



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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March 25, 2021

Governor's Office of Planning & Research

Mar 25 2021**STATE CLEARINGHOUSE**

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Subject: Comments on the Palo Comado Creek Linear Park Project, Mitigated Negative Declaration, SCH #2021020405, City of Agoura Hills, Los Angeles County

Dear Ms. Yambao:

The California Department of Fish and Wildlife (CDFW) has reviewed the Palo Comado Creek Linear Park Project (Project) Mitigated Negative Declaration (MND) from the City of Agoura Hills (City; Lead Agency). The Project's supporting documentation also includes a *Biological Resources Assessment Report* (BRA).

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's 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game 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 & Game Code, § 2050 et seq.), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 2 of 29

Project Description and Summary

Objective: The Project site is currently a concrete-lined channel that services the Los Angeles County Flood Control District. The proposed park would be constructed over the existing channel, utilizing the entire Flood Control District right-of-way, which lies between the commercial property to the north and Agoura Road to the south. The park will include features like picnic benches, bike racks, children's play equipment, native/drought tolerant landscaping, a butterfly garden and botanical walk, among others. Key objectives of the park are to enhance active recreation opportunities, protect ecosystems, increase regional trail connectivity, and improve the use of lands at an existing facility that will enrich the lives of current and future community members. Furthermore, the Project will represent a significant urban greening opportunity with the planting of approximately 35 western sycamores, coast live oak trees, and shrubs in planting areas throughout the park. The park will also incorporate decomposed granite equestrian and pedestrian trails. These trails will enhance connectivity for pedestrians, bikes, and equestrians consistent with the City's trail master plan to connect to the Rim of the Valley Trailhead.

Location: The proposed Project is located over the Palo Comado Creek concrete rectangular channel adjacent to Agoura Road, from Cornell Road to the Whizen Shopping Center driveway closest to Cornell Road, south of the Ventura Freeway (United States Route 101), and near the City's southern boundary.

Comments and Recommendations

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

Comment #1: Impacts to Crotch's Bumble Bee

Issue: A search of California Natural Diversity Database (CNDDDB) indicates a recent record (June 25, 2019) of Crotch's bumble bee (*Bombus crotchii*), less than approximately 300 feet south of the Project site.

Specific Impact: Project ground-disturbing activities for construction may result in crushing or filling of active bee colonies, causing the death or injury of adults, eggs, and larvae. Crotch's bumble bee inhabits open grassland and scrub habitats. Aerial photography indicates an area of the Project site approximately 400 feet east of Cornell Road that supports vegetation that may provide habitat for the Crotch's bumble bee. However, the only vegetation identified in the BRA were valley oaks (*Quercus lobata*) on site. In addition, there was no focused survey conducted for Crotch's bumble bee.

Why Impact would occur: Crotch's bumble bee is known to nest underground in abandoned small mammal burrows. They may also nest under perennial bunch grasses or thatched annual grasses, underbrush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2018). The limited vegetation on site and small mammal burrows may provide these types of habitat requirements. Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Without species focused-level surveys, Crotch's bumble bee has the

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 3 of 29

possibility to be missed. Project disturbance activities, including excavation, grading activities, could result in mortality or injury to hibernating bees, as well as temporary or long-term loss of suitable foraging habitats. Construction during the breeding season, in late February through late October, of bees could result in the incidental loss of breeding success or otherwise lead to nest abandonment. In addition, survey efforts that take place outside of flying season when bees are most likely to be detected may lead to false negative results. This may also lead to insufficient mitigation measures to protect bees or colonies that may be found on site.

Evidence Impact would be significant: Crotch's bumble bee has a State ranking of S1/S2. This means that the Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often 5 or fewer populations). Also, Crotch's bumble bee has a very restricted range and steep population declines make the species vulnerable to extirpation from the State (CDFW 2017). Accordingly, Crotch's bumble bee meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of Crotch's bumble bee could require a mandatory finding of significance by the City (CEQA Guidelines, § 15065). The Project has potential to substantially reduce or adversely modify habitat, impair the viability of populations, and reduce the number and range of the Crotch's bumble bee.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Due to potentially suitable habitat within the Project site, within one year prior to grading and/or vegetation removal, a qualified entomologist familiar with the species behavior and life history should conduct surveys to determine the presence/absence of Crotch's bumble bee. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results, including negative findings, should be submitted to the City prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee. At minimum, a survey report should provide the following:

- a) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee;
- b) Field survey conditions that should include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched;
- c) Map(s) showing the location of nests/colonies; and,
- d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species).

Mitigation Measure #2: If Crotch's bumble bee is detected, the City in consultation with a qualified entomologist should develop a plan to fully avoid impacts to Crotch's bumble bee. The plan should include effective, specific, enforceable, and feasible measures. An avoidance plan should be submitted to the City prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee.

Mitigation Measure #3: If Crotch's bumble bee is detected and if impacts to Crotch's bumble bee cannot be feasibly avoided during Project construction and activities, the City/qualified

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 4 of 29

entomologist should coordinate with CDFW to obtain appropriate handling permits for incidental take of Crotch's bumble bee and provide appropriate mitigation for impacts to Crotch's bumble bee habitat. CDFW recommends the City mitigate for impacts to Crotch's bumble bee habitat at a ratio comparable to the Project's level of impacts.

Comment #2: Impacts to Burrowing Owl (*Athene cunicularia*)

Issue: The BRA states that burrowing owl (*Athene cunicularia*) has a moderate potential to occur on site due to "suitable ground squirrel burrows and open grassland habitat". In addition, only two general reconnaissance-level field surveys were conducted on September 12 and October 7, 2019. There is no indication that a recent species-specific survey was conducted.

Specific impact: Identification of potential for burrowing owls during non-winter months, including the nesting season, may be missed. A species-specific survey would determine if burrowing owls and wintering habitat occur in other areas in or adjacent to the Project site. Therefore, the Project may result in direct and indirect burrowing owl mortality or injury; disruption of natural burrowing owl breeding behavior; and loss of breeding, wintering and foraging habitat for the species. In addition, burrowing owl survey protocols require multiple surveys to be conducted during the breeding season to determine if, when, and how the site is used by burrowing owls. Burrowing owl nesting season begins as early as February 1 and continues through August 31. Project impacts may contribute to Statewide population declines for burrowing owl.

Why impact would occur: Burrowing owls have been known to use highly degraded and marginal habitat where existing burrows or stem pipes are available. Nest and roost burrows of the burrowing owl are most commonly dug by ground squirrels, but they have also been known to use a variety of other species dens or holes (Gervais, J.A., Rosenberg, D.K., & Comrack, L.A., 2008). Impacts to burrowing owl could result from vegetation clearing and other ground disturbing activities. Project disturbance activities may result in crushing or filling of active owl burrows, causing the death or injury of adults, eggs, and young. In addition, the Project may remove burrowing owl foraging habitat by eliminating vegetation that supports essential rodent, insect, and reptile that are prey for burrowing owl. Rodent control activities could result in direct and secondary poisoning of burrowing owl ingesting treated rodents.

Evidence impact would be significant: Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86 and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." Without appropriate take avoidance surveys prior to Project operations including, but not limited to, ground and vegetation disturbing activities and rodent control activities, adverse impacts to burrowing owl may occur because species presence/absence has not been verified. In addition, burrowing owl qualifies for enhanced consideration afforded to species under CEQA, which can be shown to meet the criteria for listing as endangered, rare, or threatened (CEQA Guidelines, § 15380(d)).

In addition, insufficient survey efforts for burrowing owl may conclude false negative results, which would not require avoidance and mitigation measure implementation. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 5 of 29

species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To reduce impacts to burrowing owl, CDFW recommends that the Project adhere to CDFW's March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#) (CDFW 2012). All survey efforts should be conducted prior to any Project activities that could result in habitat disturbance to soil, vegetation, or other sheltering habitat for burrowing owl. In California, the burrowing owl breeding season extends from February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15.

Mitigation Measure #2: Any permanent impacts to identified occupied owl burrows and adjacent foraging habitat should be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. In the event of the presence of burrowing owls on site, CDFW recommends that the City require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to Project implementation.

Mitigation Measure #3: For proposed preservation and/or restoration, the final environmental document should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. CDFW recommends that permanent impacts to foraging habitat for burrowing owl be offset by purchasing credits at a CDFW-approved bank based on acreage of impact and vegetation composition.

Mitigation Measure #4: Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided.

Comment #3: Impacts to Streams

Issue: The MND states, "The proposed Project will permanently cover a portion of Palo Comado Creek." The MND also indicates that to avoid impacts to water quality, that standard and required Best Management Practices (BMPs) would be incorporated into the design and construction of the Project.

Specific impacts: The Project activities will result in impacts to Palo Comado Creek and associated vegetation. In addition, the Project's proposed activities will also result in a net loss to wetlands which therefore, results in temporal or permanent impacts to streams and associated habitat.

Why impacts would occur: Ground-disturbing activities from grading or excavation, in addition to permanently covering a portion of the creek, would physically remove or otherwise alter existing streams or their function and associated habitat on the Project site. Biological resources downstream and beyond the Project development footprint may also be impacted by Project related releases of sediment and altered watershed effects.

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 6 of 29

Evidence impacts would be significant: Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or
- Deposit or dispose of material into any river, stream, or lake.

The Project may adversely affect the existing hydrologic pattern of the Project site. This may occur through the alteration of the bank, bed, or channel of the stream, which absent specific mitigation, could result in permanent loss of wetlands on site. This net loss of wetland habitat will impact wildlife species that may utilize this stream area (see Comment #5) and will require compensatory mitigation (see Recommendation #1 below). Additionally, associated riparian plant communities are present downstream of the Project site that may be impacted by changes to the stream. Accordingly, impacts to sensitive or rare riparian plant communities may occur.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW concurs with the Project's proposal to notify CDFW pursuant under Fish and Game Code, section 1600 et seq. The Project applicant (or "entity") must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration (LSA) Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021a).

Mitigation Measure #2: CDFW recommends the LSA Notification include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity within and at minimum one mile downstream of the Project site. The hydrology report should also include an analysis to demonstrate that the increase in impervious surface on site will not impact the current hydrologic regime or change the velocity of flows on site and downstream. CDFW also requests a hydrological evaluation of the 200, 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.

Mitigation Measure #3: The Project MND has stated it will implement Best Management Practices (BMPs) to prevent erosion and the discharge of sediment and pollutants into the streambed during Project activities. CDFW recommends BMPs be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent should prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within stream areas. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site should be free of nonnative plant materials. Fiber rolls or erosion control mesh should be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 7 of 29

Recommendation #1: CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA 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 the LSA Agreement.

To compensate for any on- and off-site impacts to wetlands or riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.

Comment #4: Impacts to Bat Species, including California Species of Special Concern

Issue: The Project includes activities such as grading, excavation, and vegetation removal that may result in the removal of trees that could provide foraging and roosting habitat for bats. In addition, the BRA indicates the western red bat (*Lasiurus blossevilli*), a designated California Species of Special Concern, and hoary bat (*Lasiurus cinereus*), have moderate potential to occur on site. Lastly, there was no indication in the BRA that a focused survey was conducted for bats.

Specific impacts: Project activities include excavation that may disturb or remove areas that provide foraging or roosting habitat and therefore has the potential for the direct loss of bats. Indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground-disturbing activities (e.g., staging, mobilizing, excavating, and grading), and vibrations caused by heavy equipment.

Why impacts would occur: The removal of vegetation and trees may potentially result in the loss of foraging and roosting habitat for bats. Construction activities will temporarily increase the disturbance levels as well as human activity in the Project area. Figures 2 and 3 in the BRA show several mature trees are on site that may serve as potential habitat for bats. In addition, general biological reconnaissance survey conducted from 0600 to 1230 hours would not determine the presence/absence of bats, which require more species-specific and specific time-of-day surveys. Development activities may impact any bat species that could be within the Project boundary or its vicinity.

Evidence impacts would be significant: Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment, (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). There are many bat species that can be found year-round in urban areas throughout the south coast region of California (Miner & Stokes, 2005). Several bat species are considered California Species of Special Concern and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of California Species of Special Concern could require a mandatory finding of significance by the City (CEQA Guidelines, § 15065).

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 8 of 29

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Prior to construction activities, CDFW recommends a qualified bat specialist conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. CDFW recommends the use of acoustic recognition technology to maximize detection of bat species to minimize impacts to sensitive bat species. A discussion of survey results, including negative findings should be provided to the City. Depending on the survey results, a qualified bat specialist should discuss potentially significant effects of the Project on bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125). Surveys, reporting, and preparation of robust mitigation measures by a qualified bat specialist should be completed and submitted to the City prior to any Project-related ground-disturbing activities or vegetation removal at or near locations of roosting habitat for bats.

Mitigation Measure #2: If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees at a given location, during tree removal, trees should be pushed down using heavy machinery rather than felling with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees should be pushed lightly two or three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree should then be pushed to the ground slowly and remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts should not be bucked or mulched immediately. A period of at least 24 hours, and preferable 48 hours, should elapse prior to such operations to allow bats to escape.

Mitigation Measure #3: If maternity roosts are found, to the extent feasible, work should be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are yet ready to fly out of the roost (March 1 to September 30).

Mitigation Measure #4: If maternity roosts are found and the City determines that impacts are unavoidable, a qualified bat specialist should conduct a preconstruction survey to identify those trees proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. Acoustic recognition technology should be used to maximize the detection of bats. Each tree identified as potentially supporting an active maternity roost should be closely inspected by the bat specialist no more than 7 days prior to tree disturbance to determine the presence or absence of roost bats more precisely. If maternity roosts are detected, trees/structures determined to be maternity roosts should be left in place until the end of the maternity season. Work should not occur within 100 feet of or directly under or adjacent to an active roost. Work should also not occur between 30 minutes before sunset and 30 minutes after sunrise.

Comment #5: Impacts to wading bird habitat

Issue: Constructing a park over the existing creek would cause a permanent loss of wading bird habitat.

Specific impact: Aerial photography and Figure 6 of the BRA indicate the presence of algal mats within Palo Comado Creek. By completely covering a stretch of the creek, birds will no longer have the ability to utilize this area for foraging. Algal mats along with other herbaceous vegetation can no longer persist in this portion of the creek.

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 9 of 29

Why impact would occur: The MND does not provide sufficient analysis as to whether the Project would impact biotic resources in the portion of the creek it will permanently cover. In this concrete-lined creek, the resulting sheet-flows allow phytoplankton (algae and cyanobacteria), microorganisms, and herbaceous vegetation to establish. The algae provide habitat and a food source for benthic invertebrates, a vital food source for wading birds. In addition, wading birds, such as the mallards, also feed on herbaceous vegetation and were identified on site, according to Appendix B of the BRA.

Evidence impact would be significant: Changes to hydrology by completely covering the creek are reasonable potential direct and indirect physical changes in the environment. These changes and their potential impacts on biological resources should be analyzed and disclosed in an environmental document. Adequate disclosure is necessary for CDFW to assist a lead agency in adequately identifying, avoiding, and/or mitigating a project's significant, or potentially significant, direct, and indirect impacts on biological resources. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in a project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW, USFWS, and/or National Marine Fisheries Service (NMFS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure: CDFW recommends the City include an analysis of potential impacts on biological resources within the creek resulting from the Project. At a minimum, an analysis should include:

- 1) A map of plant communities and important bird foraging habitat occurring in the Project area, namely within Palo Comado Creek. Plant communities should be mapped at the alliance/association level using the [Manual of California Vegetation](#), second edition (Sawyer et al. 2009). Also, CDFW recommends an updated and thorough floristic-based assessment of plant communities, following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018).
- 2) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities, occurring in the Project site. For each biological resource, provide:
 - a. A summary of species-specific habitat requirements;
 - b. A discussion as to how the species or plant community may be significantly impacted directly or indirectly through habitat modification, as result of changes to hydrology (reduced flow), hydraulics (water depth, wetted perimeter, velocity), and sunlight exposure (photosynthetic ability of plants and algae); and,
 - c. A quantitative analysis and/or adequate discussion to evaluate whether the project would result in those significant impacts.
- 3) A discussion of whether construction, operations, and maintenance of the new park would have direct and/or indirect, permanent or temporal impact on biological resources.
- 4) An adequate discussion of Project-related impacts on biological resources in relation to cumulative changes to the hydrologic regime.

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 10 of 29

Comment #5: Impacts to Special Status Plant Species

Issue: The BRA identifies a number of sensitive plant species that are presumed absent on site. However, it is possible some of these species have potential to occur on site but would be missed due to the timing and unfocused nature of the survey conducted in September and October 2019. Furthermore, the vegetation map and vegetation discussion in the BRA is lacking in detail as to the specific botanical species found within the Project boundary.

Specific impact: The survey methodology used to identify these rare plants for the Project has the potential to miss any that may occur on the Project site. Moreover, Figure 4 in the BRA only identified “Valley Oak Woodland” and “developed channel” on the vegetation map, so CDFW is unable to sufficiently analyze potential impacts from Project activities on botanical species that may be found on site. In addition, the Project may cause immediate species injury or death, alteration of soil chemical and physical makeup, increased competition with exotic invasive weeds, and reduced photosynthesis and reproductive capacity. This may result in native plant population declines or local extirpation of special status plant species. The effects of these impacts would be permanent or occur over several years.

Why impact would occur: Project implementation includes grading, excavation, and other activities that may result in direct mortality, population declines, or local extirpation of sensitive plant species. Furthermore, the timing of general biological reconnaissance surveys was outside of the blooming period for all sensitive species listed in the BRA.

Evidence impact would be significant: Impacts to rare plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to this sensitive plant association will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

Moreover, BIO-2 in the MND states, “Following the surveys, the biologist shall prepare a Rare Plant Survey Letter Report detailing the results of the field surveys, including any avoidance and minimization measures, if necessary, and provide the report to the City’s Environmental Analyst for review and acceptance.” CEQA Guidelines sections 15070 and 15071 require the Negative Declaration to analyze if the Project may have a significant effect on the environment as well as review if the Project will avoid the effect or mitigate to a point where clearly no significant effects would occur. Absent sufficient survey data, namely botanical surveys, CDFW is unable to provide meaningful avoidance, minimization, or mitigation measures related to biological resources.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends conducting focused surveys for special status plants. The survey should be conducted on site and in the surrounding 200-ft buffer, and the results should be disclosed in the CEQA document. Based on the [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018), a qualified biologist should “conduct botanical surveys in the field at the times of year when plants will be both evident and identifiable. Usually this is during

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 11 of 29

flowering or fruiting.” The final CEQA documentation should provide a thorough discussion of the vegetation on site and the extent of any sensitive species and identify measures to protect sensitive plant communities from Project-related direct and indirect impacts.

Mitigation Measure #2: CDFW recommends avoiding any rare and sensitive plants found on the Project site. If avoidance is not feasible, replacement ratios for mitigation should be implemented. Replacement ratios are for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by USFWS and CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (AB 1094; Government Code, §§ 65965-65968).

Comment #6: Tree Removal

Issue: The MND indicates potential for tree removal during ground and vegetation disturbing activities. There is no indication that the trees to be removed have been identified, nor have the number of trees been indicated. In addition, an investigation has not taken place to identify the potential for tree pests.

Specific Impact: Project activities that result in the removal of trees may cause temporary or permanent impacts to wildlife that utilize the tree as habitat. In addition, Project activities that involve removal of trees have the potential to result in the spread of tree insect pests and disease into areas not currently exposed to these stressors. This could result in expediting the loss of trees in California which may support a high biological diversity including special status species.

Why impact would occur: Tree removal may result in temporary or permanent losses to bird or bats that may utilize the tree as habitat. Trees will be removed and presumably hauled to off-site locations for disposal, thereby exposing off-site tree species to potential infestation and disease.

Evidence Impact would be significant: Trees on site may provide adequate habitat for nesting birds. In addition, the western red bat primarily roosts in trees, often in edge habitats adjacent to streams, fields, or urban areas, such as found on the Project site (Harris, J. 1988-1990). Valley oak is used by various cavity-nesting and storing birds and mammals. Pocket gopher, California ground squirrel, and deer mouse are heavy consumers of valley oak seedlings. Acorns are an important diet item of the California ground squirrel, pocket gopher, scrub jay, yellow-billed magpie, acorn woodpecker, black-tailed deer, feral pig, and of cattle (Howard J.L, 1992). Removal of trees on site may temporarily or permanently impact available habitat for wildlife in the area.

Moreover, valley oaks are one of the largest and long-lived oaks in the United States. However, a majority of populations of valley oak in the State have been subject to urbanization and intensive land conversion. Adams et al. (1992) compared valley oak seedling establishment at seven widely distributed sites from Mendocino to San Luis Obispo Counties and observed low

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 12 of 29

seedling survivorship (average 7-13% survival after 2 years). Survival increased markedly (42-43%) when weeds were controlled and seedlings were protected from rodents. Long survivorship is evidently not high in this species. Therefore, the temporal loss of oaks can be measured depending on their size and the number of years necessary for an oak to reach a certain size should be taken into consideration for replacement efforts and compensatory mitigation.

Lastly, the Project may also result in an adverse effect, either directly or through habitat modifications, by exposing other habitats to insect and/or disease pathogens. Exposure to insect and/or disease pathogens may have a substantial adverse effect on any sensitive natural identified in local or regional plans, policies, and regulations or by the CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: An infectious tree disease management plan should be developed and implemented prior to initiating Project activities. All trees scheduled for removal should be identified and counted to provide total numbers and species type. In addition, trees scheduled for removal resulting from the Project should be inspected for contagious tree diseases including but not limited to: [thousand canker fungus](#) (*Geosmithia morbida*), [Polyphagous Shot Hole Borer](#) (*Euwallacea spp.*), and [goldspotted oak borer](#) (*Agrilus auroguttatus*) (TCD 2020; UCANR 2020; UCIPM 2013). To avoid the spread of infectious tree diseases, diseased trees should not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.

Mitigation Measure #2: CDFW recommends replacing native trees at least a 3:1 ratio with a combination of native trees and/or appropriate understory and lower canopy plantings. In order to ensure no net loss of oak trees, CDFW recommends following the City of Agoura Hills Municipal Code [9657.5. - Oak tree permit](#) replacement ratio for the removal of any oak which states, "In no case shall less than four (4) native oaks be provided for any oak tree removed or relocated" (Agoura Hills, 2020). Replacement oaks should be of the same species and come from nursery stock grown from locally sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they were planted. CDFW recommends replacing nonnative trees with at least a 1:1 ratio with native trees.

Additional Recommendations

Recommendation #1 Nesting Birds: CDFW recommends avoiding any construction activity during nesting season. If not feasible, CDFW recommends modifying BIO-3 by expanding the time period for bird and raptor nesting from February 1 through August 31 to January 1 through February 15. If the Project occurs between January 1 through February 15, a nesting bird and raptor survey should be conducted as stated in BIO-3, prior to any ground-disturbing activities (e.g., staging, mobilization, excavation, grading) as well as prior to any vegetation removal within the Project site.

It should be noted that the temporary halt of Project activities within nesting buffers during nesting season does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. Additional mitigation would be necessary to compensate for the removal of nesting habitat within the Project site based on acreage of impact and vegetation composition. CDFW shall be consulted to determine proper mitigation for impacts to

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 13 of 29

occupied habitat depending on the status of the bird species. Mitigation ratios would increase with the occurrence a California Species of Special Concern and would further increase with the occurrence of a CESA-listed species.

Recommendation #2 Move Out of Harm's Way: The proposed Project is anticipated to result in clearing of habitat that support small mammals and reptiles. CDFW recommends a qualified biological monitor be on site during initial ground disturbing activities and vegetation removal. The qualified biological monitor should move wildlife of low mobility out of harm's way to avoid wildlife injury or mortality. Wildlife should be allowed to move away on its own (non-invasive, passive relocation) or relocated to suitable habitat adjacent to the Project area. No wildlife should be enclosed inside any work zone or otherwise impacted by Project-related fencing. Safe and suitable wildlife relocation areas should be identified by a qualified biological monitor prior to ground disturbing activities and vegetation removal.

Recommendation #3 Scientific Collection Permit: The Project may require capture, handling, and relocation of wildlife. Pursuant to the [California Code of Regulations, title 14, section 650](#), AVEK/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2021b). An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.

CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650).

Recommendation #4 Construction Fencing: CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should be installed in a manner that excludes any wildlife from entering the work zone (i.e., embedded fence such that wildlife cannot enter from under the fence). Fences should not have any slack that may cause wildlife entanglement.

Recommendation #5 Rodenticides: CDFW recommends that rodenticides and second-generation anticoagulant rodenticides be prohibited both during and over the life of the Project.

Recommendation #6 Data: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDB)] which may be used to make subsequent or supplemental

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 14 of 29

environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDB Field Survey Forms](#) (CDFW 2021c). The City should ensure the data has been properly submitted, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The City should provide CDFW with confirmation of data submittal.

Filing Fees

The Project, as proposed, could 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 & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the Project to assist the County in adequately analyzing and minimizing/mitigating impacts to biological resources. Please consider incorporating the attached Biological Mitigation Measure and Recommendation Table into a future environmental document for the Project. CDFW requests an opportunity to review and comment on any response that the County has to our comments and to receive notification of any forthcoming hearing date(s) for the Project. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov.

Sincerely,

DocuSigned by:

5991E19EF8094C3...
Victoria Tang

signing for Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

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Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 15 of 29

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Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 16 of 29

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CHARLTON H. BONHAM, Director



CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources			
	Mitigation Measure	Timing	Responsible Party
MM-BIO-1-Crotch's bumble bee	<p>Within one year prior to grading and/or vegetation removal, a qualified entomologist familiar with the species behavior and life history shall conduct surveys to determine the presence/absence of Crotch's bumble bee. Surveys shall be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results, including negative findings, shall be submitted to the City prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee. At minimum, a survey report shall provide the following:</p> <p>a) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee;</p> <p>b) Field survey conditions that shall include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched;</p> <p>c) Map(s) showing the location of nests/colonies; and,</p> <p>d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, shall include native plant composition (e.g., density, cover,</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 18 of 29

	and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species).		
MM-BIO-2-Crotch's bumble bee	If Crotch's bumble bee is detected, the City in consultation with a qualified entomologist shall develop a plan to fully avoid impacts to Crotch's bumble bee. The plan shall include effective, specific, enforceable, and feasible measures. An avoidance plan shall be submitted to the City prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-3-Crotch's bumble bee	If Crotch's bumble bee is detected and if impacts to Crotch's bumble bee cannot be feasibly avoided during Project construction and activities, the City/qualified entomologist shall coordinate with CDFW to obtain appropriate handling permits for incidental take of Crotch's bumble bee and provide appropriate mitigation for impacts to Crotch's bumble bee habitat. CDFW recommends the City mitigate for impacts to Crotch's bumble bee habitat at a ratio comparable to the Project's level of impacts.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-4-Burrowing Owl	To reduce impacts to burrowing owl, the Project shall adhere to CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation (CDFW 2012). All survey efforts shall be conducted prior to any Project activities that could result in habitat disturbance to soil, vegetation or other sheltering habitat for burrowing owl. In California, the burrowing owl breeding season extends from February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 19 of 29

	survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15.		
MM-BIO-5-Burrowing Owl	Permanent impacts to occupied owl burrows and adjacent foraging habitat shall be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which shall include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. The City shall require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to Project implementation.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-6-Burrowing Owl	For proposed preservation and/or restoration, the final environmental document shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Permanent impacts to foraging habitat for burrowing owl be offset by purchasing credits at a CDFW-approved bank based on acreage of impact and vegetation composition.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-7-Burrowing Owl	Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl shall be avoided.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-8-Impacts to streams	The Project applicant (or "entity") must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration (LSA) Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW's Lake and Streambed Alteration Program webpage to for information about LSA	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 20 of 29

	Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2020a).		
MM-BIO-9-Impacts to streams	The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity within and downstream of the Project site. The hydrology report shall also include an analysis to demonstrate that the increase in impervious surface on site will not impact the current hydrologic regime or change the velocity of flows on site and downstream. CDFW also requests a hydrological evaluation of the 200, 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-10-Impacts to streams	BMPs shall be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent shall prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within stream areas. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site shall be free of nonnative plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-11-Impacts to bat species	Prior to construction activities, a qualified bat specialist shall conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost	Prior to Construction and/or ground	City of Agoura Hills

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 21 of 29

	<p>sites, and any maternity roosts. Acoustic recognition technology shall be utilized to maximize detection of bat species to minimize impacts to sensitive bat species. A discussion of survey results, including negative findings shall be provided to the City. Depending on the survey results, a qualified bat specialist shall discuss potentially significant effects of the Project on bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125). Surveys, reporting, and preparation of robust mitigation measures by a qualified bat specialist shall be completed and submitted to the City prior to any Project-related ground-disturbing activities or vegetation removal at or near locations of roosting habitat for bats.</p>	<p>disturbing activities</p>	
<p>MM-BIO-12-Impacts to bat species</p>	<p>If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees at a given location, during tree removal, trees should be pushed down using heavy machinery rather than felling with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees should be pushed lightly two or three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree shall then be pushed to the ground slowly and remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts shall not be bucked or mulched immediately. A period of at least 24 hours, and preferable 48 hours, shall elapse prior to such operations to allow bats to escape.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>
<p>MM-BIO-13-Impacts to bat species</p>	<p>If maternity roosts are found, to the extent feasible, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are yet ready to fly out of the roost (March 1 to September 30).</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 22 of 29

<p>MM-BIO-14-Impacts to bat species</p>	<p>If maternity roosts are found and the City determines that impacts are unavoidable, a qualified bat specialist shall conduct a preconstruction survey to identify those trees proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. Acoustic recognition technology shall be used to maximize the detection of bats. Each tree identified as potentially supporting an active maternity roost shall be closely inspected by the bat specialist no more than 7 days prior to tree disturbance to determine the presence or absence of roost bats more precisely. If maternity roosts are detected, trees/structures determined to be maternity roosts shall be left in place until the end of the maternity season. Work shall not occur within 100 feet of or directly under or adjacent to an active roost. Work shall also not occur between 30 minutes before sunset and 30 minutes after sunrise.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>
<p>MM-BIO-15-Impacts to wading birds</p>	<p>The City shall include an analysis of potential impacts on biological resources within the creek resulting from the Project. At a minimum, an analysis will include:</p> <ol style="list-style-type: none"> 1) A map of plant communities and important bird foraging habitat occurring in the Project area, namely within Palo Comado Creek. Plant communities shall be mapped at the alliance/association level using the Manual of California Vegetation, second edition (Sawyer et al. 2009). Also, CDFW recommends an updated and thorough floristic-based assessment of plant communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). 2) A comprehensive list of sensitive and special 	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 23 of 29

	<p>status plant and wildlife species, and sensitive plant communities, occurring in the Project site. For each biological resource, provide:</p> <ul style="list-style-type: none"> a. A summary of species-specific habitat requirements; b. A discussion as to how the species or plant community may be significantly impacted directly or indirectly through habitat modification, as result of changes to hydrology (reduced flow) and hydraulics (water depth, wetted perimeter, velocity); and, c. A quantitative analysis and/or adequate discussion to evaluate whether the project would result in those significant impacts. <p>3) A discussion of whether construction, operations, and maintenance of the new park would have direct and/or indirect, permanent or temporal impact on biological resources.</p> <p>4) An adequate discussion of project-related impacts on biological resources in relation to cumulative changes to the hydrologic regime.</p>		
<p>MM-BIO-16-Impacts to special status plants</p>	<p>Focused surveys shall be conducted for special status plant species on-site and in the surrounding 200-ft buffer. Results will be disclosed in the CEQA document. Based on the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW, 2018), a qualified biologist shall “conduct botanical surveys in the field at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting.” The final CEQA documentation will provide a thorough discussion on the vegetation son site and the extent of sensitive</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 24 of 29

	species and identify measures to protect sensitive plant communities from Project-related direct and indirect impacts.		
MM-BIO-17-Impacts to special status plants	Any rare and sensitive plants found on the Project site shall be avoided. If avoidance is not feasible, appropriate replacement ratios for mitigation shall be implemented. Replacement ratios are for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by USFWS and CDFW prior to any ground disturbance. The restoration plan shall include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation shall have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (AB 1094; Government Code, §§ 65965-65968).	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-18-Tree Removal	An infectious tree disease management plan should be developed and implemented prior to initiating Project activities. All trees scheduled for removal should be identified and counted to provide total numbers and species type. In addition, trees scheduled for removal resulting from the Project should be inspected for contagious tree diseases including but not limited to: thousand canker fungus (<i>Geosmithia morbida</i>), Polyphagous Shot Hole Borer (<i>Euwallacea spp.</i>), and goldspotted oak borer (<i>Agrilus auroguttatus</i>) (TCD 2020; UCANR 2020; UCIPM 2013). To avoid the spread of	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 25 of 29

	infectious tree diseases, diseased trees should not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.		
MM-BIO-19-Tree Removal	Native trees shall be replaced at least a 3:1 ratio with a combination of native trees and/or appropriate understory and lower canopy plantings. In order to ensure no net loss of oak trees, the following replacement ratios will be implemented from the City of Agoura Hills Municipal Code 9657.5. - Oak tree permit replacement ratio for the removal of any oak which states, "In no case shall less than four (4) native oaks be provided for any oak tree removed or relocated". Replacement oaks shall be of the same species and come from nursery stock grown from locally sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they were planted. Nonnative trees shall be replaced with at least a 1:1 ratio with native trees.	Prior to Construction and/or ground disturbing activities	
MM-BIO-20-Nesting Birds	Primarily, CDFW recommends avoiding any construction activity during nesting season. If not feasible, CDFW recommends modifying Mitigation Measure BIO-3 by expanding the time period for bird and raptor nesting from February 1 through August 31 to January 1 through February 15. If the Project occurs between January 1 through February 15, a nesting bird and raptor survey should be conducted prior to any ground-disturbing activities (e.g., staging, mobilization, excavation, grading) as well as prior to any vegetation removal within the Project site. It shall be noted that the temporary halt of Project activities within nesting buffers during nesting season does not constitute effective mitigation for the purposes	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 26 of 29

	of offsetting Project impacts associated with habitat loss. Additional mitigation would be necessary to compensate for the removal of nesting habitat within the Project site based on acreage of impact and vegetation composition. CDFW shall be consulted to determine proper mitigation for impacts to occupied habitat depending on the status of the bird species. Mitigation ratios would increase with the occurrence a California Species of Special Concern and would further increase with the occurrence of a CESA-listed species.		
MM-BIO-21-Move Out of Harm's Way	A qualified biological monitor shall be on site during initial ground disturbing activities and vegetation removal. The qualified biological monitor shall move wildlife of low mobility out of harm's way to avoid wildlife injury or mortality. Wildlife shall be allowed to move away on its own (non-invasive, passive relocation) or relocated to suitable habitat adjacent to the Project area. No wildlife shall be enclosed inside any work zone or otherwise impacted by Project-related fencing. Safe and suitable wildlife relocation areas shall be identified by a qualified biological monitor prior to ground disturbing activities and vegetation removal.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
MM-BIO-22-Scientific Collection Permit:	The Project may require capture, handling, and relocation of wildlife. Pursuant to the California Code of Regulations, title 14, section 650 , the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2021b). An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 27 of 29

	<p>CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650).</p>		
<p>Recommendations</p>			
<p>Recommendation-1: LSA</p>	<p>CDFW’s issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA 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 the LSA Agreement.</p> <p>To compensate for any on- and off-site impacts to wetlands or riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

Charmaine Yambao
 City of Agoura Hills
 March 25, 2021
 Page 28 of 29

<p>Recommendation-2: Construction Fencing</p>	<p>CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should be installed in a manner that excludes any wildlife from entering the work zone (i.e., embedded fence such that wildlife cannot enter from under the fence). Fences should not have any slack that may cause wildlife entanglement.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>
<p>Recommendation-3: Rodenticides</p>	<p>CDFW recommends that rodenticides and second-generation anticoagulant rodenticides be prohibited both during and over the life of the Project.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>
<p>Recommendation-4: Data</p>	<p>CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting CNDDDB Field Survey Forms (CDFW 2021c). The City should</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

Charmaine Yambao
City of Agoura Hills
March 25, 2021
Page 29 of 29

	ensure the data has been properly submitted, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The City should provide CDFW with confirmation of data submittal.		
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