



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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March 28, 2022

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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Subject: Bubbling Springs Natural Channel Vegetation Removal Project, Mitigative Negative Declaration Report, SCH #2022020569 Ventura County, City of Port Hueneme

Dear Mr. Cable:

The California Department of Fish and Wildlife (CDFW) has reviewed the City of Thousand Oaks' (Lead Agency) Mitigated Negative Declaration (MND) for the Bubbling Springs Vegetation Removal (Project). The Lead Agency prepared a MND pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et. seq.) with the purpose of informing decision-makers and the public regarding potential environmental effects related to the Project.

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; Pub. Resources Code, § 21070; 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

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 2 of 22

& Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code, as necessary.

Project Description and Summary

Objective: The City of Port Hueneme (City) aims to remove native vegetation from the Bubbling Springs Recreation Greenbelt to allow for maximum water drainage capacity. The proposed project consists of periodically removing cattails (*Typha angustifolia* and *T. latifolia*) and bulrush (*Schoenoplectus californicus*) from within the Bubbling Springs Natural Channel. No excavation of channel materials or use of herbicides is proposed. No tree, shrub, or other woody vegetation is anticipated to be removed.

Following the initial removal activities, Project activities will total approximately 40 workdays each year. Removal activities will occur either quarterly, semiannually, or in anticipation of storm events depending on growth patterns of the cattails and bulrush plants in an effort to prevent vegetation from becoming established in the channel. Additional maintenance would be conducted by the City on an as-needed basis to prevent reestablishment of in-channel vegetation.

Location: The Project will occur along and within, the Bubbling Springs Recreation Greenbelt. The site will traverse 23 land parcels between Bard Road and J Street Pump Station. Activities will occur in and around the creek.

Comments and Recommendations

CDFW offers the below comments and recommendations to assist the City in adequately identifying, avoiding, and/or mitigating significant, or potentially significant, direct and indirect impacts on fish and wildlife biological resources based on the planned activities of this proposed Project. Additional comments or other suggestions may also be included to improve the document.

Specific Comments

Comment #1: Focus surveys for Southwestern Pond Turtle (*Emys marmorata*)

Issue: Observations of two individual southwestern pond turtles (*Emys marmorata*) were made during reconnaissance-level surveys. Since this stream is occupied by pond turtle CDFW recommends assessing Project alternatives that avoid impacts to this California Species of Special Concern (SSC).

Specific Impacts: The Project as proposed will result in the loss of habitat occupied by pond turtle, a SSC. Pond turtles aestivate underground and are only reliably detected above ground from May-July. Vegetation clearing activities that take place while pond turtle is aestivating underground could result in trampling, burial, or death. A lack of protocol surveys will likely lead to impacts to pond turtle.

Why impact would occur: The southwestern pond turtle, is the only turtle native to coastal California and is classified as a SSC. The largest threats currently facing pond turtle are land

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 3 of 22

use changes, fragmentation, and degradation of existing habitat, as well as possible impacts via competition and predation by introduced species (Thomson et al. 2016). The pond turtle is considered a habitat generalist because it inhabits many types of water bodies ranging from permanent to intermittent and from freshwater to brackish environments and have been known to use highly degraded and marginal habitat (USGS 2006). Impacts to WPT could result from vegetation clearing and other ground disturbing activities. Ground clearing and construction activities could lead to the direct mortality. The loss of occupied and suitable habitat could yield a loss of foraging potential, nesting sites, roosting sites, critical basking spots or refugia and would constitute a significant impact absent appropriate mitigation.

Evidence impact would be significant: CDFW considers impacts to CESA-listed and SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Due to the potential impact the Project may place on the southwestern pond turtle CDFW recommends the City performs an analysis to determine the necessity of the Project as proposed. Studies could include a geomorphological and hydrological studies of Bubbling Springs channel. Additionally, CDFW recommends looking into alternatives to the Project such as the addition of grated pipes to drain high flows instead of vegetation clearing.

Mitigation Measure #2: CDFW agrees that appropriately timed focus surveys should be conducted by a qualified biologist before any vegetation clearing activities. Surveys should be conducted during the time of greatest pond turtle activity, typically during the breeding season (May - July), and when pond turtles have not left the water to aestivate or overwinter in the uplands. To reduce impacts to WPT to less than significant, CDFW recommends that the Project follow the USGS's 2006 Staff Report on WPT, *DRAFT USGS Western Pond Turtle (Emys marmorata) Visual Survey Protocol for the Southcoast Ecoregion*. 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 WPT. To allow CDFW to determine the extent of impacts to the species associated with the Project and provide meaningful avoidance, minimization, and mitigation measures. CDFW recommends the MND be recirculated after these surveys are completed to fully disclose the potential impacts to the number and kind of turtles. Additionally, any proposed mitigation area should include a discussion on the territory size and breeding locations and how all life cycle functions will be mitigated.

Mitigation Measure #3: Cattail and bulrush are native plants that provide shelter and habitat to special-status species like the pond turtle. Approximately 6.68 acres of cattail and bulrush exist in and along the Bubbling Springs natural channel within the Project area. CDFW recommends the City removes no more than 1/3 (maximum 2.23 acres) of the cattail and bulrush vegetation present in the Project area annually.

Comment #2: Impacts to Streams

Issue: CDFW is concerned that Projects may support streams subject to notification under Fish & Game code section 1600 *et seq.*

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 4 of 22

Specific impacts: Projects may result in degradation of water quality with the disturbance of topsoil within the streambed.

Why impacts would occur: Ground disturbance activities (e.g., grading, filling, water diversions, and dewatering) would physically remove or otherwise alter existing streams or their function and associated riparian habitat. Debris, soil, silt, sawdust, rubbish, raw cement/concrete, or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous or deleterious to aquatic life, wildlife, or riparian habitat resulting from Project related activities may enter the stream. Downstream waters and associated biological resources beyond a Project(s) development footprint may also be impacted by Project(s) related releases of sediment and altered watershed effects.

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 hydrology pattern of the Project site as well as downstream. This may occur through the alteration of flows to streams. In addition, impacts to biological resources off site, may occur. The Project may substantially adversely affect the existing stormwater flows into streams through the alteration of drainages on site. It is unclear if these stormwater diversions would impact biological resources offsite because an investigation has not been made to determine so. Therefore, appropriate avoidance, minimization, and mitigations have not been determined. Inadequate investigation may 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.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Projects may result in the alteration of streams. For any such activities, the Project(s) applicant (or “entity”) should provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish & Game Code. 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. An LSA notification package may be obtained by accessing CDFW’s web site at <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS> (CDFWa 2022).

CDFW’s issuance of an LSA Agreement for Project(s) that are subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for a Project(s). To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, project specific CEQA documents 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.

Mitigation Measure #2: CDFW recommends a weed management plan be developed for the project area. Implementation of the Plan should be done both during construction and for the life

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 5 of 22

of the Project. Soil disturbance such as maintenance including mowing or vegetation clearing around stream promotes the reestablishment and growth of non-native weeds. As a part of the Project, non-native weeds should be prevented from becoming established both during and after Project activities, to control the spread of invasive plants. The Project should be monitored via mapping for new introductions and expansions of non-native weeds. Annual threshold limits, eradication targets, and monitoring should be included in the Plan. Monitoring for the spread of invasive weeds to adjacent lands should also be included. CDFW requests annual reports of weed monitoring be submitted for review.

Recommendation #1: Any LSA Agreement issued for Projects by CDFW may include additional measures protective of streambeds on and downstream of the Project(s). The LSA Agreement may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in an LSA Agreement may include the following: avoidance of resources; on-site or off-site habitat creation, enhancement, or restoration; and/or protection and management of mitigation lands in perpetuity.

Comment #3: Survey Protocols for Special-Status Wildlife

Issue: A review of the California Natural Diversity Database (CNDDDB) revealed several special-status species which may occur within the geographical limits of the Project(s). There is no mention of protocol surveys for the following special-status species including; the southern California legless lizard (*Anniella stebbinsi*, SSC), coast horned lizard (*Phrynosoma blainvillii*, SSC), two-striped garter snake (*Thamnophis hammondi*, SSC); the coastal whiptail (*Aspidoscelis tigris stejnegeri*, SSC); tri-colored blackbird (*Agelaius tricolor*, SSC); and the monarch butterfly (*Danaus plexippus*, candidate species).

Specific impacts: A 9-quad search of the CNDDDB revealed several special status species which may occur on or within the vicinity of Projects. Without reliable species-specific protocol surveys, these species may be directly or indirectly impacted. Projects may remove suitable habitat and indirect effects such as noise, dust, and artificial lighting may also adversely impact special status species.

Why impacts would occur: Project(s) activities have the potential to impact special status wildlife species, which have been documented to occur in the region. A lack of protocol surveys will likely result in avoidable impacts to a variety of sensitive species. Protocol surveys are necessary to identify listed species and supporting habitat necessary for their survival. Ground clearing and construction activities could lead to the direct mortality of a listed species or SSC. The loss of occupied habitat could yield a loss of foraging potential, nesting sites, basking sites, or refugia and would constitute a significant impact absent appropriate mitigation.

Evidence impact would be significant: CDFW considers impacts to CESA-listed and SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends focus surveys for the above species. To allow CDFW to determine the extent of impacts to the species associated with the Project and provide meaningful avoidance, minimization, and mitigation measures. CDFW recommends the MND be recirculated after these surveys are

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 6 of 22

completed to fully disclose the potential impacts to specially listed species. Additionally, any proposed mitigation area should include a discussion on the territory size and breeding locations and how all life cycle functions will be mitigated.

The following mitigation measures are suggested for impacts to reptiles:

Mitigation Measure #1: To disclose impacts to special-status reptiles within the MND, CDFW recommends focused surveys for species likely to occur within a Project(s) area. Additional surveys will more reliably determine what species are present so CDFW can make informed recommendations as to avoidance, minimization, and mitigation measures. Surveys should typically be scheduled during the summer months (June and July) when these animals are most likely to be encountered. To achieve 100 percent visual coverage, CDFW recommends surveys be conducted with parallel transects at approximately 20 feet apart and walked on-site in appropriate habitat suitable for each species. Suitable habitat consists of areas of sandy, loose, and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.

Mitigation Measure #2: Prior to any Project activities, a relocation plan (Plan) should be developed by a qualified biologist familiar with the respective reptile in consultation with CDFW. The Plan should include, but not be limited to, the timing and location of the surveys that will be conducted for the species, identify the locations where more intensive survey efforts will be conducted (based on high habitat suitability); identify the habitat and conditions in any proposed relocation site(s); the methods that will be utilized for trapping and relocating the individuals; and the documentation/recordation of the number of animals relocated. CDFW recommends the City coordinate with CDFW and/or U.S. Fish and Wildlife Service (USFWS) prior to any ground disturbing activities within potentially occupied habitat.

The following mitigation measures are suggested for impacts to tri-colored blackbird (*Agelaius tricolor*):

Mitigation Measure #1: To disclose impacts to tri-colored blackbird (*Agelaius tricolor*) CDFW recommends survey methods outlined in *Triennial Tricolored Blackbird Statewide Survey* (Meese 2017).

Mitigation Measure #2: CDFW recommends fully avoiding impacts to tri-colored black bird. CDFW recommends the Applicant submit an avoidance plan to CDFW for review and comment. A final avoidance plan should be developed prior to implementing Project related activities.

The following mitigation measures are suggested for impacts to monarch butterfly (*Danaus plexippus*):

Mitigation Measure #1: CDFW recommends that a qualified biologist conduct a habitat assessment, within 30 days of Project(s) implementation, to determine if the Project(s) area or its immediate vicinity contain habitat suitable to support monarchs.

Mitigation Measure #2: If suitable habitat is present, CDFW recommends assessing presence of monarchs by conducting protocol surveys consistent with USFWS recommendations (see <https://xerces.org/publications/planning-management/western-monarch-butterfly-conservation-recommendations> (USFWS 2021)).

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 7 of 22

Mitigation Measure #3: If monarch butterflies are detected within or in the vicinity of Project(s) areas, The City will consult CDFW and USFWS, prior to Project(s) implementation to discuss how to implement ground-disturbing activities and avoid take.

Comment #4: Impacts to Burrowing Owls (*Athene cunicularia*)

Issue: The Project may impact burrowing owls.

Specific Impacts: The Project as proposed may impact specially listed burrowing owls by increasing human presence, traffic, noise, air pollutants and dust. Project disturbance activities may result in crushing, causing the death or injury of adults, eggs, and young.

Why impact would occur: The Project did not offer focus surveys for burrowing owl. These survey results should be disclosed in the MND. This is necessary to determine presence or absence in site-access areas. Burrowing owls have been known to use highly degraded and marginal habitat where existing burrows or stem pipes are available. Without conducting protocol presence/absence surveys, Project impacts to burrowing owl could result from movement of vehicles and equipment near or on burrowing sites. Project disturbance activities may result in crushing or filling of active owl burrows, causing the death or injury of adults, eggs, and young. The Project may remove burrowing owl foraging habitat by eliminating native 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)). 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 species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To reduce impacts to burrowing owl to less than significant, CDFW recommends that the Project adhere to CDFW's March 7, 2012, *Staff Report on Burrowing Owl Mitigation* (CDFWb 2012). All survey efforts should be conducted during the appropriately timed season as specified in the protocol. Likewise, surveys 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 1 February to 31 August with some variances by geographic location and climatic conditions. Survey protocol for

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 8 of 22

breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. Additionally, CDFW is concerned about burrowing owls during the non-breeding season as the project activities will likely occur during the over-wintering period (September to 31 January). Protocols for non-breeding surveys can also be accessed within CDFW's March 7, 2012, *Staff Report on Burrowing Owl Mitigation*. Once it is determined that breeding or overwintering owls are or are not present, avoidance should be proposed by the City in subsequent environmental documents.

Mitigation Measure #2: Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided.

Comment #5: Impacts to Sensitive Plant Communities

Issue: Cattails and bulrush are native plants which compose sensitive plant communities ranked S4-S5 according to the *National Vegetation Classification Standard (NVCS)* (CDFW 2022). CDFW is concerned with the lack of mitigation measures put forth within the MND for these communities and special-listed plants.

Specific Impacts: Protocols used for the 2021 plant surveys within the MND do not adequately describe vegetation, beyond generic assemblages that are too large scale to determine uniqueness, rareness, value in the landscape, or base restoration planting appropriateness. CDFW considers plant communities, alliances, and associations with a statewide ranking of S1, S2, S3, and S4 as sensitive and declining at the local and regional level (Sawyer et al. 2008). An S3 ranking indicates there are 21-80 occurrences of this community in existence in California, S2 has 6-20 occurrences, and S1 has less than 6 occurrences.

Why impacts would occur: A lack of protocol surveys will likely lead to impacts to a variety of sensitive species. Protocol surveys are necessary to identify listed species and supporting habitat necessary for their survival. The vegetation maps (Figures 4 & 5) within Appendix B titled "Vegetation Communities and Other Land Cover," do not categorize vegetation communities consistent with the *National Vegetation Classification Standard (NVCS)*. Plant communities present should be mapped and described based on their alliances and association as described in the NVCS. Without NVCS names identified for the vegetation communities CDFW is unable to determine if the project may impact sensitive vegetation communities or wildlife species that depend on these communities. Likewise, CDFW would be unable to effectively recommend appropriate avoidance, minimization and/or mitigation measures.

Further, the MND does not offer mitigation for sensitive plant communities or rare plants based on the assumption that occurrence is unlikely given current conditions. In the MND it states, "Given...the dominance of non-native plant species in the tree, shrub, and herbaceous layers, regulated plant species habitat requirements are almost entirely lacking within the project site and immediate vicinity. Therefore, no regulated plant species are expected to occur within the project site." Thus, no mitigation measures were offered in the event rare plant species were identified on the stream banks at any point in the Project. CNDDDB searches and non-standardized surveying methods do not provide a sufficient level of information to determine species presence or absence. Disclosure, avoidance, and mitigation measures should all be

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 9 of 22

provided within the MND. Take of CESA-listed rare plants may only be permitted through an incidental take permit (ITP) or other authorization issued by the Department pursuant to California Code of Regulations, Title 14, section, 786.9 subdivision (b). CDFW is concerned the loss of CESA-listed rare plants may occur if appropriate avoidance, minimization, and/or mitigation for these species is not adopted.

Evidence impacts would be significant: Impacts to special status 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 special status plant species 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. Additionally, plants that have a California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS [Rare Plant Ranks](#) page for additional rank definitions.

Mitigation Measure #1: A nine-quad CNDDDB review should be performed. Pre-project surveys restricted to known CNDDDB rare plant locations may not identify all special status plants and communities present and do not provide a sufficient level of information to determine potential impacts (CDFWd 2018).

Mitigation Measure #2: Vegetation surveys should be conducted following systematic field techniques outlined by CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFWd 2018). The amount of time and level of effort for a given should be determined based on the vegetation and its overall diversity and structural complexity (CDFWd 2018). For example, one person-hour per eight acres per survey date is needed for a comprehensive field survey in grassland with medium diversity and moderate terrain, with additional time allocated for species identification (CDFWd 2018). Additionally, considerations should be made regarding timing of these field surveys to ensure accuracy in determining what plants exist on site. Adequate information about special status plants and natural communities present in a project area will enable reviewing agencies and the public to effectively assess potential impacts to special status plants or natural communities and will guide the development of minimization and mitigation measures (CDFWd 2018).

Mitigation Measure #3: Plant communities present should be mapped and described based on their alliances and associations to accurately identify the biological resources onsite and potential impacts to those resources. Mapping should include the project site and areas that will be directly or indirectly impacted.

Mitigation Measure #4: CDFW recommends avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, the Project proponent should mitigate at a ratio sufficient to achieve a no-net loss for impacts to special status plant species and their

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 10 of 22

associated habitat. CDFW recommends all impacts to S4 and S5 communities (Hardstem and California bulrush marshes and Cattail marshes) be mitigate at a minimum 3:1 ratio.

All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by 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 for long-term management. 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).

Mitigation Measure #5: CDFW recommends the environmental document provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat.

1. The MND should provide a map showing which plants or populations will be impacted and provide a table that clearly documents the number of plants and acres of supporting habitat impacted, and plant composition (e.g., density, cover, abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, abundance of each species).
2. The MND should provide species-specific measures for on-site mitigation. Each species-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum: 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of onsite mitigation and adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques.

Please note that CDFW generally does not support the use of salvaging, translocation, or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant species.

Mitigation Measure #6: The MND should provide species-specific measures to fully avoid impacts to all Endangered Species Act (ESA)- and CESA-listed plants. This may include flagging all plants and/or perimeter of populations; no-work buffers around plants and/or populations (e.g., flagged perimeter plus 50 feet); restrictions on ground disturbing activities within protected areas; relocation of staging and other material piling areas away from protected areas; restrictions on herbicide use and/or type of herbicide and/or application method within 100 feet of sensitive plants; and worker education and training.

Comment #6: Handling and Relocation of Non-game Animals

Issue: Plans within the MND include plans to relocate WPT and other non-game animals. Handling and relocation of non-game animals requires a scientific collections permit or an LSA

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 11 of 22

agreement.

Specific impacts: Scientific collection permits provide CDFW with the opportunity to better manage the state's resources by providing feedback to the applicant before the project takes place. Additionally, it ensures that project proponents are in compliance with the law.

Why impacts would occur: Within the MND it states, "To minimize impacts to special status species, the capture and relocation of individuals would be implemented only in the event that impacts cannot be avoided while undertaking project activities" and "During capture and relocation activities, it is anticipated native non-special status species would be incidentally encountered and may require relocation to suitable habitats away from the project site." Although handling and relocation will be done by a qualified biologist, it should be specified that the biologist retained by the City is in possession of a scientific collections permit.

Evidence impact would be significant: Mammals occurring naturally in California are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & Game Code, § 4150; Cal. Code of Regs, § 251.1).

Mitigation Measure #1: The Applicant applies for a scientific collection permit for SSC and non-listed species. Permit applications can be found at <https://wildlife.ca.gov/Licensing/Scientific-Collecting#53949678> (CDFWe 2020). Otherwise, an LSA agreement should put in place that contains specific conditions on handling and collection of species.

Recommendation #1: If "take" or adverse impacts to CESA- listed species cannot be avoided either during Project construction and over the life of the Project, the City must consult with CDFW to determine if a CESA ITP is required (pursuant to Fish & Game Code, § 2080 *et seq.*).

Additional Recommendations

Nesting Season

It should be noted that some bird species such as Anna's hummingbird (*Calypte anna*) and larger raptors nest in January, outside of the standard nesting season, and so considerations should be made in regard to their potential presence. Observations of breeding/nesting threatened or endangered bird species during surveys should be reported immediately to CDFW.

Monitoring Plan

CDFW recommends the City/Applicant develops a monitoring plan (Plan) to measure the success of the vegetation removal activities. At a minimum, the Plan shall identify all performance standards, success criteria, maintenance measures and schedule, monitoring and reporting requirements, contingencies, adaptive management strategies, and funding sources, such as an endowment for long-term management.

Bank Vegetation Surveys

CDFW recommends that subsequent surveys occur before any vegetation is removed from the banks. These surveys should be conducted by a qualified biologist knowledgeable of local vegetation.

Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 12 of 22

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 County 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 in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City 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 Angela Castañon, Environmental Scientist, at Angela.Castanon@wildlife.ca.gov

Sincerely,

DocuSigned by:

B6E58CFE24724F5...

Erinn Wilson-Olgin
Environmental Program Manager I
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ec: CDFW

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Mr. Charles Cable
City of Port Hueneme
March 28, 2022
Page 13 of 22

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CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Impacts to Western Pond Turtle	Due to the potential impact the Project may place on the southwestern pond turtle CDFW recommends the City performs an analysis to determine the necessity of the Project as proposed. Studies could include a geomorphological and hydrological studies of Bubbling Springs channel. Additionally, CDFW recommends looking into alternatives to the Project such as the addition of grated pipes to drain high flows instead of vegetation clearing.	Prior to Project construction and activities	City of Port Hueneme/ Applicant
MM-BIO-2- Impacts to Western Pond Turtle	CDFW agrees that appropriately-timed focus surveys should be conducted by a qualified biologist before any vegetation clearing activities. Surveys should be conducted during the time of greatest pond turtle activity, typically during the breeding season (May - July), and when pond turtles have not left the water to aestivate or overwinter in the uplands. To reduce impacts to WPT to less than significant, CDFW recommends that the Project follow the USGS's 2006 Staff Report on WPT, <i>DRAFT USGS Western Pond Turtle (Emys marmorata) Visual Survey Protocol for the Southcoast Ecoregion</i> . 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 WPT. To allow CDFW to	Prior to Project construction and activities	City of Port Hueneme/ Applicant

Mr. Charles Cable
 City of Port Hueneme
 March 28, 2022
 Page 15 of 22

	determine the extent of impacts to the species associated with the Project and provide meaningful avoidance, minimization, and mitigation measures. CDFW recommends the MND be recirculated after these surveys are completed to fully disclose the potential impacts to the number and kind of turtles. Additionally, any proposed mitigation area should include a discussion on the territory size and breeding locations and how all life cycle functions will be mitigated.		
MM-BIO-3- Impacts to Western Pond Turtle	Cattail and bulrush are native plants that provide shelter and habitat to special-status species like the pond turtle. Approximately 6.68 acres of cattail and bulrush exist in and along the Bubbling Springs natural channel within the Project area. CDFW recommends the City removes no more than 1/3 (maximum 2.23 acres) of the cattail and bulrush vegetation present in the Project area annually.	Prior to Project construction and activities	City of Port Hueneme/ Applicant
MM-BIO-4- Impacts to Streams	<p>Projects may result in the alteration of streams. For any such activities, the Project(s) applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 <i>et seq.</i> of the Fish & Game Code. Based on this notification and other information, CDFW determines whether a LSA Agreement with the applicant is required prior to conducting the proposed activities. An LSA notification package may be obtained by accessing CDFW’s web site at https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS.</p> <p>CDFW’s issuance of an LSA Agreement for Project(s) that are subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for a Project(s). To minimize additional requirements by CDFW pursuant to section 1600 <i>et seq.</i> and/or under CEQA, project specific CEQA documents should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation,</p>	Prior to Project construction and activities	City of Port Hueneme/ Applicant

Mr. Charles Cable
 City of Port Hueneme
 March 28, 2022
 Page 16 of 22

	monitoring and reporting commitments for issuance of the LSA Agreement.		
MM-BIO-5- Impacts to Streams	CDFW recommends a weed management plan be developed for the project area. Implementation of the Plan should be done both during construction and for the life of the Project. Soil disturbance such as maintenance including mowing or vegetation clearing around stream promotes the reestablishment and growth of non-native weeds. As a part of the Project, non-native weeds should be prevented from becoming established both during and after Project activities, to control the spread of invasive plants. The Project should be monitored via mapping for new introductions and expansions of non-native weeds. Annual threshold limits, eradication targets, and monitoring should be included in the Plan. Monitoring for the spread of invasive weeds to adjacent lands should also be included. CDFW requests annual reports of weed monitoring be submitted for review.	Prior to Project construction and activities	City of Port Hueneme/ Applicant
MM-BIO-6- Impacts to Special-Status Reptiles	To disclose impacts to special-status reptiles within the MND, CDFW recommends focused surveys for species likely to occur within a Project(s) area. Additional surveys will more reliably determine what species are present so CDFW can make informed recommendations as to avoidance, minimization, and mitigation measures. Surveys should typically be scheduled during the summer months (June and July) when these animals are most likely to be encountered. To achieve 100 percent visual coverage, CDFW recommends surveys be conducted with parallel transects at approximately 20 feet apart and walked on-site in appropriate habitat suitable for each species. Suitable habitat consists of areas of sandy, loose, and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.	Prior to Project construction and activities	City of Port Hueneme/ Applicant
MM-BIO-7- Impacts to Special-Status Reptiles	Prior to any Project activities, a relocation plan (Plan) should be developed by a qualified biologist familiar with the respective reptile in consultation with CDFW. The Plan should include, but not be limited to, the timing and location of the surveys that will be	Prior to Project	City of Port Hueneme/ Applicant

Mr. Charles Cable
 City of Port Hueneme
 March 28, 2022
 Page 17 of 22

	conducted for the species, identify the locations where more intensive survey efforts will be conducted (based on high habitat suitability); identify the habitat and conditions in any proposed relocation site(s); the methods that will be utilized for trapping and relocating the individuals; and the documentation/recordation of the number of animals relocated. CDFW recommends the City coordinate with CDFW and/or USFWS prior to any ground disturbing activities within potentially occupied habitat.	construction and activities	
MM-BIO-8- Impacts to Tri- Colored Blackbird	To disclose impacts to tri-colored blackbird (<i>Agelaius tricolor</i>) CDFW recommends survey methods outlined in <i>Triennial Tricolored Blackbird Statewide Survey</i> (Meese 2017).	Prior to Project construction and activities	City of Port Hueneme/ Applicant
MM-BIO-9- Impacts to Tri- Colored Blackbird	CDFW recommends fully avoiding impacts to tri-colored black bird. CDFW recommends the Applicant submit an avoidance plan to CDFW for review and comment. A final avoidance plan should be developed prior to implementing Project related activities.	Prior to Project construction and activities	City of Port Hueneme/ Applicant
MM-BIO-10- Impacts to Monarch Butterfly	CDFW recommends that a qualified biologist conduct a habitat assessment, within 30 days of Project(s) implementation, to determine if the Project(s) area or its immediate vicinity contain habitat suitable to support monarchs.	Prior to Project construction and activities	City of Port Hueneme/ Applicant
MM-BIO-11- Impacts to Monarch Butterfly	If suitable habitat is present, CDFW recommends assessing presence of monarchs by conducting protocol surveys consistent with USFWS recommendations (see www.fs.fed.us/wildflowers/pollinators/monarch_butterfly/documents/monarch-monitoring_en.pdf).	Prior to Project construction and activities	City of Port Hueneme/ Applicant

Mr. Charles Cable
 City of Port Hueneme
 March 28, 2022
 Page 18 of 22

MM-BIO-12- Impacts to Monarch Butterfly	<p>If monarch butterflies are detected within or in the vicinity of Project(s) areas, The City will consult CDFW and USFWS, prior to Project(s) implementation to discuss how to implement ground-disturbing activities and avoid take.</p>	<p>Prior to Project construction and activities</p>	<p>City of Port Hueneme/ Applicant</p>
MM-BIO-13- Impacts to Burrowing Owls	<p>To reduce impacts to burrowing owl to less than significant, CDFW recommends that the Project adhere to CDFW's March 7, 2012, <i>Staff Report on Burrowing Owl Mitigation</i> (CDFWb 2012). All survey efforts should be conducted during the appropriately timed season as specified in the protocol. Likewise, surveys 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 1 February to 31 August 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 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. Additionally, CDFW is concerned about burrowing owls during the non-breeding season as the project activities will likely occur during the over-wintering period (September to 31 January). Protocols for non-breeding surveys can also be accessed within CDFW's March 7, 2012, <i>Staff Report on Burrowing Owl Mitigation</i>. Once it is determined that breeding or overwintering owls are or are not present, avoidance should be proposed by the City in subsequent environmental documents.</p>	<p>Prior to Project construction and activities</p>	<p>City of Port Hueneme/ Applicant</p>
MM-BIO-14- Impacts to Burrowing Owls	<p>Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided.</p>	<p>Prior to/ During Project construction and activities</p>	<p>City of Port Hueneme/ Applicant</p>

Mr. Charles Cable
 City of Port Hueneme
 March 28, 2022
 Page 19 of 22

MM-BIO-15- Impacts to Sensitive Vegetation Communities	<p>A nine-quad CNDDDB review should be performed. Pre-project surveys restricted to known CNDDDB rare plant locations may not identify all special status plants and communities present and do not provide a sufficient level of information to determine potential impacts (CDFW 2018).</p>	<p>Prior to Project construction and activities</p>	<p>City of Port Hueneme/ Applicant</p>
MM-BIO-16- Impacts to Sensitive Vegetation Communities	<p>Vegetation surveys should be conducted following systematic field techniques outlined by CDFW's <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i>. The amount of time and level of effort for a given should be determined based on the vegetation and its overall diversity and structural complexity (CDFW 2018). For example, one person-hour per eight acres per survey date is needed for a comprehensive field survey in grassland with medium diversity and moderate terrain, with additional time allocated for species identification (CDFW 2018). Additionally, considerations should be made regarding timing of these field surveys to ensure accuracy in determining what plants exist on site. Adequate information about special status plants and natural communities present in a project area will enable reviewing agencies and the public to effectively assess potential impacts to special status plants or natural communities and will guide the development of minimization and mitigation measures (CDFW 2018).</p>	<p>Prior to Project construction and activities</p>	<p>City of Port Hueneme/ Applicant</p>
MM-BIO-17- Impacts to Sensitive Vegetation Communities	<p>Plant communities present should be mapped and described based on their alliances and associations to accurately identify the biological resources onsite and potential impacts to those resources. Mapping should include the project site and areas that will be directly or indirectly impacted.</p>	<p>Prior to Project construction and activities</p>	<p>City of Port Hueneme/ Applicant</p>

Mr. Charles Cable
 City of Port Hueneme
 March 28, 2022
 Page 20 of 22

<p>MM-BIO-18- Impacts to Sensitive Vegetation Communities</p>	<p>CDFW recommends avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, the Project proponent should mitigate at a ratio sufficient to achieve a no-net loss for impacts to special status plant species and their associated habitat. CDFW recommends all impacts to S4 and S5 communities (Hardstem and California bulrush marshes and Cattail marshes) be mitigate at a minimum 3:1 ratio. All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by 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 for long-term management. 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).</p>	<p>Prior to Project construction and activities</p>	<p>City of Port Hueneme/ Applicant</p>
<p>MM-BIO-19- Impacts to Sensitive Vegetation Communities</p>	<p>CDFW recommends the environmental document provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat.</p> <ol style="list-style-type: none"> 1. The MND should provide a map showing which plants or populations will be impacted and provide a table that clearly documents the number of plants and acres of supporting habitat impacted, and plant composition (e.g., density, cover, abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, abundance of each species). 2. The MND should provide species-specific measures for on-site mitigation. Each species-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum: 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of onsite mitigation and 	<p>Prior to Project construction and activities</p>	<p>City of Port Hueneme/ Applicant</p>

Mr. Charles Cable
 City of Port Hueneme
 March 28, 2022
 Page 21 of 22

	<p>adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques.</p> <p>Please note that CDFW generally does not support the use of salvaging, translocation, or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant species.</p>		
MM-BIO-20- Impacts to Sensitive Vegetation Communities	<p>The MND should provide species-specific measures to fully avoid impacts to all Endangered Species Act (ESA)- and CESA-listed plants. This may include flagging all plants and/or perimeter of populations; no-work buffers around plants and/or populations (e.g., flagged perimeter plus 50 feet); restrictions on ground disturbing activities within protected areas; relocation of staging and other material piling areas away from protected areas; restrictions on herbicide use and/or type of herbicide and/or application method within 100 feet of sensitive plants; and worker education and training.</p>	Prior to Project construction and activities	City of Port Hueneme/ Applicant
MM-BIO-21- Scientific Collection Permit	<p>The Applicant applies for a scientific collection permit for SSC and non-listed species (see https://wildlife.ca.gov/Licensing/Scientific-Collecting#53949678, CDFWb 2020). Otherwise an LSA agreement should put in place that contains specific conditions on handling and collection of species.</p>	Prior to construction and activities	City of Port Hueneme/ Applicant

Mr. Charles Cable
 City of Port Hueneme
 March 28, 2022
 Page 22 of 22

REC-1- LSA Agreement	Any LSA Agreement issued for Projects by CDFW may include additional measures protective of streambeds on and downstream of the Project(s). The LSA Agreement may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in an LSA Agreement may include the following: avoidance of resources; on-site or off-site habitat creation, enhancement, or restoration; and/or protection and management of mitigation lands in perpetuity.	Prior to Project construction and activities	City of Port Hueneme/ Applicant
REC-2- CESA ITP	If “take” or adverse impacts to CESA- listed species cannot be avoided either during Project construction and over the life of the Project, the City must consult with CDFW to determine if a CESA ITP is required (pursuant to Fish & Game Code, § 2080 <i>et seq.</i>).	Prior to construction and activities	City of Port Hueneme/ Applicant
REC-3- Nesting Season	It should be noted that some bird species such as Ana’s hummingbird (<i>Calypte anna</i>) and larger raptors nest in January, outside of the standard nesting season, and so considerations should be made in regard to their potential presence. Observations of breeding/nesting threatened or endangered bird species during surveys should be reported immediately to CDFW.	Prior to/During construction and activities	City of Port Hueneme/ Applicant
REC-4- Monitoring Plan	CDFW recommends the City/Applicant develops a monitoring plan (Plan) to measure the success of the vegetation removal activities. At a minimum, the Plan shall identify all performance standards, success criteria, maintenance measures and schedule, monitoring and reporting requirements, contingencies, adaptive management strategies, and funding sources, such as an endowment for long-term management.	Prior to/During construction and activities	City of Port Hueneme/ Applicant
REC-5- Bank Surveys	CDFW recommends that subsequent surveys occur before any vegetation is removed from the banks. These surveys should be conducted by a qualified biologist knowledgeable of local vegetation.	Prior to/During construction and activities	City of Port Hueneme/ Applicant