



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

Via Electronic Mail Only

Feb 11 2022

February 11, 2022

STATE CLEARINGHOUSE

Allison Cook
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301
ACook@agourahillscity.org

**Subject: Negative Declaration for the Climate Action and Adaptation Plan,
SCH #2022010101, City of Agoura Hills, Los Angeles County**

Dear Ms. Cook:

The California Department of Fish and Wildlife (CDFW) has reviewed a Negative Declaration (ND) from the City of Agoura Hills (City) for the Climate Action and Adaption Plan (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.

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 the implementation of the Climate Action and Adaptation Plan (CAAP). Implementation of the CAAP would enable the City to achieve a reduction in greenhouse gas (GHG) emissions by 49 percent below the 2008 levels by 2030. The CAAP provides the City's baseline GHG emissions and proposes actions, measures, and strategies to reduce the City's GHG emissions. There are 21 measures detailed in the CAAP that are categorized into the following major goals:

- Goal 1: Increase energy efficiency in existing residential units
- Goal 2: Increase energy efficiency in new residential units
- Goal 3: Increase energy efficiency in existing commercial units
- Goal 4: Increase energy efficiency in new commercial units
- Goal 5: Increase energy efficiency through water efficiency
- Goal 6: Decrease energy demand through reducing urban heat island effect
- Goal 7: Decrease GHG emissions through reducing vehicle miles traveled
- Goal 8: Decrease GHG emissions through reducing solid waste generation
- Goal 9: Decrease GHG emissions through increasing clean energy use

In addition to GHG emissions, the CAAP addresses climate vulnerability and the City's future potential climate risks. The CAAP provides various adaptation measures that will combat climate vulnerability and potential climate risks throughout the City. Installation of cool roofs, solar panels, and energy retrofits for residential and commercial buildings are actions listed in the CAAP to counteract climate vulnerability and minimize GHG emissions. Overall, the proposed CAAP does not include any development proposals. Future projects within the City will be required to demonstrate consistency with the CAAP.

Location: The Project would apply to the entire City of Agoura Hills. The City encompasses 7.86 square miles at the base of the Santa Monica Mountains in Los Angeles County. The City is bounded by unincorporated areas to the north, the City of Calabasas to the east, City of Thousand Oaks to the west, and the Santa Monica Mountains 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, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions are also included to improve the environmental document. 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 and Associated Natural Communities

Issue: Implementation of the CAAP will impact several creeks and associated natural communities.

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Specific impacts: Installation of energy retrofits will result in alterations to the Medea Creek, Palo Comado Canyon Creek, and Lindero Canyon Creek.

Why impacts would occur: The Madea Creek, Palo Comado Canyon Creek, and Lindero Canyon Creek flow throughout the City. In an effort to increase energy efficiency, energy retrofits will be installed for existing buildings and future development throughout the City. The exact locations of where the energy retrofits will be installed is not disclosed in the ND. However, based on page 38 of the ND, installation of the energy retrofits would consist of minor construction that would result in alteration of existing creeks. Although existing drainage patterns will not be altered, "vacant land, hillsides, or open space drainage patterns could be altered or disturbed..." as a result of construction activities. If construction activities were to impact these existing creeks, associated natural communities along the bed and bank of each creek may potentially be impacted. Furthermore, wildlife that relies on these creeks for habitat or as a water source may also be impacted during construction activities.

Evidence impacts would be significant: CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 *et seq.* to conserve fish and wildlife resources which includes 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 lake¹;
- 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 a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources. The Project may result in significant impacts on streams and associated natural communities through installation activities facilitated by the Project. The Project's ND does not provide measures to mitigate for potentially significant impacts.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends future projects facilitated by the CAAP assess the Project's potential impacts on streams. Modifications to a river, creek, or stream in one area may result in bank erosion, channel incision, or drop in water level along that stream outside of the immediate impact area. If a future project results in impacts to a stream, the project proponent should apply for a Lake and Stream Alteration Agreement 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 proposed activities. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage to for information about LSA Notification and online submittal through the Environmental Permit Information Management

¹ "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 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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System (EPIMS) Permitting Portal (CDFW 2022b).

Mitigation Measure #2: CDFW recommends the LSA Notification include a hydrology report to evaluate whether altering the streams may impact headwater streams where there is hydrologic connectivity. The hydrology report should also include a scour analysis to demonstrate that stream banks and streambed would not erode as a result of impacts within the Project site. Also, CDFW also requests a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.

Additional Recommendations

- 1) Nesting Birds. CDFW recommends future projects facilitated by the CAAP avoid any construction activity during nesting season. If not feasible, CDFW recommends that if future projects occur 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 future project proponents to 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.
- 2) Biological Baseline Assessment and Impact Analysis. There are various parks and open spaces throughout the City that provide biological value and habitat for various wildlife species. CDFW recommends the ND require future projects facilitated by the CAAP provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area. The assessment should identify 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 require future projects to provide 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 future 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

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- 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 2022c);
- 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;
 - 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.
- 3) 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 2021d). The Project-level lead agencies 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 provide CDFW with confirmation of data submittal.
- 4) Mitigation and Monitoring Reporting Plan. CDFW recommends the City update the Project's environmental document to include mitigation measures recommended in this letter. CDFW

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provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear 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 Agoura Hills 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 City of Agoura Hills 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 Agoura Hills 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 Julisa.Portugal@wildlife.ca.gov or (562) 330-7563.

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>)
- [CDFWb] California Department of Fish and Wildlife. 2022. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/LSA>.
- [CDFWc] California Department of Fish and Wildlife. 2022. Natural Communities. Available from: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>.
- [CDFWd] California Department of Fish and Wildlife. 2022. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>
- Sawyer, J. O., Keeler-Wolf, T., and Evens J.M. 2009. A Manual of California Vegetation, 2nd ed. ISBN 978-0-943460-49-9.



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Attachment A: Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Lake and Streambed Alteration Agreement	<p>Future projects facilitated by the CAAP shall assess the Project's potential impacts on streams. Modifications to a river, creek, or stream in one area may result in bank erosion, channel incision, or drop in water level along that stream outside of the immediate impact area. If a future project results in impacts to a stream, the project proponent shall apply for a Lake and Stream Alteration Agreement pursuant under Fish and Game Code, section 1600 <i>et seq.</i> The Project applicant (or "entity") shall provide notification to CDFW pursuant to Fish and Game Code, section 1600 <i>et seq.</i> 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 proposed activities. Please visit CDFW's Lake and Streambed Alteration Program webpage to for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal.</p>	<p>Prior to finalizing CEQA document/ future project activities facilitated by CAAP</p>	<p>Project-level lead agency/Project Applicant</p>
MM-BIO-2- LSA Notification	<p>The LSA Notification shall include a hydrology report to evaluate whether altering the streams may impact headwater streams where there is hydrologic connectivity. The hydrology report shall also include a scour analysis to demonstrate that stream banks and streambed would not erode as a result of impacts within the Project site. Also, CDFW also requests a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.</p>	<p>Prior to finalizing future project activities facilitated by CAAP</p>	<p>Project-level lead agency/Project Applicant</p>

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<p>REC 1- Nesting Bird Measure</p>	<p>CDFW recommends future projects facilitated by the CAAP avoid any construction activity during nesting season. If not feasible, CDFW recommends that if future projects occur 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 future project proponents to 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>	<p>Prior to future project activities facilitated by CAAP</p>	<p>Project-level lead agency/Project Applicant</p>
<p>REC 2- Biological Baseline Assessment</p>	<p>CDFW recommends the ND require future projects facilitated by the CAAP provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area. The assessment should identify 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</p>	<p>Prior to future project activities facilitated by CAAP</p>	<p>Project-level lead agency/Project Applicant</p>

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	<p>ND should require future projects to provide the following information:</p> <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 future 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 Project;</p>		
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	<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>The Project-level lead agencies 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 provide CDFW with confirmation of data submittal.</p>	<p>Prior to finalizing project-level CEQA document</p>	<p>Project-level lead agency</p>
<p>REC 4- MMRP</p>	<p>The City should update the Project's environmental document to include mitigation measures recommended in this letter. The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures.</p>	<p>Prior to finalizing CEQA document</p>	<p>City of Agoura Hills</p>