



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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GAVIN NEWSOM, Governor  
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Governor's Office of Planning & Research

July 19, 2019

STATE CLEARINGHOUSE

July 19, 2019

Jeff Rosaler, Parks Manager  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629

**Subject: Comments on the Notice of Intent to Adopt a Mitigated Negative Declaration for the Harbor Point Trail Extension and Overlook Project (SCH #2019069074)**

Dear Mr. Rosaler:

The Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Intent to adopt a Mitigated Negative Declaration (MND) for the Harbor Point Trail Extension and Overlook Project (Project) dated June 19, 2019. The City of Dana Point is a Participating Jurisdiction under the County of Orange Central and Coastal Subregion Natural Community Conservation Plan/ Habitat Conservation Plan (NCCP/HCP, Plan) and is signatory to the Plan Implementation Agreement (IA). The MND for the proposed project must ensure and verify that all requirements and conditions of the NCCP/HCP and IA are met. The MND should also address biological issues that are not addressed in the NCCP/HCP, such as specific impacts to and mitigation requirements for sensitive species and habitats that are not covered NCCP/HCP.

The proposed Project is located within the Harbor Point Conservation Park (Park) near the intersection of Cove Road and Street of the Green Lantern in the City of Dana Point, California. The Project proposes to construct an overlook deck south of the existing pullout on Scenic Drive and to connect an existing trail to the street, just north of the proposed overlook. The trail would be approximately 4.5 feet wide and 847 feet long and would include interpretive signs, benches, and a trash can. The overlook deck would be 21 feet by 14 feet and include a 3.5-foot high railing. Construction is expected to begin in the fall of 2019 and is anticipated to take approximately five months to complete. The installation of the overlook deck would impact 223 square feet of bare ground, 308 square feet of coastal sage scrub (CSS) habitat, and 2 square feet of developed areas. The trail extension would impact 370 square feet of CSS and 480 square feet of bare ground.

The federally threatened coastal California gnatcatcher (*Poliophtila californica californica*, gnatcatcher) is a known resident of scrub habitat within the conserved open space at the Dana Point Headlands, and individuals were observed foraging and nesting within 150 feet east and west of the project impact area during a survey conducted on July 19, 2018 (Chambers Group Inc. 2018). Thus, implementation of this project is expected to remove vegetation within a portion of a gnatcatcher territory and, if implemented during the bird breeding season, could disrupt gnatcatcher breeding activities. In addition, four sensitive plant species are present within the survey area and the Project has the potential to directly impact two of these species, Coulter's saltbush (*Atriplex coulteri*) and California boxthorn (*Lycium californicum*).

The Department offers the following specific comments and recommendations to assist the City in avoiding, minimizing, and adequately mitigating Project-related impacts to biological resources, and to ensure that the Project is consistent with all applicable requirements of the NCCP/HCP.

1. The MND anticipates that the trail extension and overlook installation will benefit the CSS and Environmentally Sensitive Habitat Area (ESHA) onsite by decreasing the disturbance to the habitat that is occurring through unauthorized off-trail usage. While the Department agrees that the Project has the potential to alleviate the unauthorized trail use and help prevent further degradation of habitat, the Project will still directly impact CSS habitat and potentially impact the gnatcatcher and other NCCP/HCP identified species. In addition, the historical unauthorized trail use that has occurred in the Park has led to extensive habitat degradation in the form of linear features of bare ground and crushed vegetation in areas that were previously restored or enhanced as part of the Habitat Management and Monitoring Plan for Dana Point Headlands Biological Open Space (HMMP) and associated Onsite Mitigation and Revegetation Plan (Revegetation Plan). In order to appropriately avoid impacts to the gnatcatcher, compensate for Project impacts, and address past encroachments and habitat disturbance from unauthorized trail use, the Department recommends that the City conduct any habitat removal outside of the bird breeding season and restore vegetation in areas within the Park that have been damaged or degraded from unauthorized use following Project completion. A restoration plan should be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques and include specific success criteria (e.g., percent cover of native and non-native species, species richness) and a detailed monitoring program for evaluating restoration success. Monitoring results should be included in the City's annual reporting to the Natural Communities Coalition and should include information on ongoing management issues and any proposed remedial actions. Finally, the restoration plan should incorporate sensitive plant species that were originally included in the Revegetation Plan, including California boxthorn and cliff spurge (*Euphorbia misera*).
2. Based on email correspondence received by the Department on July 18, 2019, the Harbor Point Park is not currently protected by a Conservation Easement as was committed to under the HMMP. Because the property is not included in the NCCP/HCP Habitat Reserve, a Conservation Easement is the preferred mechanism for ensuring that the conservation values of the property are preserved in perpetuity for the benefit of NCCP/HCP covered species, including the gnatcatcher. We recommend the City work to record a Conservation Easement over the property following completion of the proposed Project, or work with the Department and the U.S. Fish and Wildlife Service to develop an agreeable alternative, such as adding the property to the NCCP/HCP Habitat Reserve, for ensuring the long-term protection of the property. Discussions on an alternative solution may also need to be coordinated with the California Coastal Commission, if appropriate.
3. Prior to adoption, we recommend the City update Mitigation Measure BIO-5 in the MND to include flagging any individual of cliff spurge in addition to California boxthorn, as this species was previously seeded within the Project area and has the potential to be impacted.

Jeff Rosaler, Parks Manager  
City of Dana Point  
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The Department appreciates the opportunity to review and comment on the MND and assisting the City in identifying Project impacts on biological resources. Please contact Kyle Rice at (858) 467-4250 if you have any questions or comments regarding this letter.

Sincerely,



Gail M. Sevens  
Environmental Program Manager  
South Coast Region

ec: State Clearinghouse  
U.S. Fish and Wildlife Service (William Miller)

