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November 4, 2021

Governor's Office of Planning & Research

Nov 04 2021

Lorena Warner-Lara
 California Department of Parks and Recreation
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 Imperial Beach, CA 91932
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STATE CLEARINGHOUSE

Subject: Nelson Sloan Quarry Restoration and Beneficial Reuse of Sediment Project (PROJECT); Draft Environmental Impact Report (DEIR); SCH #2019049100

Dear Ms. Warner-Lara:

The California Department of Fish and Wildlife (CDFW) has reviewed the California Department of Parks and Recreation's DEIR for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW and the U.S. Fish and Wildlife Service (jointly, the Wildlife Agencies) provided a comment letter, dated May 24, 2019, on the Notice of Preparation of the DEIR, as well as attended pre-planning meetings for the Project, the most recent on August 12, 2021.

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

CDFW ROLE

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

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

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.

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CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

PROJECT DESCRIPTION SUMMARY

Proponent: California Department of Parks and Recreation (CDPR)

Objective: CDPR proposes the beneficial reuse of excess sediment excavated from managed sources to restore and stabilize the former Nelson Sloan Quarry (Quarry) consistent with California Department of Conservation, Division of Mine Reclamation (DMR) historic landform reclamation standards. Sediment would be collected through a range of ongoing, approved, and/or permitted sediment management activities, or proposed sediment management activities, in the Tijuana River Valley. The reuse of excess sediment is proposed to restore the landform, ecological functions, and values of the impacted habitats on the Project site that were significantly altered by past mining activity and to facilitate quarry/mine identification closure.

A 20-year Conditional Use Permit (CUP) was issued by the City in 1982 to the Nelson and Sloane corporation for extraction of sand and gravel. As required by the Surface Mining and Reclamation Act (SMARA), a Reclamation Plan detailing the slopes and reclamation and revegetation requirements for the Quarry once operations ceased was submitted with the CUP. Original Reclamation Plan commitments are still open under SMARA. The former Quarry property is now owned by the County of San Diego Parks and Recreation but within the jurisdictional boundary of the City and is located within the City's Tijuana River Valley Planning Area of the MSCP.

Approximately one-third of the permitted volume of sand and gravel was actively mined from the site over the 20-year operational life of the Quarry. In 2002, the CUP expired, and the Quarry site was not formally reclaimed in accordance with the approved CUP Reclamation Plan. In 2003, the property was purchased by the County through a grant provided by the California Coastal Conservancy to add to the Tijuana River Valley Regional Park. The grant required that the property be used for the purpose of habitat protection and open space. The Tijuana River Valley Regional Park comprises nearly 1,800 acres of open space and is a biological core area of the MSCP. The Quarry site is included in the Multi-Habitat Planning Area (MHPA) of the City's SAP for the MSCP.

Location: The 71.9-acre former Nelson-Sloane Quarry property consists of four parcels: Assessor's Parcel Numbers (APNs) 664-011-05-00, 664-011-04-00, 664-011-03-00, and 664-020-04-00. The property is in southwestern San Diego County and is located west of Interstate 5 off Monument Road near the intersection of Monument Road and Dairy Mart Road. The site lies west of the City's South Bay Water Reclamation Plant and just north of the U.S./Mexico international border.

The Project site consists of the two easternmost parcels of the former Quarry property and includes an eroded hillside that was previously mined/quarried for construction materials and aggregate from 1982 to approximately 2002. The western portion of the Project Area was not excavated during mining activities and consists of a mesa top with naturally occurring coastal sage scrub (CSS) vegetation. The term "Reclamation Area" refers to the 20.93-acre area within the Project site where the proposed reclamation, sediment placement, and restoration activities would occur.

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Biological Setting: The Study Area included the four-parcel, 71.9-acre Quarry property evaluated in the Biological Resources Technical Report (BRTR) prepared by Dudek for the Project for purposes of establishing baseline conditions. The Study Area occurs within the Southern Area of the City's MSCP Subarea Plan. Most of the study area and all of the Reclamation Area are completely within the Multi-Habitat Planning Area (MHPA) designated by the SAP.

Dudek conducted mapping of vegetation communities, a jurisdictional delineation, reconnaissance surveys, focused gnatcatcher survey, and focused rare plant surveys in 2019 and 2020 within the Study Area. Four plant community types were identified within the proposed Study Area: maritime succulent scrub, Diegan coastal sage scrub (including disturbed forms), mule fat scrub, and southern riparian scrub. Two land cover types were identified within the Study Area: open water and disturbed land-xeric cliff face, escarpment, ruderal. The habitat within the Reclamation Area includes CSS, disturbed CSS, and Disturbed Land.

During focused rare plant surveys in 2019, 16 special-status plant species were observed in the study area: Baja California birdbush (*Ornithostaphylos oppositifolia*), California adder's-tongue (*Ophioglossum californicum*), California desert thorn (*Lycium californium*), Lewis's evening-primrose (*Camissoniopsis lewisii*), Orcutt's bird's-beak (*Dicranostegia orcuttiana*), San Diego needle grass (*Stipa diegoensis*), San Diego County viguiera (*Bahiopsis laciniata*), San Diego barrel cactus (*Ferocactus viridescens*), San Diego bur-sage (*Ambrosia chenopodiifolia*), ashy spike-moss (*Selaginella cinerascens*), cliff spurge (*Euphorbia misera*), golden-spined cereus (*Bergerocactus emoryi*), sea dahlia (*Leptosyne maritima*), seaside cistanthe (*Cistanthe maritima*), western dichondra (*Dichondra occidentalis*), and wart-stemmed ceanothus (*Ceanothus verrucosus*). The majority of these rare plant species were not found within the Reclamation Area portion of the study area.

Seven special-status wildlife species were detected during 2019 surveys of the Study Area, including coastal California gnatcatcher (*Polioptila californica californica*), Cooper's hawk (*Accipiter cooperii*), northern harrier (*Circus hudsonius*), turkey vulture (*Cathartes aura*), American peregrine falcon (*Falco peregrinus*), San Diego black-tailed jackrabbit (*Lepus californicus*), and Quino checkerspot butterfly (*Euphydryas editha quino*). Protocol-level surveys were conducted by Dudek within the Study Area for the two sensitive wildlife species: coastal California gnatcatcher (gnatcatcher) and Quino checkerspot butterfly (Quino).

One individual and four pairs of gnatcatchers were observed during focused surveys by Dudek in February 2019. The individual gnatcatcher and one of the pairs were observed within the boundaries of the Reclamation Area.

The Project would follow requirements of the MHCP for projects occurring on MHPA Lands. Surveys for coastal California gnatcatcher would be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service prior to reclamation activities being initiated. If present, occupied land would be avoided during the breeding season (March 1 through August 15) and no clearing, grubbing, grading, or other ground-disturbing activities would occur during that period.

Quino was surveyed by Dudek from February through April 2020. Three adult individuals were observed. Surveys for the primary Quino larval host plant (dot-seed plantain: *Plantago erecta*) were conducted the year prior to the protocol surveys for this species (Dudek 2019). Five adult Quino were incidentally observed during the host plant surveys. High quality host plant habitat was

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mapped outside of the Reclamation Area. A few lower density patches of dot-seed plantain were mapped within the Reclamation Area.

CDPR (and/or designee or Responsible Agency) shall consult with the U.S. Fish and Wildlife Service (USFWS) to determine if take authorization is required for impacts to Quino checkerspot butterfly. If such take authorization is required, CDPR (and/or designee or Responsible Agency) shall demonstrate to the satisfaction of the City of San Diego that it has secured any necessary take authorization prior to the issuance of the first grading permit that impacts suitable Quino checkerspot butterfly habitat. To avoid impacts to high-quality host plants for Quino checkerspot butterfly, the Restoration Plan requires a biologist to survey the mesa for Quino checkerspot butterfly host plants prior to the pre-restoration phase activities. All host plants shall be flagged, and a 20-foot buffer established around the host plant populations. Restoration activities within this avoidance area shall be restricted to hand weeding and/or herbicide application only. No mechanical work would be done in this avoidance area. Existing roads or disturbed areas within the 20-foot buffer would be excluded from the avoidance area as determined by the Project biologist.

Dudek assessed the potential presence/absence of jurisdictional waters within the study area. There are two canyon drainages in the study area, west of the proposed Project site, that each support ephemeral stream channels that are potential waters under state regulations and federal regulations. However, these jurisdictional wetlands will not be impacted by the Project's reclamation activities.

According to the BRTR, "[a]lthough the site is part of a regional open space park, the study area has limited function as a wildlife corridor or habitat linkage due to its location on the international border and because of natural topography. Wildlife movement in the region likely is concentrated in the valley bottom itself. Movement across the site is relatively free but U.S. Border Patrol vehicular traffic is regular throughout the day and night and likely limits movement. The study area has good connectivity to the river valley but the regional area is relatively isolated from other large blocks of open space (e.g., Otay Mesa, Otay Mountain, Otay River Valley)."

The Project includes phased filling of the formerly mined restoration of natural coastal sage scrub vegetation. Interim grading phases would include the application of an erosion control vegetation hydroseed mix and implementation of appropriate erosion control best management practices on slopes. Final revegetation of finished graded slopes would include installation of coastal sage scrub container plants and seed mix application analogous to naturally occurring coastal sage scrub found on the adjacent mesa and slopes.

The phased grading and revegetation proposed will result in a temporal loss of habitat and delayed final restoration. To compensate for this, Project mitigation includes the re-establishment of CSS habitat at a minimum 1.5:1 ratio. The ultimate restoration of the Project site would result in a net gain of habitat area but not until the completion of Phase 6 in Year 15. As shown in Table 8 of the BRTR, prior to completion of Phase 6 in Year 15, there will be a net deficit of CSS habitat. Impacts to 11.69 acres of Tier II CSS, while temporary in nature, would be potentially significant and would require 17.53 acres of on-site CSS replacement. Approximately 19.33 acres of CSS enhancement/restoration would occur on site, resulting in more than the 1.5:1 ratio goal, with an additional 1.42 acres of "impact neutral" areas that may have reduced function as habitat because they are planted structures (turfmat lined channel, turf reinforced mat ditch, riprap channel, buried storm drain). The phasing of restoration would reduce the deficit of CSS habitat at each stage of the Project.

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Timeline: The Project would involve relocation of approximately 1,056,500 cubic yards of sediment up to a 15-year period. Habitat restoration would occur in 6 phases over the 15 years.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist CDPR in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Recommendations may also be included to improve the document.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT #1: There would be a temporal loss of CSS habitat during the Project timeline.

Issue: The Project would result in direct, permanent, and temporary impacts to coastal sage scrub and disturbed CSS. Temporary impacts would not immediately be mitigated but phased over a period of approximately 15 years.

Specific impact: Impacts to 11.69 acres of Tier II CSS would occur from Project implementation. Though there would be a final gain in acreage of CSS with completion of Phase 6, there would be a temporary deficit of this habitat until completion of Phase 6.

Why impact would occur: The Project would involve movement of large quantities of fill material as it would be collected and its use in re-contouring of the Reclamation Area would require approximately 15 years. Final elevation contours would have to be established for each portion of the reclamation before CSS could be reestablished. Therefore, replanting would be done in phases. Final restoration would be completed after fill and grading associated with Phase 6 were finished.

Evidence impact would be significant: CSS is crucial habitat for gnatcatcher, which was demonstrated to be utilizing the Project site, including the Reclamation Area, as well as other species.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure #1:

To reduce impacts to less than significant: Initial CSS revegetation activities on the Project site are planned Prior to Phase 1 of the Quarry reclamation. As proposed, a pre-Phase 1 revegetation effort would be done outside of grading/disturbance limits associated with Project phases and within restoration/enhancement area limits (i.e., within currently disturbed areas associated with erosion and access road development/use). This early revegetation would at least partially reduce temporal impacts. To further reduce temporal impacts to CSS, CDPR should consider additional projects involving restoration/revegetation of CSS in the vicinity of the Project Site that could be timed to occur before initiation of Phase I or during the interim period of the Project before completion of Phase 6.

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COMMENT #2:

Issue: The DEIR proposes that, prior to initiation of each phase of clearing of the Reclamation Area, a survey be conducted for special-status terrestrial reptiles, Dulzura pocket mouse (*Chaetodipus californicus femoralis*), northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*), and San Diego desert woodrat (*Neotoma lepida intermedia*). If any of these species were found, a relocation and exclusion plan would be developed to avoid direct take from grading and filling activities. The relocation plan would be approved by C DPR or other Responsible Agency and the biologist relocating the species would need to possess a California Scientific Collecting Permit to handle these species if required by applicable California Department of Fish and Wildlife regulations.

Specific impact: Relocated animals could suffer negative effects from being moved out of their territories.

Why impact would occur: Relocation is a less than ideal form of mitigation for direct impacts, as animals in unfamiliar areas may have difficulty finding food, water, shelter, and safety, and may experience competition or aggression from members of the same species with already established territories in the relocation areas.

Evidence impact would be significant: The species proposed to be relocated, if found, are considered sensitive because their populations are declining or at risk.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure #2:

To reduce impacts to less than significant: Relocation is not ideal but may be the only way to avoid direct Project-related mortality to any sensitive reptile or small mammal determined to inhabit the Reclamation Area. If relocation is the only option, the choice of a relocation site should consist of a large patch of quality habitat appropriate to the species, which would be more likely to have the carrying capacity to accommodate one or more relocated individuals of a particular species.

Additional Recommendations

Recommendation #1: The DEIR does not adequately describe the long-term conservation/management and in-perpetuity funding for the Project site post-restoration. Page 3.6-17 of the DEIR generally states that following completion of phased grading/sediment placement and restoration activities the site would "...function as revegetated open space and would be managed as a component of the Tijuana River Valley Regional Park." The DEIR makes one mention on page 2-26 about a restoration "security bond" being required prior to each phase that would be released upon successful completion of the restoration. The restoration memo in Appendix E-2 states: "[t]he same funding source available for the intended revegetation project, as established by the multijurisdictional agreement, is assumed to also be available for any additional planning, implementation, and monitoring of any contingency procedures that may be required to achieve the revegetation goals". The DEIR should provide a more detailed explanation of these funding mechanisms and how they will continue to function in perpetuity after completion of the Project.

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Recommendation #2: There are inconsistencies in the impact calculations between the DEIR and the BRTR. For example, the DEIR lists total impacts to CSS at 11.69 acres and the BRTR lists them as 13.65 acres. These inconsistencies should be clarified in the final EIR.

Recommendation #3: The Revegetation Monitoring and Management Plan (Plan) (Appendix E-2, Tables 2a and 2b) establishes annual (Year 1-5) numerical success criteria for each phase of CSS revegetation. Relative native cover (%), species diversity (%), maximum non-native annual species relative cover (%), and maximum non-native perennial species relative cover (%), would be quantified and compared to that of surrounding, non-impacted vegetation of the same community type. However, the Plan only mentions qualitative visits from the Project biologist. "The project biologist will perform qualitative monitoring visits every other month during Year 1 and on a quarterly basis during Years 2 through 5." The Plan should describe how the Project Biologist will assess the quantitative criteria and compare these factors to those of naturally occurring CSS.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist SANDAG in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Meredith Osborne, Environmental Scientist, at Meredith.Osborne@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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David Mayer
Environmental Program Manager I
South Coast Region

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ec: CDFW

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Attachments

- A. CDFW Comments and Recommendations

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Attachment A:

CDFW Comments and Recommendations

	Recommendations/Mitigation Measures	Timing	Responsible Party
Mitigation Measure #1	To further reduce temporal impacts to CSS, CDPR should consider additional projects involving restoration/revegetation of CSS in the vicinity of the Project Site that could be timed to occur before initiation of Phase I or during the interim period of the Project before completion of Phase 6.	Prior to release of the final EIR	CDPR
Mitigation Measure #2	Relocation is not ideal but may be the only way to avoid direct Project-related mortality to any sensitive reptile or small mammal determined to inhabit the Reclamation Area. If relocation is the only option, the choice of a relocation site should consist of a large patch of quality habitat appropriate to the species, which would be more likely to have the carrying capacity to accommodate one or more relocated individuals of a particular species.	Prior to release of the final EIR	CDPR
Recommendation #1	The DEIR does not adequately describe the long-term conservation/management and in-perpetuity funding for the Project site post-restoration. Page 3.6-17 of the DEIR generally states that following completion of phased grading/sediment placement and restoration activities the site would “function as revegetated open space and would be managed as a component of the Tijuana River Valley Regional Park”. The DEIR makes one mention on page 2-26 about a restoration “security bond” being required prior to each phase that would be released upon successful completion of the restoration. The restoration memo in Appendix E-2 states: “The same funding source available for the intended revegetation project, as established by the multijurisdictional agreement, is assumed to also be available for any additional planning, implementation, and monitoring of any contingency procedures that may be required to achieve the revegetation goals”. The DEIR should provide a more detailed explanation of these funding mechanisms and how they will continue to function in perpetuity after completion of the Project.	Prior to release of the final EIR	CDPR

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Recommendation #2	There are inconsistencies in the impact calculations between the DEIR and the BRTR that should be clarified in the final EIR.	Prior to release of the final EIR	CDPR
Recommendation #3	Prior to release of the final EIR	Prior to release of the final EIR	CDPR