



U.S. FISH AND WILDLIFE SERVICE
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008



CALIFORNIA DEPARTMENT OF
FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, California 92123

In Reply Refer to:
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Governor's Office of Planning & Research

January 15, 2021
Sent by Email

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Ron Drago
City Engineer
City of Rancho Palos Verdes
Public Works Department
30940 Hawthorne Boulevard
Rancho Palos Verdes, California 90275

STATE CLEARINGHOUSE

Subject: Comments on the Notice of Preparation of an Environmental Impact Report for the Portuguese Bend Landslide Mitigation Project (SCH #2020110212)

Dear Ron Drago:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department), hereafter collectively referred to as the Wildlife Agencies, have reviewed the above-referenced Notice of Preparation (NOP) dated November 12, 2020. The Wildlife Agencies have identified potential effects of this project on wildlife and sensitive habitats. The project details provided herein are based on the information provided in the NOP and associated documents.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), including habitat conservation plans (HCP) developed under section 10(a)(1)(B) of the Act. The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; §§ 15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA; Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program.

The Service recently issued a section 10 incidental take permit (permit) to the City of Rancho Palos Verdes (City) associated with the City's NCCP/HCP. The Department has not yet issued an NCCP permit to the City. The City must ensure and verify that the draft Environmental Impact Report (DEIR) for the proposed project implements all of the requirements, conditions, and applicable avoidance and minimization measures of the NCCP/HCP, associated Implementing Agreement (IA), and permit. The DEIR will need to address biological issues that are not addressed in the NCCP/HCP and IA, such as specific impacts to and mitigation requirements for

wetlands or sensitive species and habitats that are not addressed by the NCCP/HCP. Issue areas in the DEIR that may be influenced by the NCCP/HCP include “Land Use,” “Landform Alteration/Visual Quality,” “Traffic/Circulation,” “Biological Resources,” “Drainage/Urban Runoff/Water Quality,” “Noise,” and “Cumulative Effects.” In addition, the DEIR will need to describe why the proposed project, irrespective of other alternatives, is consistent with and appropriate in the context of the NCCP/HCP.

The proposed project is a Covered City Project (NCCP/HCP Section 5.2.3 - Landslide Abatement Measures) in the City’s NCCP/HCP and includes mitigation measures designed to prevent the continued movement of the 285-acre Portuguese Bend Landslide Complex (PBLC). Approximately 96 acres of the PBLC overlap with the NCCP/HCP Preserve, while the remainder of the PBLC area includes undeveloped open space as well as several residences, a recreational park, and an archery range. Landslide mitigation measures proposed by the project will be implemented in three phases: surface fracture infilling (Phase 1), surface water improvements (Phase 2), and groundwater mitigation drains (Phase 3). Surface fractures, which can be a few feet wide and up to 15 feet deep, would be filled with a fly ash-based slurry¹ in order to prevent storm runoff from easily infiltrating into the groundwater. Surface water improvements would consist of replacement and refurbishment of existing drainage pipes, the installation of a new drainage pipe below Burma Road, the installation of engineered swales, and a flow reduction area that would impact approximately 8 acres. Finally, following the completion of Phases 1 and 2, which is anticipated to take approximately 14 months, the City would construct groundwater mitigation drains (hydraugers) to help alleviate underground water pressure within the PBLC. Hydraugers would be installed using horizontal or directional drilling for up-gradient and down-gradient drains, respectively.

The undeveloped open space and NCCP/HCP Preserve areas contain suitable habitat for sensitive species as evidenced by the previous documentation of the federally threatened coastal California gnatcatcher (*Poliophtila californica californica*; gnatcatcher), aphanisma (*Aphanisma blitoides*), and South coast saltscall (*Atriplex pacifica*) in these areas (Dudek 2007; Cooper 2018; PVPLC 2020). The NOP indicates that a biological resources technical report (BTR) would be prepared to evaluate project impacts to sensitive and/or special status species, including those species that are covered by the NCCP/HCP, and that conformance to the NCCP/HCP would be required. In addition, the BTR would identify any possible impacts to riparian habitat associated with two streams that are identified in the Service’s National Wetlands Inventory.

The Wildlife Agencies offer the following 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 the requirements of the NCCP/HCP:

1. Within the PBLC area, the project proposes filling soil surface fractures with a fly-ash based slurry to help prevent stormwater runoff from easily becoming part of the

¹ According to the United States Department of Transportation Federal Highway Administration, [coal fly ash](#) is a fine-grained powdery material produced from the burning of pulverized coal. It is often used as a supplementary cementitious material, a mineral filler in asphalt applications, or less often, as an embankment or structural fill material.

groundwater. As part of the alternatives review of the DEIR, the Wildlife Agencies recommend the City evaluate using natural, permeable materials such as mulch and/or soil to fill the fractures, rather than the fly-ash slurry. Although limited information is provided in the NOP regarding the composition of the fly-ash slurry, it appears that use of the mixture would be similar to grouting the fractures with cement and would not allow for vegetation to reestablish in these areas. If the purpose of the filling is to prevent the rapid infiltration of stormwater through deep surface fractures, then natural materials or soil should similarly function to prevent stormwater runoff from quickly becoming part of the groundwater by slowing infiltration and forcing the runoff to move through the rooting zone. In addition, by introducing an impervious surface into a natural landscape, the fracture filling may alter surface flow patterns and lead to localized erosion around the filled fractures which may damage surrounding vegetation. If natural materials would be ineffective in sealing the fractures and reducing stormwater infiltration, then the DEIR should consider partial filling of the fractures using the proposed slurry, then filling the upper portion of the fractures with soil and overseeding with a native species seed mix local to the area, if possible. Once established, larger native shrub species have the added benefit of reducing soil moisture content through evapotranspiration which may help further stabilize the PBLC when combined with the other proposed measures.

2. Phase 2 of the project includes the installation of engineered swales and a flow reduction area that would impact approximately 8 acres, as well as other surface water improvements. The project should minimize the use of engineered swales by evaluating whether focused placement of the proposed measures within select low slope areas would sufficiently minimize stormwater infiltration associated with swales, avoiding the need to engineer the entire length of the swale(s). The flow reduction area should be sited to minimize impacts to native habitats and revegetated with appropriate native vegetation depending on the anticipated soil water content. Impacts associated with both components should be classified as permanent impacts (see Comment 4 below) since both the swales and the flow reduction area would likely require ongoing maintenance to ensure appropriate functionality.
3. Currently the NOP proposes siting a secondary staging area north of Palos Verdes Drive South (PVDS) in the eastern portion of the PBLC. Previous monitoring reports indicate this area supported a single gnatcatcher territory in 2018 (Cooper 2018). We recommend the City propose an alternative site for the secondary staging area that utilizes an existing disturbed area and avoids disturbance to gnatcatcher territories. Finally, the DEIR should include all applicable NCCP/HCP avoidance and minimization measures including the provisions of Section 5.6.9 which requires a 300-foot buffer around all active gnatcatcher nests if the breeding season cannot be avoided.
4. For the purposes of tracking impacts under the NCCP/HCP, the DEIR should quantify both anticipated temporary and permanent impacts associated with project implementation. Impacts should be classified based on vegetation type described in the NCCP/HCP. For Phase 1, all fractures that are filled with the fly-ash based mixture should be considered

permanent impacts and should be classified based on the dominant surrounding vegetation [e.g., if surrounding habitat is primarily coastal sage scrub (CSS) then the impacts should be classified as coastal sage scrub]. For Phases 2 and 3, any area that will require ongoing maintenance should be classified as permanent impacts, even if revegetated with native vegetation. All permanent impacts need to be debited from the City's allowable impacts to CSS and grassland habitats and reported in the NCCP/HCP Annual Report. Temporary impacts associated with equipment access and staging should be estimated as part of the EIR, tracked during NCCP/HCP annual reporting, and restored and monitored in accordance with Section 5.5 of the NCCP/HCP once the project is completed. Equipment access routes should be sited in the least environmentally sensitive areas and considered temporary impacts until the vegetation is restored consistent with the requirements of the NCCP/HCP. The Wildlife Agencies recommend access routes as well as all temporary staging areas be monitored as part of their recovery for the establishment of plant species that are ranked as highly invasive by the California Invasive Plant Council (Cal-IPC) and recommend those species be removed if detected.


5. The NOP references two dry streams that are identified in the Service's National Wetlands Inventory within the project area indicating potential aquatic, riparian, and wetland habitats may be present. Consistent with section 6.7 of the NCCP/HCP, as applicable, project proponents must submit an application for and receive Federal Section 404, Section 401, and state Section 1600 permits prior to impacting any jurisdictional wetlands. Applicants must also apply to the Regional Water Quality Control Board for Waste Discharge Requirements prior to any discharges, including discharges from land that may affect any waters of the state. Therefore, the DEIR should include a jurisdictional delineation of the creeks/drainages and their associated riparian habitats. The delineation should be conducted pursuant to the Service wetland definition adopted by the Department (Cowardin *et al.* 1979). Please note that some wetland and riparian habitats subject to the Department's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers.

The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river, stream, or lake, or use material from a river, stream, or lake, the City must provide written notification to the Department pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration Agreement (LSAA) is required. The Department's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. As a Responsible Agency under CEQA, the Department may consider the lead agency's CEQA documentation for the project. To minimize additional requirements by the Department pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian

resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of an LSAA.²

We appreciate the opportunity to comment on this NOP. The comments and recommendations provided are based on our knowledge of listed, sensitive, and declining vegetation communities in the City and our participation in regional conservation planning efforts. The Wildlife Agencies are available to work with the City and your consultants on the project to avoid and minimize impacts to covered species and natural communities consistent with the NCCP/HCP. We look forward to further coordination with the City in implementing the NCCP/HCP and in ensuring the protection for the biological resources in the City. If you have questions or comments regarding this letter, please contact [Eric Porter](#)³ of the Service at 760-431-9440, extension 285, or [Kyle Rice](#)⁴ of the Department at 858-467-4250.

Sincerely,



Jonathan D. Snyder
Assistant Field Supervisor
U.S. Fish and Wildlife Service

David A. Mayer
Environmental Program Manager
California Department of Fish and Wildlife

cc:

Karen Drewe, San Diego – Karen.Drewe@wildlife.ca.gov
Jennifer Ludovissy, San Diego – Jennifer.Ludovissy@wildlife.ca.gov
CEQA Program Coordinator – Sacramento – CEQACommentLetters@wildlife.ca.gov
State Clearinghouse, Sacramento – State.Clearinghouse@opr.ca.gov
Adrienne Mohan (Palos Verdes Peninsula Land Conservancy) – amohan@pvplc.org

² A [notification package](#) for a LSAA may be obtained by accessing the Department's web site.

³ Eric_Porter@fws.gov

⁴ kyle.rice@wildlife.ca.gov

LITERATURE CITED

- [Cooper] Cooper Ecological Monitoring, Inc. 2018. Palos Verdes Nature Preserve Survey for the California gnatcatcher and the Cactus Wren, 2018 Final Report. Prepared for the Palos Verdes Peninsula Land Conservancy, Submitted August 9, 2018.
- Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRue. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.
- Dudek. 2007. Preserve Habitat Management Plan for the Portuguese Bend Nature Preserve. Prepared for: The City of Rancho Palos Verdes. Prepared by: Palos Verdes Peninsula Land Conservancy, Rolling Hills Estates, CA and Dudek, Encinitas, CA. 67 pp. + Appendices.
- [PVPLC] Palos Verdes Peninsula Land Conservancy. 2020. Comprehensive Management and Monitoring Report 2016-2018 for the Rancho Palos Verdes draft Natural Communities Conservation Plan and Habitat Conservation Plan. Submitted May 2020.