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GAVIN NEWSOM, Governor
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September 5, 2019
Sent via email

Governor's Office of Planning & Research

SEP 05 2019

Mr. Robert Rodriguez
Director of Planning/Building
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City of Cathedral City
Cathedral City, CA 92234
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STATE CLEARINGHOUSE

Subject: Draft Environmental Impact Report
City of Cathedral City General Plan Update Project
State Clearinghouse No. 2018081012

Dear Mr. Rodriguez:

The California Department of Fish and Wildlife (CDFW) received the Draft Draft Environmental Impact Report (DEIR) on July 22, 2019 from the City of Cathedral City (City) for the City of Cathedral City General Plan Update Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to

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

provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project proposes an update to the existing General Plan to achieve land use, transportation, housing, and other goals of the City that reflect the community's growth for a future horizon year of 2040. The Project includes changes to land use designations and circulation system, new and integrated elements, and new goals, policies and programs for all General Plan Elements.

COMMENTS AND RECOMMENDATIONS

The DEIR identifies a change in land use designation from Open Space to Industrial within and adjacent to the Whitewater Floodplain Conservation Area of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), to which the City is a Permittee. CDFW is concerned that the DEIR does not adequately evaluate the proposed change in land use designation, nor does it identify mitigation measures to minimize the potential impacts of this proposed change to the extent feasible. The Project also does not evaluate or demonstrate consistency with the CVMSHCP. Because the DEIR identifies a change in land use designation within a CVMSHCP Conservation Area, CDFW disagrees with the DEIR's conclusion that the "General Plan would not conflict with the provisions..." (DEIR page 2.5-18) of any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan. CDFW recommends that the DEIR be revised and recirculated to evaluate and assess the Project's potential impacts to the CVMSHCP. CDFW also recommends that the revised and recirculated DEIR include mitigation measures for impacts to the Whitewater Floodplain Conservation Area to demonstrate consistency with the CVMSHCP.

CDFW also recommends that the DEIR include a new mitigation measure to ensure appropriate signage is installed at hiking trailheads to ensure use of trails

is compatible with the CVMSHCP. CDFW is particularly interested in the installation of signage where dogs are prohibited on trails, or where dogs are allowed, but leashes are required. CDFW encourages the City to align ordinances related to dog usage of trails in areas where dogs are prohibited and where leashes are required.

Baseline, Level of Detail in Analysis, Mitigation, Alternatives, Cumulative Impacts, and Irreversible Environmental Changes

Baseline

The Project identifies a change in land use designation from Open Space to Industrial for approximately 85 acres located south of Interstate 10 (I-10), north of the Union Pacific Railroad, and east of North Gene Autry Trail. According to CDFW calculations, approximately 25 acres of this proposed change in land use designation occurs within the Whitewater Floodplain Conservation Area, and the remaining 60 acres occurs immediately adjacent to the Whitewater Floodplain Conservation Area. The DEIR does not identify that this proposed change in land use designation occurs within a CVMSHCP Conservation Area, and within a Biological Corridor/Linkage between the Whitewater Floodplain Conservation Area and the Willow Hole Conservation Area. The linkage between these two areas is important for wildlife movement as well as sand and water transport, maintaining this linkage in an important component of the CVMSHP. The DEIR did not identify that the Whitewater Floodplain Conservation Area extends north of the Union Pacific Railroad. Further, it incorrectly identifies that the limited Industrial area is outside the conservation area in the statement "Most of the CVMSHCP Whitewater River Floodplain Conservation Area is designated Open Space-Other with limited Industrial acreage near the railroad and outside the Conservation Area" (DEIR page 2.5-15). Because the DEIR does not identify a correct baseline there is no discussion or evaluation of inconsistencies between the proposed Project and the CVMSHCP or how the proposed Project will affect the CVMSHCP. CDFW recommends that the City revise and recirculate the DEIR to correctly identify impacts to the Whitewater Floodplain Conservation Area, and the Biological Corridor/Linkage between the Whitewater Floodplain Conservation Area and the Willow Hole Conservation Area.

Level of Detail in Analysis

CDFW recognizes that general plan EIR's need not be as detailed as CEQA documents prepared for specific projects that may follow (CEQA Guidelines § 15146), however sufficient detail exists in the general plan EIR to warrant an assessment of how the proposed change in land use designation will affect the functions and values, and conservation objectives of the CVMSHCP. Sufficient information also exists to warrant the inclusion in the DEIR of mitigation measures and alternatives to avoid or minimize potential impacts to the CVMSHCP. CDFW concludes that the proposed change in land use identifies a significant effect to the Whitewater Floodplain Conservation Area, and to the

Biological Corridor/Linkage between the Whitewater Floodplain Conservation Area and the Willow Hole Conservation Area. Given that the DEIR also identifies Industrial Land Use within and immediately adjacent to the Whitewater Floodplain Conservation Area and Biological Corridor/Linkage, the revised and recirculated DEIR should also evaluate the potential for significant effects of these proposed land use changes. Though not identified in the DEIR, CDFW recommends that the DEIR also address impacts associated with accessing the proposed Industrial land use area (e.g., roads, utility connections). The analysis of any significant effect of the Project cannot be deferred to later tiered-CEQA documents (*Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182).

Mitigation

CDFW recommends that the City revise the DEIR to identify mitigation measures and alternatives to address impacts to the Whitewater Floodplain Conservation Area and the Biological Corridor/Linkage between the Whitewater Floodplain Conservation Area and the Willow Hole Conservation Area. Because the Project identifies impacts to a Conservation Area, as a Permittee to the CVMSHCP, the City may need to complete a Like Exchange if the identified impacts exceed available authorized take (Section 6.12.2 of the CVMSHCP):

“Like Exchanges are changes proposed by a Permittee to modify the boundary of one more Conservation Areas in exchange for reducing or modifying the boundary of a Conservation Area. A Like Exchange must result in equal or greater benefits to Covered Species and conserved natural communities as compared to those benefits analyzed in the Plan. In addition, the level of Take of Covered Species must be no greater than that analyzed in the Plan.”

Alternatives

Because the DEIR does not identify impacts to the Whitewater Floodplain Conservation Area and the Biological Corridor/Linkage between the Whitewater Floodplain Conservation Area and the Willow Hole Conservation Area, the “no project” alternative does not evaluate the contribution and functioning of these areas to the objectives of the CVMSHCP, nor does it evaluate potential changes to these areas from a changing environment (e.g., climate change, drought). CDFW recommends that the DEIR be revised to address this missing information and analysis.

Cumulative Impacts

Cumulative impacts associated with Industrial Land Use within and adjacent to the Whitewater Floodplain Conservation Area and the Biological Corridor/Linkage between the Whitewater Floodplain Conservation Area and the Willow Hole Conservation Area are not analyzed in the DEIR. As previously mentioned, the DEIR does not address where or how infrastructure (e.g., roads) will be

constructed to provide connectivity to the proposed Industrial Land Use area. CDFW recommends that the DEIR be revised to address direct, indirect, and cumulative impacts associated with the Project's proposed land use designation change from open space to industrial.

Irreversible Environmental Changes

Because the DEIR does not identify impacts to the Whitewater Floodplain Conservation Area and the Biological Corridor/Linkage between the Whitewater Floodplain Conservation Area and the Willow Hole Conservation Area, the irreversible environmental change associated with the proposed change in land use from open space to industrial is not addressed. CDFW recommends that the DEIR be revised to address the Project's proposed irreversible environmental change associated with a land use designation change from open space to industrial within a CVMSHCP Conservation Area, and Biological Corridor/Linkage Area.

CVMSHCP IMPLEMENTATION AND PERMITTEE OBLIGATIONS

As a Permittee to the CVMSHCP, the City should have assessed the Project for compatibility with the achievement of goals of the CVMSHCP, as outlined in Section 7.5 of the CVMSHCP Implementing Agreement. As a Permittee, the City has agreed that land use changes will not alter their obligations under the Implementing Agreement and CVMSHCP (Section 6.12.1 of the CVMSHCP). The Review of Development Proposals in Conservation Areas of the CVMSHCP states: "As set forth in section 4.3 of the CVMSHCP, Development in Conservation Areas will be limited to uses that are compatible with the Conservation Objectives for the specific Conservation Area. Discretionary Projects in Conservation Areas, other than second units on parcels with an existing residence, shall be required to assess the project's ability to meet the Conservation Objectives in the Conservation Area. Additionally, the Permittees will participate in the Joint Project Review Process set forth in section 6.6.1.1 of the CVMSHCP." The Implementing Agreement for the CVMSHCP defines "Discretionary Project" as "a proposed project requiring discretionary action by a Permittee, as that term is used in CEQA and defined in state CEQA Guidelines section 15357, including issuance of a grading permit for County projects." The CVMSHCP section 6.6.1.1 requires a Joint Project Review process for "all projects under the Local Permittees' jurisdiction in a Conservation Area that would result in disturbance to Habitat, natural communities, Biological Corridors, or Essential Ecological Processes". The General Plan Update is a discretionary Project requiring discretionary action from the City and, if implemented, would result in disturbance to Habitat, natural communities, and Biological Corridors in the Whitewater Floodplain Conservation Area. The Implementing Agreement and CVMSHCP require an assessment of the General Plan Update's ability to meet Conservation Objectives and the City's participation in the Joint Project Review process. Completion of the Joint Project Review process for the General Plan

Update is required by the CVMSHCP prior to Project approval by the City and will inform the environmental consequences of the Project. CDFW recommends that the City complete the Joint Project Review process as soon as possible, and prior to adoption of the final EIR (FEIR). Completion of the Joint Project Review process for the General Plan Update would ensure that the Project is consistent with the CVMSHCP and will facilitate the identification of specific location(s) of suitable conservation lands; describe minimum standards to assess the suitability of the proposed conservation lands; describe how the lands will meet mitigation standards/requirements; and detail the proposed timing of acquisition and conservation in relation to permitting of specific projects contemplated following adoption of the General Plan Update. Without the inclusion of this level of information in the FEIR the County is deferring the analysis of significant effects to later tiered CEQA documents.

Trails and Dogs

CDFW recommends that the City condition the DEIR to install sufficient and appropriate signage prohibiting dog use on trails within the City's boundary where trails access bighorn sheep habitat. Based on review of potential trail access locations, CDFW has identified that the following trails are within the City's boundary, and provide access to bighorn sheep habitat: Dunn Road and Cathedral Canyon Loop. To ensure CVMSHCP compliance and help protect bighorn sheep and their habitat, CDFW recommends that the City evaluate proposed trails for consistency with the CVMSHP; this includes evaluating trail location, types of use, seasonal closures, and other CVMSHCP requirements (Section 7 of the CVMSHCP). CDFW recommends that the City align ordinances related to trail use to ensure implementation of CVMSHCP requirements, especially for clarifying dog usage of trails in areas where dogs are prohibited.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:
http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. 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:
http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

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

CDFW CONCLUSIONS AND FURTHER COORDINATION

CDFW appreciates the opportunity to comment on the DEIR for the City of Cathedral City's General Plan Update Project (SCH No. 2018081012) and recommends that the City address the CDFW's comments and concerns prior to recirculating the revised DEIR. We request a meeting with the City to discuss our comments.

If you should have any questions pertaining to the comments provided in this letter, and to schedule a meeting, please contact Joanna Gibson at (909) 987-7449 or at Joanna.Gibson@wildlife.ca.gov.

Sincerely,



Scott Wilson
Environmental Program Manager
Inland Deserts Region

cc: State Clearinghouse

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