



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

Jan 19 2022

SENT BY EMAIL ONLY

STATE CLEARING HOUSE

January 19, 2022

Mrs. Monica Mercado-Rodriguez
City of Montebello
1600 West Beverly Blvd
Montebello, CA 90640
MMercado-Rodriguez@cityofmontebello.com

Subject: City of Montebello Housing Element Update - 2021-2029, Negative Declaration, SCH #2021120484, City of Montebello, Los Angeles County

Dear Mrs. Mercado-Rodriguez:

The California Department of Fish and Wildlife (CDFW) has reviewed the Negative Declaration (ND) from the City of Montebello (City) for the City of Montebello Housing Element Update – 2021-2029 (Project). The Project is proposed by the City of Montebello (Project Applicant). 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 & 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.

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 proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description and Summary

Objective: The Project proposes its 6th cycle housing element update (HEU) to address the City housing needs for the October 15, 2021, to October 15, 2029 Planning Period. The HEU sets goals, objectives, policies, and programs to achieve future housing needs for the City. The southern California Association of Governments (SCAG) Regional Housing Needs Assessment (RHNA) allocation for the City identified a housing need of 5,186 units. The 5,186 units allocated to the City is divided into the following categories: 1,314 very low-income units, 707 low-income units, 777 moderate-income units, and 2,388 above moderate-income units. To accommodate the RHNA units, the City intends to amend the General Plan and zoning codes for residential uses on identified sites. Currently, 3,062 units proposed on opportunity sites and 312 pipeline units will need to be rezoned for residential use. There are 1,523 units proposed on identified sites that are zoned appropriately. Furthermore, 56 accessory dwelling units (ADUs) are anticipated to be developed during the planning period. Lastly, there is no physical development, construction, or other ground disturbance activity proposed in the HEU. Adoption of the HEU does not approve any future housing developments.

Location: The Project will encompass the entire City of Montebello, located in the southwestern portion of the San Gabriel Valley, within Los Angeles County. The City of Montebello is bounded by the City of Monterey Park to the north, City of Commerce to the west, Whittier Narrows Recreation area to the east, and the City of Bell Gardens to the south.

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 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 Coastal California Gnatcatcher

Issue: CDFW is concerned the Project could impact coastal California gnatcatcher (*Poliophtila californica californica*), an Endangered Species Act (ESA)-listed threatened species and a California Species of Special Concern (SSC).

Specific Impacts: Project housing development activities during the coastal California gnatcatcher breeding and nesting season could result in the incidental loss of fertile eggs or nestlings.

Why impacts would occur: A portion of Puente Hills located within the City of Montebello is designated as a significant ecological area. In the ND, the Montebello Town Center and 1345 North Montebello Blvd are identified as housing opportunity sites. Both housing opportunity sites are located in close proximity to Puente Hills. Numerous observations of wildlife have been recorded within the Puente Hills including coastal California gnatcatcher (CDFW 2021d). In addition, it is also evident through the [U.S. Fish and Wildlife Service \(USFWS\) Critical Habitat](#)

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[Mapper](#) that Puente Hills provides critical habitat for coastal California gnatcatcher (USFWS 2013b). Future development near Puente Hills can result in injury or mortality of unidentified gnatcatcher, including eggs or nestlings. Furthermore, removal of trees can result in loss of breeding and foraging habitat for coastal California gnatcatcher.

Evidence impact would be significant: CEQA provides protection for special status species, including Species of Special Concern (SSC). These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance by the City (CEQA Guidelines, § 15065). The reductions in the number of special status bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. 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 species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW and/or USFWS.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: CDFW recommends the ND require any future proposed housing development to conduct coastal California gnatcatcher surveys to determine presence/absence of gnatcatcher. Future Project proponents should retain a qualified biologist with an appropriate USFWS permit to survey the areas. The qualified biologist should conduct surveys according to USFWS [Coastal California Gnatcatcher \(*Poliophtila californica californica*\) Presence/Absence Survey Guidelines](#) (USFWS 1997a). The survey protocol requires a minimum of six surveys conducted at least one week apart from March 15 through June 30 and a minimum of nine surveys at least two weeks apart from July 1 through March 14. The protocol should be followed for all surveys unless otherwise authorized by the USFWS in writing (USFWS 1997a). CDFW recommends gnatcatcher surveys be conducted and USFWS notified (per protocol guidance) prior to the City's issuance of a grading permit.

Mitigation Measure #2: CDFW recommends developments facilitated by the HEU avoid any construction activity during nesting season. If not feasible, CDFW recommends that if future housing development occurs between January 1 through September 15, a nesting bird and raptor survey should be conducted within a 500-foot radius of the construction site, prior to any ground-disturbing activities (e.g., staging, mobilization, grading) as well as prior to any vegetation removal within the Project site. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. CDFW recommends the ND require subsequent Project proponents require surveys be conducted by a qualified biologist no more than 7 days prior to the beginning of any Project-related activity likely to impact raptors and migratory songbirds, for the entire Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat the surveys. If nesting raptors and migratory songbirds are identified, CDFW recommends the following minimum no-disturbance buffers be implemented: 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests and 0.5 mile around active listed bird nests. These buffers should be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

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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. Mitigation ratios should increase with the occurrence of a SSC and should further increase with the occurrence of a CESA-listed species

Recommendation: Take under the ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. CDFW recommends consultation with the USFWS, in order to comply with ESA, is advised well in advance of any ground-disturbing activities and/or vegetation removal that may impact gnatcatcher.

Additional Recommendations

Biological Baseline Assessment and Impact Analysis. CDFW recommends the ND require subsequent projects provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area, with emphasis upon identifying endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures. The ND should include the following information:

- a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The ND should require subsequent projects to include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. Project implementation may result in impacts to rare or endangered plants or plant communities that have been recorded adjacent to the Project vicinity. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a [State-wide ranking](#) of S1, S2, S3 and S4 should be considered sensitive and declining at the local and regional level (CDFW 2020b);
- b) A thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities](#) (CDFW 2018a);
- c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the Project site and within the neighboring vicinity. [The Manual of California Vegetation](#), second edition, should also be used to inform this mapping and assessment (Sawyer, 2009). Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions;

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d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by the Project;

e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & Game Code, §§ 3511, 4700, 5050 and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the USFWS; and,

f) A recent, wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame, or in phases.

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity Database), which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDDB 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 City should also require subsequent projects submit the data to CNDDDB. The City should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends the City update the Project's environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City 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 City 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 City 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

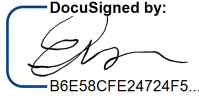
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City of Montebello and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for 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).

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Conclusion

We appreciate the opportunity to comment on the Project to assist the City of Montebello in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of Montebello 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 Julisa Portugal, Environmental Scientist, at (562) 330-7563 or Julisa.Portugal@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

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References:

- [CDFWa] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.
- [CDFWb] California Department of Fish and Wildlife. 2020. Natural Communities. Available from: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>.
- [CDFWc] California Department of Fish and Wildlife. 2021. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.
- [CDFWd] California Department of Fish and Wildlife. 2021. Biogeographic Information and Observation System. Available from: <https://wildlife.ca.gov/Data/BIOS>.
- Sawyer, J. O., Keeler-Wolf, T., and Evens J.M. 2009. A Manual of California Vegetation, 2nd ed. ISBN 978-0-943460-49-9.
- [USFWSa] United States Fish and Wildlife Service. 1997. Coastal California Gnatcatcher (*Poliioptila californica californica*) Presence/Absence Survey Guidelines. Available from: https://www.fws.gov/ventura/docs/species/protocols/cagn/coastal-gnatcatcher_surveyguidelines.pdf.
- [USFWSb] United States Fish and Wildlife Service. 2013. US FWS Critical Habitat Mapper. Available from: <https://www.arcgis.com/home/item.html?id=2c2453ee613f47cdae9dbd0ed7939409>



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Attachment A: Draft Mitigation and Monitoring Reporting Plan

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

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- coastal California gnatcatcher Survey	Any future proposed housing development shall conduct coastal California gnatcatcher surveys to determine presence/absence of gnatcatcher. Future Project proponents shall retain a qualified biologist with an appropriate USFWS permit to survey the areas. The qualified biologist shall conduct surveys according to USFWS Coastal California Gnatcatcher (<i>Polioptila californica californica</i>) Presence/Absence Survey Guidelines . The survey protocol requires a minimum of six surveys conducted at least one week apart from March 15 through June 30 and a minimum of nine surveys at least two weeks apart from July 1 through March 14. The protocol shall be followed for all surveys unless otherwise authorized by the USFWS in writing. CDFW recommends gnatcatcher surveys be conducted and USFWS notified (per protocol guidance) prior to the City's issuance of a grading permit.	Prior to construction activities and vegetation removal	Project-level lead agency/ Designated Biologist
MM-BIO-2- Nesting Bird Survey	Developments facilitated by the HEU shall avoid any construction activity during nesting season. If not feasible, CDFW recommends that if future housing development occurs between January 1 through September 15, a nesting bird and raptor survey should be conducted within a 500-foot radius of the construction site, prior to any ground-disturbing activities (e.g., staging, mobilization, grading) as well as prior to any vegetation removal within the Project site. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. CDFW recommends the ND require subsequent	Prior to construction activities and vegetation removal	Project-level lead agency/ Designated Biologist

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	<p>Project proponents require surveys be conducted by a qualified biologist no more than 7 days prior to the beginning of any Project-related activity likely to impact raptors and migratory songbirds, for the entire Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat the surveys. If nesting raptors and migratory songbirds are identified, CDFW recommends the following minimum no-disturbance buffers be implemented: 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests and 0.5 mile around active listed bird nests. These buffers should be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.</p>		
REC-1- Consultation	<p>CDFW recommends consultation with the USFWS, in order to comply with ESA, is advised well in advance of any ground-disturbing activities and/or vegetation removal that may impact gnatcatcher.</p>	<p>Prior to any construction activities and vegetation removal</p>	<p>Project-level lead agency/ Project Applicant</p>
REC-2- Biological Baseline Assessment	<p>CDFW recommends the ND require subsequent projects provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area, with emphasis upon identifying endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures. The ND should include the following information:</p>	<p>Prior to construction activities and vegetation removal</p>	<p>Project-level lead agency/ Project Applicant</p>

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	<p>a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The ND should require subsequent projects to include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. Project implementation may result in impacts to rare or endangered plants or plant communities that have been recorded adjacent to the Project vicinity. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a State-wide ranking of S1, S2, S3 and S4 should be considered sensitive and declining at the local and regional level</p> <p>b) A thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</p> <p>c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the Project site and within the neighboring vicinity. The Manual of California Vegetation, second edition, should also be used to inform this mapping and assessment. Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions</p> <p>d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by the</p>		
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	<p>Project</p> <p>e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & Game Code, §§ 3511, 4700, 5050 and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the USFWS; and</p> <p>f) A recent, wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame, or in phases.</p>		
<p>REC-3- Data</p>	<p>Project-level lead agencies shall ensure sensitive and special status species data have been properly submitted to the California Natural Diversity Database with all data fields applicable filled out. Confirmation of data submittal shall be provided to CDFW.</p>	<p>Prior to finalizing/adopting project-level CEQA document</p>	<p>Project-level lead agency</p>
<p>REC-4- Mitigation and</p>	<p>The City should update the Project’s environmental document to include mitigation measures recommended in this letter. The City</p>	<p>Prior to finalizing/adopting</p>	<p>City of Montebello</p>

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Monitoring Reporting Plan	is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures.	project-level CEQA document	
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