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April 14, 2023

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Subject: Proposed Portuguese Bend Landslide Remediation (PROJECT), Draft Environmental Impact Report (DEIR), SCH 2020110212

Dear Ron Dragoo:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of Rancho Palos Verdes (City) for the 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. The Project details referenced here are based on information provided in the DEIR and its associated documents. CDFW also provided previous comments on the Project by responding to the Notice of Preparation (NOP) in a joint comment letter with the United States Fish and Wildlife Service (USFWS) dated January 15, 2021.

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 also administers the Natural Community Conservation Planning (NCCP) program. The City participates in the NCCP program by implementing the Rancho Palos Verdes NCCP/Habitat Conservation Plan (HCP), which was adopted by the City Council in November 2019. The USFWS issued a section 10 incidental take permit (Permit) to the City associated with the City's NCCP/HCP in April of 2020 which allows incidental take of covered species related to identified covered projects and activities. CDFW has not yet issued an NCCP Permit. Comments provided

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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herein pertain to the NCCP/HCP, as adopted by the City, and should not be viewed as pre-decisional relative to CDFW issuance of an NCCP Permit.

PROJECT DESCRIPTION SUMMARY

Project Applicant: City of Rancho Palos Verdes

Objective: The goal of the proposed Project is to significantly minimize movement of the 285-acre Portuguese Bend Landslide Complex (PBLC), located along the south section of the Palos Verdes Peninsula within the City. The PBLC has been sliding since the 1950's and the continued land movement has resulted in damage to homes, infrastructure, utilities, and roadways. Three main geotechnical engineering solutions are proposed: infilling of surface fractures to reduce infiltration of surface water; installation of a subsurface water extraction system (hydraugers) to alleviate artesian pressure and lower groundwater levels; and construction of surface drainage swales and a bentonite-lined flow reduction area to collect, slow, and convey surface water to the ocean.

Biological Setting: Per the DEIR, the 206.5-acre Project site overlaps with approximately 104 acres of NCCP/HCP Preserve lands (including portions of the Portuguese Bend and Abalone Cove Reserves) as well as undeveloped open space and Neutral Lands. Suitable habitat for NCCP/HCP-covered sensitive species such as the federally threatened coastal California gnatcatcher (*Polioptila californica californica*), federally endangered Palos Verdes Blue butterfly (*Glaucopsyche lygdamus paloverdesensis*), aphanisma (*Aphanisma blitoides*; California Rare Plant Rank (CRPR) 1B.2), Santa Catalina Island desert-thorn (*Lycium brevipes* var. *hassei*; CRPR 1B.2), and south coast saltscall (*Atriplex pacifica*; CRPR 1B.2) are present within the Project area. In addition, it is estimated that 4.50 acres of saltbush scrub and 1.84 acres of coastal sage scrub would be permanently impacted by the Project. Permanent impacts to sensitive vegetation communities would be deducted from the City's remaining take allowances pursuant to the NCCP/HCP. Furthermore, approximately 0.43 acre of saltbush scrub and 1.45 acres of coastal sage scrub would be temporarily impacted, for which a restoration program would be prepared and implemented as stipulated in Section 5.5 (Habitat Impact Avoidance and Minimization Measures for Covered Projects and Activities) of the NCCP/HCP. The Project would also result in both permanent and temporary impacts to three ephemeral drainages. Mitigation measures to avoid and/or minimize impacts to sensitive plant and wildlife species, nesting birds, and adjacent conserved lands are further identified in the DEIR.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

1. Compliance with NCCP/HCP: The DEIR states that all components of the proposed Project are Covered Activities under the NCCP/HCP pursuant to Sections 5.2.3 (Landslide Abatement Measures), 5.2.2 (Dewatering Wells), and 5.2.4 (Miscellaneous Drainage Repair in Landslide Areas). Per the NCCP/HCP, all permanent impacts to sensitive vegetation should be tracked by habitat type and debited from the City's allowable impacts to sensitive vegetation types. For example, Section 5.2.3 allows for a maximum of 5.0 acres and 15.0 acres of permanent impacts to coastal sage scrub and grassland, respectively, of which impacts to 3.3 acres of coastal sage scrub and 9.9 acres of grassland can occur within the Preserve. Section 5.1 of the NCCP/HCP states that 2.0 acres of saltbush scrub, considered a subset of coastal sage scrub, can be lost within the Preserve associated with Covered City Projects/Activities. The Habitat Tracking Table in Appendix C of the 2022 Rancho

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Palos Verdes NCCP/HCP Annual Report indicates that approximately 0.26 acre of impacts to coastal sage scrub and 0.1 acre of impacts to grassland have already occurred from landslide abatement measures within the Preserve. The most recent Annual Report does not include separate tracking of impacts to saltbush scrub.

Per the DEIR, impacts to sensitive vegetation communities associated with the proposed engineered swales, flow reduction area, and some components of the hydraugers are considered permanent. In order to be consistent with the NCCP/HCP, impacts to sensitive vegetation communities associated with the proposed Project should fall within the allowed impact thresholds for Covered Activities. However, the DEIR fails to provide sufficient information to make this determination as impacts to vegetation communities for each Project component are not identified as occurring outside or inside the Preserve. We recommend that the final EIR clearly quantify impacts within and outside the Preserve, including to saltbush scrub vegetation, for each Covered Activity to demonstrate that they comply with the allowed impact thresholds identified in the City's NCCP/HCP.

2. Vegetation mapping accuracy: According to the DEIR and Biological Technical Report (Chambers Group, January 2023) a significant portion of the area potentially impacted by the Project is mapped as "disturbed vegetation." However, mapping conducted during development of the NCCP/HCP considered many of the same areas as grassland - particularly on the Portuguese Bend Reserve (Figure 4-8 of the NCCP/HCP). Similarly, coastal areas of the Abalone Cove Reserve along Inspiration Point were mapped as southern coastal bluff scrub in the NCCP/HCP (Figure 4-9) rather than "rocky shore" as indicated in the Biological Technical Report. Given that the NCCP/HCP identifies allowable impact thresholds for both grassland and southern coastal bluff scrub, we recommend that the vegetation mapping be reviewed and updated in the final EIR. Section 2.2.1 of the NCCP/HCP provides vegetative descriptions of both grassland and disturbed vegetation and how to distinguish between the two. The final EIR should also clarify discrepancies between the DEIR and Biological Technical Report in the estimated impacts to habitats and the depicted Preserve boundaries. For example, while the Biological Resources Report states that the Project overlaps with 124 acres of the Preserve, the DEIR indicates an overlap of 104 acres and does not depict the Abalone Cove Reserve boundaries on Figure 3-2 of the DEIR.
3. Temporary impacts: Per the NCCP/HCP, temporary impacts to sensitive vegetation will be tracked and restored/monitored in accordance with Section 5.5. Several components of the proposed Project could result in temporary impacts to sensitive vegetation that are not included in the DEIR's impact analysis (i.e., surface fracture infill locations, access routes, installation area/staging area location and size for hydraugers, underground pipeline trenching, and other staging/stockpile areas). We recommend that the final EIR adequately identify and quantify all temporary impacts associated with the proposed Project.
4. Diversion of surface water flow: The proposed Project would divert water from Drainage 1 at hydrauger A3 (Figure 7 of the Biological Technical Report) through construction of an engineered swale. In doing so, the Project would remove an important source of surface water flow from the west and southwest portions of the Portuguese Bend Reserve that currently supports native plant communities. Similar impacts could occur in the northeast portion of the Project site with channelization of Drainage 3. These potential adverse impacts to vegetation within the Preserve are not addressed in the DEIR. The final EIR should address the potentially adverse landscape-level impacts to surrounding vegetation of diverting surface flows (as well as lowering groundwater levels) within the Preserve.

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5. Cactus wren: Figure 4-8 of the NCCP/HCP indicates historical occurrences within the Project area of coastal cactus wren (*Campylorhynchus brunneicapillus*), an NCCP/HCP covered species. However, this species is not addressed as having the potential to occur within the proposed Project site by either the Biological Technical Report or the DEIR. We recommend that the final EIR include pre-construction surveys for this species, an assessment of potential impacts from the proposed Project, and species-specific avoidance, minimization, and mitigation measures as described in Section 5.6.10 of the NCCP/HCP.

6. Crotch's bumble bee: As of September 30, 2022, Crotch's bumble bee (*Bombus crotchii*) was reinstated as a candidate species under the California Endangered Species Act (CESA) and as such, receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). It is not a covered species under the City's NCCP/HCP. Crotch's bumble bee is a habitat generalist and near-endemic to California. This species is often found in scrub or open grassland habitats that support a variety of pollen and nectar sources. They typically nest underground by utilizing existing features such as abandoned rodent burrows and hibernate under groundcover. Three recent occurrences of Crotch's bumble bee are known from the White Point Nature Preserve, approximately 4 miles east of the Project Area (<https://www.inaturalist.org/taxa/271451-Bombus-crotchii>). If the proposed Project would result in impacts to Crotch's bumble bee, an Incidental Take Permit may be required. CDFW offers the following recommendations:
 - a. Pre-construction surveys for Crotch's bumble bee should be conducted within the Project area by qualified biologists within 1 year prior to the start of construction. A habitat assessment should be conducted prior to surveys to identify areas of suitable habitat (pollen and nectaring sources). We recommend referencing the USFWS' Survey Protocols for the Rusty Patched Bumble Bee (*Bombus affinis*) (USFWS 2019) and the California Bumble Bee Atlas volunteer book (https://www.cabumblebeeatlas.org/uploads/1/1/6/9/116937560/cabba_participant_handbook_03_15_2022.pdf) for examples of general guidelines and best practices for bumble bee surveys.
 - b. If pre-construction surveys identify occupied Crotch's bumble bee habitat within the Project area, the project biologist should then conduct additional pre-construction surveys of such habitat for active bee nest colonies and associated floral resources (i.e., flowering vegetation on which bees from the colony are observed foraging) no more than 30 days prior to any ground disturbance between March and September. The project biologist should establish, monitor, and maintain no-work buffers around nest colonies and floral resources identified during surveys. The size and configuration of the no-work buffer should be based on best professional judgment of the project biologist in consultation with CDFW. At a minimum, the buffer should provide at least 50 feet of clearance from construction activities around nest entrances and maintain disturbance-free airspace between the nest and nearby floral resources. Construction activities should not occur within the no-work buffers until the colony is no longer active (i.e., no bees are seen flying in or out of the nest for three consecutive days indicating the colony has completed its nesting season and the next season's queens have dispersed from the colony).
 - c. Compensatory mitigation for impacts to occupied habitat for Crotch's bumble bee would be determined pursuant to any take authorization issued under CESA.

7. San Diego ambrosia: CDFW is aware of a recently discovered occurrence of San Diego ambrosia (*Ambrosia pumila*; federally endangered, California Rare Plant Rank 1B.1)

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approximately 2 miles west of the proposed Project site (<https://www.calflora.org/app/taxon?crn=299>). San Diego ambrosia is not a covered species under the NCCP/HCP and is not addressed as having the potential to occur within the Project site by either the Biological Technical Report of the DEIR. Given the proximity of the occurrence to the Project site and the presence of potentially suitable habitat, we recommend that the final EIR include pre-construction surveys for this species, an assessment of potential impacts from the proposed Project, and species-specific avoidance, minimization, and mitigation measures developed in coordination with CDFW and USFWS.

8. Sensitive plant species: CDFW is concerned about potential impacts to rare and sensitive plant species that may occur in proximity to the two proposed hydrauger locations on Inspiration Point within the Abalone Cove Reserve and any associated permanent or temporary access roads/staging areas. Per information provided by Brent Morgan of the California Native Plant Society (CNPS) (verbal communication, 3/30/23) and Cris Sarabia of PVPLC (email communication, 4/6/23), recent occurrences of several CNPS-ranked rare plant species are known from the Abalone Cove Reserve and specifically the coastal bluffs at Inspiration Point; if present, these species may be impacted by the proposed Project but have not been sufficiently addressed by the DEIR. These species include two NCCP/HCP-covered plant species (aphanisma and south coast saltscare), as well as seaside calandrinia (*Cistanthe maritima*; CRPR 4.2), California boxthorn (*Lycium californicum*; CRPR 4.2), and Hubby's phacelia (*Phacelia hubbyi*; CRPR 4.2). CDFW recommends that the final EIR include surveys and analysis of these potentially occurring species. Furthermore, the DEIR should address appropriate avoidance and minimization measures if found within a potential impact area.
9. Vegetation of swales and flow reduction area: The proposed revegetation of the engineered swales and flow reduction area is only generally described in the DEIR and associated documents. Per the DEIR, geocells (similar to rip-rap) would be used to maintain the shape of swales. As proposed, the swales would be covered with soil, rock, or native vegetation depending on water velocity. The final EIR should clarify how much is expected to be restored in these areas. CDFW understands that the NCCP/HCP Preserve Manager, the Palos Verdes Peninsula Land Conservancy (PVPLC), will be consulted on the plant palette. We recommend that the final EIR require the development of a draft Revegetation Plan, including specific and appropriate success criteria, for the engineered swales and flow reduction area. The draft Revegetation Plan should be submitted to CDFW and USFWS for review and approval.
10. Long-term maintenance of swales and flow reduction area: The DEIR does not contain sufficient detail on the type, level, duration, and schedule of maintenance activities anticipated for the swales and flow reduction area. The final EIR should include these details for all anticipated maintenance activities within these Project elements, especially for those components occurring within the Preserve. This information could be used to better inform what vegetation and plant species would be most appropriate for revegetation and to understand the extent of vegetation impacts that could adversely affect wildlife, including NCCP/HCP covered species (e.g., host plants for covered butterfly species identified in the NCCP/HCP). We recommend the development of a Long-term Maintenance Plan for these areas be submitted to CDFW and USFWS for review and approval. The Long-term Maintenance Plan should include measures to avoid and minimize potential impacts to NCCP/HCP covered species from maintenance activities.

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11. Flow reduction area and potential impacts to butterflies: Per the Biological Resources Report, water is not expected to accumulate in the flow reduction area for more than several hours. However, if water does pool in the flow reduction area for extended periods, vector control measures (e.g., mosquito abatement) should be evaluated and may be required. If vector control measures are warranted, potential impacts to NCCP/HCP-covered butterfly species from those measures will need to be evaluated in coordination with CDFW and USFWS.
12. Surface Fracture Infilling: To control stormwater runoff infiltrating the ground, the proposed Project includes the infilling of the surface fractures with materials (such as bentonite chips and/or soil) which are expected to minimize direct uncontrolled stormwater infiltration that currently percolates into the groundwater. We understand that bentonite is clay that expands and holds water, and is often used to seal ponds and for tunneling. Because the proposed introduction of bentonite will introduce a foreign soil to the proposed Project area, it will likely change the soil characteristics associated with the existing native soil, which may affect the vegetation. Therefore, CDFW recommends that the final EIR includes an analysis of the change in soil characteristics and identify potential mitigation measures to avoid, minimize, and compensate, if necessary, potential impacts to habitat.
13. Trails: The DEIR states that some trails may be temporarily closed and/or re-routed during construction of the proposed Project. PVPLC, CDFW, and USFWS should be coordinated with in advance of any proposed closing and re-routing of trails, which would need to comply with the NCCP/HCP and Public Use Master Plan (adopted by the City in April 2013). Moreover, any vegetation removal, including any trails, will need to be quantified and addressed in association with the proposed Project impacts.
14. Lake and Streambed Alteration Agreement: CDFW has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW, as a Responsible Agency under CEQA, may consider the City's EIR for the project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the City's document should fully identify the potential impacts to any stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSAA. Whether an LSAA is required to satisfy requirements of section 1600 *et seq.* can only be determined at the time a formal Notification package is submitted to CDFW. Given the design elements of the proposed Project, we strongly encourage the City to consider submitting a streambed notification package to the Lake and Streambed Alteration Program.

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

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form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. 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: [Guidelines for Submission of Spatial Data to the CNDDDB \(ca.gov\)](#).

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 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 the City in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Heather Schmalbach, Senior Environmental Scientist, at Heather.Schmalbach@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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REFERENCES

USFWS. 2019. Survey Protocols for the Rusty Patched Bumble Bee (*Bombus affinis*), Version 2.2, April 12, 2019. <https://www.fws.gov/media/survey-protocols-rusty-patched-bumble-bee>