's dudleya	857	21
<i>Eriogonum crocatum</i>	Conejo buckwheat	54	35
<i>Juglans californica</i>	Southern California black walnut	6	

Evidence impact will be significant: Impacts to special status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. CDFW considers plant communities, alliances, and associations with a statewide ranking of S1, S2, S3, and S4 as sensitive and declining at the local and regional level (Sawyer 2009). Additionally, plants that have a California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS [Rare Plant Ranks](#) (CNPS 2022) page for additional rank definitions.

Table 3. Acreage of suitable habitat impacted by Project implementation.

Species	Status	Suitable Habitat Acreage Impacted
Catalina mariposa-lily	CRPR 4.2	72.15
Plummer's mariposa-lily	LIS, CRPR 4.2	72.5
Blochman's dudleya	CRPR 1B.1, G3, S2	72.36
Conejo dudleya	FT, LIS, CRPR 1B.2, GT, S1	71.02
Verity's dudleya	FT, LIS, CRPR 1B.1, G1, S1	71.02
Conejo buckwheat	SR, LIS, CRPR 1B.2, G1, S1	83.86
Ojai navarretia	CRPR 1B.1, G2, S2	72.36
Lyon's petachaeta	FE, SE, CRPR, 1B.1, G1, S1	72.52
Woven-spored lichen	CRPR 3, G3, S1	1.34
Southern California black walnut	CPR 4.2, G3, S3	11.69

**Table generated from information provided within the RDEIR on "Observed and Potentially Occurring Special-Status Species table (Appendix C-1 Pages 29-36).

Inadequate avoidance, minimization, and mitigation measures for impacts to these CEQA locally sensitive vegetation communities will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on

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any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS. Thus, the Project will continue to have impacts on rare plants and natural communities for the above reasons.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the environmental document provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat. In addition to the mitigation measures provided for sensitive natural communities and rare plants within the RDEIR CDFW recommends the project raise minimum replacement ratios for communities and rare plants when developing revegetation Plans. The Applicant should mitigate at a ratio sufficient to achieve a no-net loss for impacts to special status plant species and their associated habitat. This should be for the number of plants replaced to number impacted, including acres of habitat created to acres of habitat impacted.

Additional Recommendations

Long Term Weed Management Plan. Non-native plants, including noxious weeds (as listed by the [California Invasive Plant Council](#)) (CALIPC 2022), should be prevented from establishing in disturbed areas, either by hand-weeding or selective application of herbicide. The Plan should include a weed monitoring program with regular inspection (weekly/monthly) of any area that was cleared of vegetation until it is reclaimed/revegetated and vegetation meets success criteria. CDFW also recommends that any irrigation proposed by the Project monitor for the introduction of invasive Argentine ants.

Mitigation and Monitoring Reporting Plan. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the County with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A). A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Filing Fees

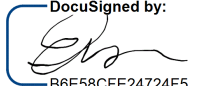
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the County and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying 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

We appreciate the opportunity to comment on the Project to assist the County in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the County has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Angela Castanon, Environmental Scientist, at Angela.castanon@wildlife.ca.gov or at 626-513-6308.

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Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

cc: CDFW

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OPR

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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Conejo Buckwheat – Alternatives	Given the constraints of CESA permitting CDFW recommends the Applicant consider Project alternatives that avoid Conejo buckwheat given the rarity of the plant. Possible options include the adoption of Alternative B within the 2020 DEIR. Possible configurations could involve moving the proposed mining boundary back to avoid the large cluster of Conejo buckwheat on the northwest corner of the mine, closest to the entrance road.	Prior to Project construction and activities	Ventura County/ Applicant
MM-BIO-2- Impacts to Wildlife Corridors – Avoidance	CDFW recommends the Project fully avoid further encroaching into the Santa Monica-Sierra Madre wildlife corridor. CDFW recommends redesigning the project to avoid impacts to the wildlife corridor. Alternatives such as pit mining should be considered to avoid further encroachment. Under alternative B of the 2020 document the Project would reduce the mine expansion area.	Prior to Project construction and activities	Ventura County/ Applicant
MM-BIO-3- Impacts to Wildlife Corridors – Easements	CDFW recommends the Applicant retain contiguous land parcels surrounding the corridor. APN numbers 234-0-080-790, 234-0-080-380, and undisturbed portions of 234-0-060-220 and 234-0-060-190 shall be protected in perpetuity (if not already protected) from encroachment and development to ensure the preservation of the Santa Monica-Sierra Madre wildlife corridor. The mitigation lands shall be protected in perpetuity under a conservation easement	Prior to Project construction and activities	Ventura County/ Applicant

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	dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code, sections 65965-65968. Under Government Code, section 65967(c), 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. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities and prior to the County's issuance of grading permits.		
MM-BIO-4- Impacts to Wildlife Corridors – Noise and Light	Due to the sensitive nature of the wildlife corridor, CDFW recommends the Applicant conduct an additional noise study. Receptors shall be placed across the width of the corridor to assess noise more accurately throughout the corridor.	Prior to Project construction and activities	Ventura County/ Applicant
MM-BIO-5- Impacts to Wildlife Corridors – Noise and Light	CDFW recommends the Project restrict use of equipment and lighting to hours least likely to disrupt wildlife (e.g., not at dusk or in early morning before 9 am). In addition to the implementation of mitigation measure NV-1 CDFW recommends the Applicant maintain noise receptors and a written record of noise readings from sensitive noise receptors. These readings shall be retained for one year and made available to the Ventura County Planning Division to ensure that noise generated from the project are within appropriate thresholds for wildlife. Noise levels shall not exceed 55 dBA at sensitive receptors. If readings do exceed these thresholds further measures shall be implemented to reduce impacts from noise such as sound barriers.	Prior to Project construction and activities	Ventura County/ Applicant
MM-BIO-6- Impacts to	CDFW recommends the Project fully avoid further encroaching into the Santa Monica-Sierra Madre wildlife corridor (see comment 2, MM 1).	Prior to Project	Ventura County/ Applicant

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Mountain Lion – Movement		construction and activities	
MM-BIO-7- Impacts to Mountain Lion – Mining Boundary	If avoidance is not possible CDFW recommends moving the proposed boundary such that the wildlife corridor remains at least 1,000 feet wide in areas that are most narrow. This would require the Project to move the boundary back by 200 feet in applicable segments. Maintaining a 1,000-foot minimum buffer will help deter impacts from edge effects and maintain function of the passage.	Prior to Project construction and activities	Ventura County/ Applicant
MM-BIO-8- Impacts to Mountain Lion – Habitat Replacement	As stated within CDFW’s 2021 comment letter to the Applicant, CDFW recommends setting aside a minimum of 110.3 acres of replacement habitat. CDFW recommends the replacement habitat be located adjacent to the County’s Wildlife Linkage and Corridor in order to widen the corridor at locations where the corridor is less than one mile. There shall be no net loss of suitable habitat for mountain lions. The County shall consult and collaborate with CDFW to conserve areas beneficial to the southern California mountain lion population that may improve chances of survival and reproduction of mountain lions in the face of climate change. The mitigation lands shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code, sections 65965-65968. Under Government Code, section 65967(c), 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. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related	Prior to Project construction and activities	Ventura County/ Applicant

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	ground-disturbing activities and prior to the County’s issuance of grading permits.		
MM-BIO-9- Impacts to Mountain Lion – Crossing Structures	If impacts to movement corridors occur the Project may also include plans to implement or help fund wildlife crossing structures or passages with directional wildlife fencing to mitigate impacts to mountain lion. The Applicant shall provide minimum criterion for design features, dimensions, and locations of potential crossings and associated fencing.	Prior to Project construction and activities	Ventura County/ Applicant
MM-BIO-10- LSA – Notification	<p>The Project applicant (or “entity”) shall provide written notification to CDFW pursuant to Fish and Game Code, section 1600 <i>et seq.</i> The Project shall notify CDFW prior to any Project construction or activities. Based on this notification and other information, CDFW determines whether a LSA with the applicant is required prior to conducting the proposed activities. Please visit the Lake and Streambed Alteration Program (https://wildlife.ca.gov/Conservation/Environmental-Review/LSA) webpage to obtain a notification package for an LSA.</p> <p>CDFW’s issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the Lead Agency for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code, section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document shall fully identify the potential impacts to the streams or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA.</p>	Prior to Project construction and activities	Ventura County/ Applicant

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<p>MM-BIO-11- LSA – Conditions</p>	<p>Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: avoidance of resources, on-site or off-site creation, enhancement, or restoration, and/or protection and management of mitigation lands in perpetuity.</p>	<p>Prior to Project construction and activities</p>	<p>Ventura County/ Applicant</p>
<p>MM-BIO-12- LSA – Avoidance and Alternatives</p>	<p>CDFW recommends fully avoiding impacts to waters and riparian/wetland vegetation communities. If feasible, CDFW recommends redesigning the Project to avoid impacts to the existing drainage features that support sensitive vegetation communities. CDFW also recommends the County consider Project alternatives that could incorporate the unnamed streams into the planned development. Design alternatives shall attempt to retain as much surface flow and natural hydrologic processes as possible. CDFW recommends taking an inter-disciplinary approach to involve landscape architects, engineers, and wildlife biologists, and hydrologists to develop design alternatives that could fully avoid or lessen impacts to waters and riparian/wetland vegetation communities.</p>	<p>Prior to Project construction and activities</p>	<p>Ventura County/ Applicant</p>
<p>MM-BIO-13- LSA – Mitigation Banking</p>	<p>If impacts to streams are unavoidable, CDFW recommends that mitigation occur at a CDFW-approved bank. Mitigation bank credits shall be purchased, approved, or otherwise fully executed prior to implementing Project-related ground-disturbing activities and prior to the County's issuance of grading permits.</p>	<p>Prior to Project construction and activities</p>	<p>Ventura County/ Applicant</p>
<p>MM-BIO-14- LSA – Easements</p>	<p>If credits at a CDFW-approved mitigation bank are not available, CDFW recommends setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. Mitigation lands shall be in the same watershed as the Project site and support in-kind vegetation. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation</p>	<p>Prior to Project construction and activities</p>	<p>Ventura County/ Applicant</p>

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	lands. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities prior to the County's issuance of grading permits.		
MM-BIO-15- LSA – Delineation	The Applicant has not disclosed the acreage of associated habitat through a formal delineation. The LSA shall be conditioned such that potential impacts to riparian habitat, such as arroyo willow thicket, mulefat thicket, and cattail marshes be mitigated at no less than 3:1 if avoidance is not feasible. Mitigation ratios shall increase if on-site mitigation is not possible. CDFW recommends that an on-site Habitat Mitigation and Monitoring Plan (HMMP) be developed. An HMMP shall provide specific, detailed, and enforceable measures.	Prior to Project construction and activities	Ventura County/ Applicant
MM-BIO-16- LSA – Maintenance of Lands	CDFW recommends that all on-site mitigation sites for impacts to waters and riparian/wetland vegetation communities be protected in perpetuity from public encroachment and structural intrusion. This shall include all water features on site, including ephemeral and perennial bodies.	Prior to/After Project construction and activities	Ventura County/ Applicant
MM-BIO-17- Impacts to Special Status Species Habitat – Conservation Easements	CDFW recommends first avoiding any potential impacts to habitat utilized by special status species. If avoidance is not possible the Applicant shall replace habitat at a ratio appropriate to maintain a no net loss of habitat values, acreage, and function. CDFW recommends setting aside replacement habitat to be protected in perpetuity under a conservation easement. CDFW highly recommends protecting the adjacent land parcels held under ownership of the Applicant. By protecting the adjacent parcels similar habitat lost due to project implementation would be preserved and the Santa Monica-Sierra Madre corridor would not be further truncated. Conservation easements shall be dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012), which amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the	Prior to/After Project construction and activities	Ventura County/ Applicant

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	<p>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. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A mitigation land shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that shall be addressed include, but are not limited to, restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and increased human intrusion. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to implementing Project related ground disturbing activities.</p>		
<p>MM-BIO-18- Impacts to Special Status Species Habitat – Mitigation Bank</p>	<p>If protecting the adjacent parcels is not feasible, CDFW recommends participation in a mitigation bank. Off-site mitigation shall increase replacement ratios to achieve a no net loss of habitat values and function. CDFW recommends that mitigation occur at a state-approved bank. Mitigation bank credits shall be purchased, approved, or otherwise fully executed prior to implementing Project related ground disturbing activities. Mitigation credits purchased must be appropriate for the above impacts.</p>	<p>Prior to Project construction and activities</p>	<p>Ventura County/ Applicant</p>
<p>MM-BIO-19- Impacts to Sensitive Natural Communities – Alliances</p>	<p>To determine the rarity ranking of vegetation communities on a specific Project site(s), CDFW utilizes vegetation descriptions found in the MCV. The MCV alliance/association community names shall be provided as CDFW only tracks rare natural communities using this classification system (found online at http://vegetation.cnps.org/).</p>	<p>Prior to Project construction and activities</p>	<p>Ventura County/ Applicant</p>
<p>MM-BIO-20- Impacts to Sensitive Natural Communities – Revegetation Plans</p>	<p>The Applicant shall develop alliance-specific revegetation plans for alliances impacted. Plans shall be based on membership criteria of each specific alliance. Revegetation Plans shall include each species layer and include at least 70% of diversity by layer. Each alliance-specific mitigation plan shall adopt an ecosystem-based</p>	<p>Prior to Project construction and activities</p>	<p>Ventura County/ Applicant</p>

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	<p>approach and be of sufficient detail and resolution to describe the following at a minimum:</p> <ol style="list-style-type: none"> 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of on-site mitigation and adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques. 		
<p>MM-BIO-21- Impacts to Sensitive Natural Communities – Success Criteria</p>	<p>Success criteria shall be based on the specific composition of the vegetation communities being impacted. Success shall not be determined until the site has been irrigation-free for at least 5 years and the metrics for success have remained stable (no negative trend for richness/diversity/abundance/cover and no positive trend for invasive/non-native cover for each vegetation layer) for at least 5 years. In the revegetation plan, the success criteria shall be compared against an appropriate reference site, with the same vegetation alliance, with as good or better-quality habitat. The success criteria shall include percent cover (both basal and vegetative), species diversity, density, abundance, and any other measures of success deemed appropriate by CDFW. Success criteria shall be separated into vegetative layers (tree, shrub, grass, and forb) for each alliance being mitigated, and each layer shall be compared to the success criteria of the reference site, as well as the alliance criteria in the MCV ensuring one species or layer does not disproportionately dominate a site but conditions</p>	<p>Prior to Project construction and activities</p>	<p>Ventura County/ Applicant</p>

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	mimic the reference site and meets the alliance membership requirements.		
MM-BIO-22- Impacts to Special Status Species Habitat Communities – Mitigation Ratios	CDFW recommends the environmental document provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat. In addition to the mitigation measures provided for sensitive natural communities and rare plants within the RDEIR CDFW recommends the project raise minimum replacement ratios for communities and rare plants when developing revegetation Plans. The Applicant shall mitigate at a ratio sufficient to achieve a no-net loss for impacts to special status plant species and their associated habitat. This shall be for the number of plants replaced to number impacted, including acres of habitat created to acres of habitat impacted.	Prior to Project construction and activities	Ventura County/ Applicant
REC-1- Conejo Buckwheat Protection Status	Throughout the document Conejo buckwheat is often referred to as a rare plant, Conejo buckwheat is protected by law under CESA. As such, CDFW recommends that it is made more evident throughout the document so that readers do not minimize its value and rarity.	Prior to Project construction and activities	Ventura County/ Applicant
REC-2- Hours of Operation	CDFW recommends that Project's hours of operation not be extended, nor should operations extend into Sunday. The proposed hours of operation will occur both at dusk and dawn when wildlife is most active and have the potential to change behavior in wildlife, including special status species. Likewise, the absence of noise one day out of the week may give wildlife an opportunity to move more freely within the wildlife corridor.	Prior to Project construction and activities	Ventura County/ Applicant
REC-3- Mountain Lion	CDFW recommends providing habitat impact acreage for mountain lion within the Observed and Potentially Occurring Special-Status Species table (Appendix C-1 Pages 29-36) as it is a species with high probability of occurrence and affords protections under CESA as a CESA-candidate (see Comment 5).	Prior to Project construction and activities	Ventura County/ Applicant

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REC-4- LSA	As part of the LSAA Notification process, CDFW requests a map showing features potentially subject to CDFW's broad regulatory authority over streams. CDFW also requests a hydrological evaluation of the 200, 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.	Prior to Project construction and activities	Ventura County/ Applicant
REC-4- Seed Collection	CDFW highly encourages the collection of on-site seed over the use of seed mix. Seed collection shall include each species layer.	Prior to Project construction and activities	Ventura County/ Applicant
REC-4- Weed Management Plan	Non-native plants, including noxious weeds (as listed by the California Invasive Plant Council) (CALIPC 2022), shall be prevented from establishing in disturbed areas, either by hand-weeding or selective application of herbicide. The Plan shall include a weed monitoring program with regular inspection (weekly/monthly) of any area that was cleared of vegetation until it is reclaimed/revegetated and vegetation meets success criteria. CDFW also recommends that any irrigation proposed by the Project monitor for the introduction of invasive Argentine ants.	Prior to Project construction and activities	Ventura County/ Applicant
REC-3- MMRP	Per Public Resources Code section 21081.6(a)(1), CDFW has provided the County with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A). A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.	Prior to Project construction and activities	Ventura County/ Applicant