



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newsom, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

Via Electronic Mail Only

June 28, 2023

Tyler Montgomery  
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**Subject: Thousand Peaks Single-family Residence, Mitigated Negative Declaration, SCH #2022030309, Los Angeles County Regional Planning, Los Angeles County**

Dear Mr. Montgomery:

The California Department of Fish and Wildlife (CDFW) has reviewed a Mitigated Negative Declaration (MND) from the Los Angeles County Regional Planning (DRP) for the Thousand Peaks Single-family Residence Project (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's 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 & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. 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.

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CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. 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 & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in “take”, as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project Applicant obtain appropriate authorization under the Fish and Game Code.

### **Project Description and Summary**

**Objective:** The Project would construct a 10,803 square feet two-story, single-family residence on a previously graded pad within an 11-acre lot. The Project includes a driveway with a fire lane to provide access to the proposed residence from Thousand Peaks Road. The total area of the driveway with a fire lane is 9,872 square feet. Additional on-site support features for the proposed residence consist of a pool structure, attached garage, patio, driveway with turnaround for fire department apparatus, septic system, bioswales/irrigation, and cistern near the intersection of the driveway and Thousand Peaks Road. The Project would result in a total disturbed area of 0.67 acres with 0.38 acres of the disturbance occurring within the previously graded pad.

The Project also proposes a landscape plan that includes a Fuel Modification Plan and a Planting Plan. The fuel modification area extends up to 200 feet beyond the edge of the proposed residence. Fuel modification Zone A extends up to 30 feet from the proposed residence, Zone B extends up to 70 feet from the limit of Zone A, and Zone C extends up to 100 feet from the limit of Zone B. The Project’s Planting Plan establishes locations on site, primarily on an east-facing slope, where native shrubs and trees would be planted as mitigation for tree removals. To meet tree replacement requirements of the Santa Monica Local Coastal Program’s Land Use Plan that cannot be met on site due to physical constraints, the Project would fund a Conceptual Native Tree Replacement Plan dated September 16, 2021, prepared by the TreePeople Land Trust to establish 142 additional replacement trees off site in the Cold Creek Valley Preserve.

Lastly, the Project includes a Santa Monica Backbone Trail Easement Dedication in the southern portion of the property.

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**Location:** The Project is located at 24600 Thousand Peaks Road in unincorporated Los Angeles County near the City of Calabasas (Assessor's Parcel Number 4455-052-002). The Project is within the boundaries of the Santa Monica Mountains Local Coastal Program and Santa Monica Mountains National Recreation Area.

## **Comments and Recommendations**

On March 10, 2022, a Mitigated Negative Declaration for the Project was circulated for public review. CDFW provided comments on April 11, 2022. CDFW's primary concerns were the Project's impact on mountain lion, streams, and birchleaf mountain mahogany chaparral. CDFW appreciates that the DRP revised the MND per our comments. After reviewing the MND, CDFW offers additional comments and recommendations below to assist the DRP in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

### **Specific Comments**

#### **Comment #1: Impacts on Streams**

**Issue:** The Project may impact streams.

**Specific impacts:** Project-related fuel modification activities could impact streams by depositing, permitting to pass into, or placing where it can pass into a stream, any substance or material deleterious to fish, plant life, mammals, or bird life, including but not limited to gasoline, oil, and sediment. In addition, removing, trimming, or altering vegetation could affect streams and habitat function adjacent to streams. Finally, Project-related irrigation, whether for landscaping, maintenance of restoration areas, or fuel modification purposes, could modify on-site drainage where this water could enter streams.

**Why impacts would occur:** The MND states the following with respect to streams:

- "The [Aquatic Resources Delineation Report] was conducted on October 5, 2022. Potential aquatic resources in project parcel include three swales and two one-parameter wetlands" (page 35).

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- “The first swale (USW-HLM-01 in the Delineation Report) occurs in the northwestern corner of the parcel where it enters from a culvert under Thousand Peaks Road and flows generally southeast. Approximately 110 feet of this feature occurs within the parcel boundaries. The feature is ephemeral, and it was dry during field investigations” (page 35).
- The second swale (USW-HLM-02 in the Delineation Report) occurs south of the proposed residence location [...]. This feature flows west to east for its entire length of approximately 314 feet within the parcel [...]. The feature is ephemeral, and it was dry during field investigations. The entire feature is a small concrete trapezoidal ditch that supports minimal vegetation in areas supporting sediment deposits” (page 35).
- “The third swale (USW-HLM-03 in the Delineation Report) occurs along the eastern edge of the parcel, east of the proposed residence location, near Dry Canyon Cold Creek Road. It originates northeast of the proposed residence and joins the second swale southeast of the proposed residence, approximately 20 [feet] from where the second swale exits the review area under Dry Canyon Cold Creek Road. The feature is approximately 238 feet in length. It is ephemeral, and it was dry during field investigations. The entire feature is a small concrete v-ditch that is lined with sediment and is 85% unvegetated” (page 35).
- “Two small potential wetlands within the second swale were investigated (Wetland 1 and Wetland 2). They total approximately 31 square feet combined and are approximately 50 feet apart” (page 36).
- The features described above constitute a total of approximately 0.092-acre (3,987 square feet, within 692 linear feet) of swale potentially regulated by CDFW as streambed” (page 36).

The MND states that Project construction activities or fuel modification activities may impact “approximately 0.092-acre of swale potentially regulated by CDFW as streambed.” However, the MND concludes that impacts on streams would not be significant because the Project would be required to prepare a Stormwater Pollution Prevention Plan, avoid the swales during Project construction (BIO-1), perform a botanical survey of the fuel modification zone prior to fuel modification activities (BIO-3), and remove non-native species by hand near “potentially jurisdictional waterways” (BIO-4). Even with these mitigation measures provided, the Project’s impact on streams has yet to be mitigated below a level of significance.

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BIO-1 requires the Project to avoid "potentially jurisdictional waterways" during all construction and fuel modification activities. However, BIO-1 does not include specific performance standards and potential actions to achieve those performance standards to demonstrate that implementation of BIO-1 would avoid "potentially jurisdictional waterways". Likewise, BIO-3 does not include specific performance standards and potential actions to achieve those performance standards to demonstrate that a botanical survey prior to fuel modification would avoid "potentially jurisdictional waterways". Finally, BIO-4 would require the Project to remove non-native species by hand within "potentially jurisdictional waterways". BIO-4 implies that work would occur within streams. Even though impacts would be minimized, there would still be an impact. Therefore, the Project's impact on streams would be subject to Fish and Game Code section 1600 et seq., yet the MND does not include a mitigation measure that addresses Fish and Game Code section 1600 et seq.

The MND is not yet conditioned with a mitigation measure that would require the Project Applicant to submit a Lake or Streambed Alteration (LSA) Notification to CDFW pursuant to Fish and Game Code section 1602. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected to reduce the significant impact (CEQA Guidelines, § 15126.4). The Project's impact on "approximately 0.092-acre of swale potentially regulated by CDFW as streambed" has yet to be mitigated below a level of significance. Compliance with a CDFW regulatory permit or other similar process (i.e., LSA Notification and/or LSA Agreement) would result in implementation of measures that would be reasonably expected to reduce the Project's significant impact on CDFW streambed.

**Evidence impacts would be significant:** The Project may impact streams both during Project construction and for the Project's lifetime as a result of fuel modification. CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which include rivers, streams, or lakes and associated natural communities. 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<sup>1</sup>;

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<sup>1</sup> "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams, desert

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- 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.

CDFW requires that any project that may impact a river, stream, or lake submit an LSA Notification to CDFW. The MND has not been conditioned with a mitigation measure that would require the Project Applicant to submit an LSA Notification to CDFW pursuant to Fish and Game Code section 1602. Accordingly, the Project continues to have a substantial adverse effect on state or protected wetlands (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means.

### **Recommended Potentially Feasible Mitigation Measure(s):**

**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 lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's 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 aquatic and 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.

**Mitigation Measure #1:** The Project Applicant should notify CDFW pursuant to Fish and Game Code 1602 prior to the issuance of grading permits. If CDFW determines that the Project requires an LSA Agreement, the Project Applicant should obtain an LSA Agreement from CDFW prior to the issuance of grading permits. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2023a).

Pursuant to Fish and Game Code section 1602, subdivision (a)(4)(D), if the Project Applicant proceeds with the Project, the Project must be completed as

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washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body.

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described and conducted in the same manner as specified in a LSA Notification and any modifications to that LSA Notification received by CDFW. This includes completing the Project within the proposed term and seasonal work period and implementing all avoidance and mitigation measures to protect fish and wildlife resources specified in the LSA Notification. If the Project has changed substantially or added additional activities within a stream, the Project Applicant will need to resubmit a LSA Notification with a revised project description, impact assessment, and mitigation measures.

**Mitigation Measure #2:** The Project Applicant's notification to CDFW should provide the following information:

- 1) A stream delineation in accordance with the U.S. Fish and Wildlife Service (USFWS) wetland definition adopted by CDFW<sup>2</sup> (Cowardin et al. 1979);
- 2) Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. Plant community names should be provided based on vegetation association and/or alliance per the [Manual of California Vegetation](#), second edition (CNPS 2023);
- 3) A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and
- 4) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation should assess a sufficient range of storm events (e.g., 100, 50, 25, 10, 5, and 2-year frequency storm events) to evaluate water and sediment transport under pre-Project and post-Project conditions.

**Mitigation Measure #3:** If an LSA Agreement is needed for the Project, the Project Applicant should comply with the mitigation measures detailed in the LSA Agreement issued by CDFW. The Project Applicant should also provide compensatory mitigation for impacts on streams at no less than 1:1 for the impacted stream and impacted acreage of associated natural community, or at a ratio acceptable to CDFW.

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<sup>2</sup> Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.

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## **Additional Recommendations**

**Recommendation #2:** CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2023b). Information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022c).

**Recommendation #3:** CDFW recommends the DRP update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the DRP in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The DRP is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the DRP with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

## **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 DRP 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**

We appreciate the opportunity to comment on the Project to assist the DRP in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any



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response that the DRP has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at [Ruby.Kwan-Davis@wildlife.ca.gov](mailto:Ruby.Kwan-Davis@wildlife.ca.gov) or (562) 619-2230.

Sincerely,

DocuSigned by:  
  
B6E58CFE24724F5...

Erinn Wilson-Olgin  
Environmental Program Manager I  
South Coast Region

ec: CDFW

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OPR

State Clearinghouse – [State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

## References:

- [CDFWa] California Department of Fish and Wildlife. 2023. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/LSA>.
- [CDFWb] California Department of Fish and Wildlife. 2023. Submitting Data to the CNDDb. Available from: <https://wildlife.ca.gov/Data/CNDDb/Submitting-Data>
- [CDFWc] California Department of Fish and Wildlife. 2023. Natural Communities - Submitting Information. Available from: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>
- [CNPS] California Native Plant Society. 2023. A Manual of California Vegetation Online. Available from: <https://vegetation.cnps.org/>

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Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. U.S. Fish and Wildlife Service. FWS/OBS-79/31. Washington, DC.



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## Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into the Project's environmental document.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
<b>REC-1-CEQA Document</b>	To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's 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 a Lake or Streambed Alteration Agreement.	Prior to finalizing Project's CEQA Document	Los Angeles County Department of Regional Planning (DRP)
<b>REC-2-Submitting Data for Sensitive and Special Status Species and Natural Communities</b>	Information on special status species should be submitted to the CNDDDB by completing and submitting <a href="#">CNDDDB Field Survey Forms</a> . Information on special status native plant populations and sensitive natural communities, the <a href="#">Combined Rapid Assessment and Relevé Form</a> should be completed and submitted to CDFW's Vegetation Classification and Mapping Program.	Prior to finalizing Project's CEQA Document	DRP

<b>REC-3- Mitigation and Monitoring Reporting Plan</b>	DRP should condition the Project's environmental document to include mitigation measures recommended in CDFW's comment letter.	Prior to finalizing Project's CEQA Document	DRP
<b>MM-BIO-1- Lake and Streambed Notification to CDFW</b>	The Project Applicant shall notify CDFW pursuant to Fish and Game Code 1602 prior to the issuance of grading permits. If CDFW determines that the Project requires an LSA Agreement, the Project Applicant shall obtain an LSA Agreement from CDFW prior to the issuance of grading permits.	Prior to ground disturbing activities  Prior to issuance of grading permits	Project Applicant – submit Notification to CDFW  DRP – monitoring agency/ issuance of grading permit
<b>MM-BIO-2- Lake and Streambed Notification to CDFW</b>	The Project Applicant's notification to CDFW shall provide the following information: <ol style="list-style-type: none"> <li>1) A stream delineation in accordance with the U.S. Fish and Wildlife Service (USFWS) wetland definition adopted by CDFW;</li> <li>2) Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. Plant community names shall be provided based on vegetation association and/or alliance per the Manual of California Vegetation, second edition;</li> <li>3) A discussion as to whether impacts on streams within the Project site would impact those streams</li> </ol>	Prior to ground disturbing activities  Prior to issuance of grading permits	Project Applicant – submit Notification to CDFW  DRP – monitoring agency/ issuance of grading permit

	<p>immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation shall be discussed; and</p> <p>4) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation shall assess a sufficient range of storm events (e.g., 100, 50, 25, 10, 5, and 2-year frequency storm events) to evaluate water and sediment transport under pre-Project and post-Project conditions.</p>		
<p><b>MM-BIO-3-Lake and Streambed Alteration Agreement</b></p>	<p>If an LSA Agreement is needed for the Project, the Project Applicant shall comply with the mitigation measures detailed in the LSA Agreement issued by CDFW. The Project Applicant shall also provide compensatory mitigation for impacts on streams at no less than 1:1 for the impacted stream and impacted acreage of associated natural community, or at a ratio acceptable to CDFW.</p>	<p>Prior to ground disturbing activities</p> <p>Prior to issuance of grading permits</p>	<p>Project Applicant</p> <p>DRP – monitoring agency/ issuance of grading permit</p>