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GAVIN NEWSOM, Governor
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Via Electronic Mail Only

May 9, 2022

Richard Claghorn
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012
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**Subject: Negative Declaration for Ball Mountain Single-Family Residences,
SCH #2022040155, Los Angeles County Department of Regional Planning,
Los Angeles County**

Dear Mr. Claghorn:

The California Department of Fish and Wildlife (CDFW) has reviewed a Negative Declaration (ND) from the Los Angeles County Department of Regional Planning (DRP) for Ball Mountain Single-Family Residences (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 to build one single-family residence in six separate parcels, totaling six single-family residences (Table 1). Each residence would be two stories high with a height of approximately 27 feet above grade. Each residence would have a floor area of approximately 2,700 square feet. The actual sizes and heights of each residence may differ from the preliminary plans when ultimately built. Proposed grading for the Project has been estimated as 18,867 cubic yards of cut and 16,338 cubic yards of fill to be balanced on site.

Table 1. Proposed parcels for development, gross area, and disturbed area.

Proposed Assessor's Parcel Number (Parcel Name)	Gross Area		Disturbed Areas	
	(Acres)	(Square feet)	(Square feet)	(Percentage)
3231-010-020 (Parcel 20)	3.71	161,663	43,129	26.7%
3231-010-025 (Parcel 25)	2.38	103,789	31,370	30.2%
3231-010-023 (Parcel 23)	2.80	122,082	38,296	31.4%
3231-010-018 (Parcel 18)	5.23	227,684	74,306	32.6%
3231-010-019 (Parcel 19)	3.25	141,745	32,869	23.2%
3231-010-028 (Parcel 28)	2.57	111,828	21,000	18.8%
Total	19.94	868,791	240,970	27.7% average

An existing driveway runs from Sierra Highway to an existing home on Assessor's Parcel Number (APN) 3231-010-026. The driveway then enters the Project site and continues eastward, passing through five of the six parcels, before exiting the Project site and ending at APN 3231-010-029 (16666 Sierra Highway), where an existing single-family residence is located. Most of the driveway is proposed to remain, but portions of it will be re-routed, and a new driveway is proposed to branch from the main driveway north to APN 3231-010-019.

The Project would also include two fuel modification zones around each residence, two solar arrays approximately 7,273 square feet each, construction of waterlines, and construction of water storage/treatment facilities.

The Project is subject to Los Angeles County's Hillside Management Ordinance. A Hillside Management Conditional Use Permit is required for the Project.

Location: The Project is located in a Hillside Management Area at the following APN: 3231-010-018, 3231-010-019, 3231-010-020, 3231-010-023, 3231-010-025, and 3231-010-028. The Project site is bounded by Sand Canyon Road to the north and east, Sierra Highway to the west, and Quinn Drive to the south. Surrounding properties include a 110-unit detached condominium development to the southwest, a 123-unit mobile home park to the east, a mixture of commercial uses along Sierra Highway to the west, and vacant land to the north and the southeast. There are also some single-family residences to the southeast and to the west. The Santa Clara River is located approximately 1.3 miles south of the Project site.

Comments and Recommendations

DRP prepared Draft Biological Resources Conditions for issuing/approving a Conditional Use Permit for the Project. DPR provided these Draft Biological Resources Conditions for CDFW's

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review upon our request on April 18, 2022 (Attachment B). CDFW also visited the Project site on April 21, 2022. Based on our review of the Project's CEQA document, review of the Draft Biological Resources Conditions, and our site visit, CDFW offers the comments and recommendations below to assist DRP in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. 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 Coastal California Gnatcatcher

Issue: The Project supports vegetation consistent with habitat requirements of the California gnatcatcher (gnatcatcher; *Polioptila californica californica*), an Endangered Species Act (ESA)-listed species and California Species of Special Concern (SSC). The Project proceeding without determining whether gnatcatcher may be present could result in impacts to a sensitive and special-status species.

Specific impacts: The Project could result in loss of gnatcatcher habitat and well as encroach into habitat. In addition, the Project occurring during the gnatcatcher breeding and nesting season could result in the incidental loss of fertile eggs or nestlings.

Why impacts would occur: Gnatcatchers are closely tied to coastal scrub vegetation for reproduction (USFWS 2010). During the non-breeding season, gnatcatchers may also occur in other nearby plant communities (USFWS 2010). The Project site may support habitat for gnatcatcher (Calderon 2021; Attachment C). Moreover, according to the ND, coastal sage scrub and chaparral vegetation occur within the Project site. Finally, the Project site is within the gnatcatcher range, which includes the greater Santa Clarita Valley and the foothills along the upper Santa Clara River (Cooper et al. 2017; USFWS 2010).

According to the ND, "a wildfire burned over much of the site in October 2019, damaging or destroying much of the existing vegetation." Coastal scrub vegetation is a fire adapted plant community. Habitat loss due to fire is temporary because of the ability of coastal scrub plants to sprout from their crown, germinate from (unburned) seeds buried in the soil, or both (USFWS 2010). Vegetative sprouting is the primary postfire regeneration method occurring in the 1st year after fire (Hauser 2006). Coastal scrub (i.e., gnatcatcher habitat) recovers from fire and, over time, returns as habitat for the gnatcatcher (USFWS 2010). As plants return to areas that have burned, gnatcatchers initially return to use these areas as foraging habitat (with adjacent unburned areas providing nesting habitat) (USFWS 2010). Burned areas with rapid plant re-growth may be both nesting and foraging habitat for the gnatcatcher within three years, but areas with slower re-growth take longer (e.g., five to ten years) (USFWS 2010). While the Project site may have been burned, the Project site still supports coastal scrub regardless of the current vegetation composition, density, and coverage postfire.

The Project disturbance footprint is at least 240,970 square feet. The Project could result in permanent loss of gnatcatcher habitat from development of six residences, roads, and solar

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arrays. Fuel modification could also result in permanent loss of gnatcatcher habitat. Furthermore, the Project could degrade the habitat quality and function in areas adjacent to the Project site. The Project site is contiguous with natural areas between the Sierra Highway and Sand Canyon Road. Habitat in adjacent areas could be impacted as a result of edge effects such as introducing new sources of night lighting, pets, and domestic animals, as well as spreading invasive, non-native plants as a result of fuel modification activities.

In addition, the Project could impact breeding or dispersing gnatcatchers. Project construction would create elevated levels of noise, human activity, dust, ground vibrations, and vegetation disturbance. These activities occurring near potential nests could cause birds to abandon their nests and a decrease in feeding frequency, both resulting in the loss of fertile eggs or nestlings. Accordingly, the Project would have an impact on gnatcatcher.

Evidence impact would be significant: The Project could result in impacts on gnatcatcher. As an ESA-listed species, gnatcatcher is considered an endangered, rare, or threatened species under CEQA (CEQA Guidelines, § 15380). A [California Species of Special Concern](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022a).

CEQA provides protection not only for ESA and CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Take of gnatcatcher could require a mandatory finding of significance (CEQA Guidelines, § 15065). Take under the ESA is more broadly defined than CESA. Take under 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.

In addition, nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Fish and Game Code section 3503 states, "It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird." Fish and Game code section 3503.5 prohibits the take, possession, or destruction of birds-of-prey and their nests or eggs. Also, take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918 is prohibited under Fish and Game Code section 3513. As such, impacts on nesting birds and raptors, either directly or indirectly through nest abandonment, reproductive suppression, or loss of occupied nesting habitat, would be a significant impact under CEQA. Finally, please be advised that CDFW does not issue permits for take of bird and raptor nests, eggs, or nestlings.

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The Project's ND does not provide measures to mitigate for potentially significant impacts on gnatcatcher. Accordingly, the Project has a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW and U.S Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: CDFW recommends DRP revise the Project's CEQA document to include a discussion of natural vegetation communities on site with a specific emphasis on coastal scrub. The CEQA document should discuss the Project's potential impacts on coastal California gnatcatcher from the standpoint of the following: habitat loss, encroachment, fragmentation, and connectivity; edge effects; take of nests, eggs, or nestlings; and glare or strikes from the solar arrays. The Project's CEQA documents should provide figures showing gnatcatcher habitat overlaid on the proposed Project plan. Finally, the Project's CEQA document should provide measures to mitigate for potentially significant impacts on coastal California gnatcatcher.

Mitigation Measure #1: The Project site contains vegetation consistent with habitat requirements of gnatcatcher, is contiguous with coastal scrub in adjacent areas, and is within the gnatcatcher range¹. Accordingly, CDFW recommends that the Project Applicant retain a qualified biologist to survey the Project site and adjacent areas for coastal California gnatcatcher prior to any clearing, grading, or excavation work on the Project site. The qualified biologist should conduct surveys according to U.S Fish and Wildlife Service's [Coastal California Gnatcatcher \(*Polioptila californica californica*\) Presence/Absence Survey Guidelines](#) (USFWS 1997). The protocol should be followed for all surveys unless otherwise authorized by the U.S Fish and Wildlife Service in writing (USFWS 1997). A report documenting survey results, including negative findings, and an impact assessment should be prepared and provided to the USFWS, CDFW, and DRP.

Mitigation Measure #2: If gnatcatchers are present, the Project Applicant should consult with the U.S Fish and Wildlife Service to determine if the Project would result in take of coastal California gnatcatcher. Consultation with USFWS, in order to comply with the Endangered Species Act, is advised well in advance of any ground-disturbing activities and vegetation removal that may impact gnatcatcher.

Mitigation Measure #3: The Project Applicant should provide replacement habitat for permanent loss of coastal California gnatcatcher habitat at no less than 2:1.

Comment #2: Impacts on Streams and Associated Natural Communities

Issue: The Project may impact streams and associated natural communities.

¹ According to U.S. Fish and Wildlife Service Protocol, "coastal California gnatcatcher surveys shall be completed by permitted biologists if proposed projects are located within the historic range of this species and contain sage scrub plant communities including, but not limited to, Venturan coastal sage scrub, Diegan coastal sage scrub, Riversidean sage scrub, maritime succulent scrub, and/or alluvial fan sage scrub vegetation; chaparral and native/non-native grasslands when intermixed or ecotonal with sage scrub vegetation; and riparian vegetation when ecotonal to sage scrub vegetation."

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Specific impacts: The Project may impact one or more streams and associated natural communities. Impacts on these resources could occur if the Project would divert a stream from its natural course of flow, alter how water is conveyed through the Project site, remove vegetation along the stream, or degrade vegetation through habitat modification (e.g., fuel modification, loss of water source, encroachment, and edge effects leading to introduction of non-native plants). In addition, Project construction and fuel modification could impact streams by depositing, permitting to pass into, or placing where it can pass into the waterway any substance or material deleterious to fish, plant life, mammals, or bird life, including, but not limited to gasoline and oil, as well as sediment. Finally, Project-related irrigation, whether for landscaping or fuel modification purposes could modify on-site drainage where this water could enter streams.

Why impacts would occur: The ND states, “Drainage courses are present on the project site. One drainage course will be impacted by the project, which is located on Parcels 18 and 19 and includes part of the driveway leading to the building site on Parcel 19.” In addition, based on review of the topography, there are multiple drainages that could support ephemeral or episodic flows during rain events. Proposed development in all six parcels could occur within or adjacent to one or more of these drainage features. The Project could impact streams and associated natural communities during Project construction and after the Project is complete.

Project construction would include substantial grading and balancing of fill on site. Ground-disturbing activities as well as vegetation removal could result in soil erosion and earth movement. As a result, the Project could deposit materials such as sediment and fine particles into a stream. Page 37 of the ND states, “Development of the proposed project may result in two types of water quality impacts: 1) short-term impacts due to construction related discharge of pollutants and through wind and water driven erosion of soil; [...]” Even after the Project is complete, on-going vegetation removal during fuel modification activities could also result in the Project depositing sediment and fine particles into a stream.

In addition to potentially depositing deleterious materials into a stream, ground-disturbing activities during Project construction occurring adjacent to a stream could impact the bed, bank, and channel. Vegetation removal could also result in impacts to the bed, bank, and channel of a stream. Herbaceous vegetation adjacent to streams protects the physical and ecological integrity of these water features and maintains natural sedimentation processes. Therefore, the Project potentially impacting vegetation adjacent to the stream but not the stream itself, could still impact the stream. After the Project, on-going vegetation removal during fuel modification activities could also continue to impact the bed, bank, and channel of a stream.

After the Project is complete, the Project could have long-term impacts on streams. Page 37 of the ND states, “Development of the proposed project may result in two types of water quality impacts: [...] and 2) long-term impacts from operation or changes in site runoff characteristics such as buildings, roads, parking lots (impervious surfaces) that prevent water from being absorbed back into the ground which also results in increase rate and flow of stormwater runoff.” The Project would be increasing impermeable surface area throughout the Project site. This could alter on-site hydrology and impact streams. Furthermore, the Project would be installing features that would modify how water is conveyed across the Project site compared to baseline (no Project). Page 38 in the ND states, “the surface water runoff from the Project Site would be directed to adjacent storm drains. Catch basin, infiltration basin would be incorporated into the project design per LID requirements and Stormwater Ordinance.”

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According to Draft Biological Resources Condition 40, mitigation for streams (i.e., Condition 45) would only apply to development of "APN 3231-010-019 or the driveway leading to it, or related grading or development, or of the proposed solar panel array on the north part of APN 3231-010-020." As previously stated, Proposed development in all six parcels could occur within or adjacent to one or more drainage features. Draft Biological Resources Condition 40 as it is currently proposed may not address potential impacts on streams resulting from development of the remaining four parcels. As a result, the Project could continue to have impacts on streams and associated natural communities.

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 lake²;
- 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 both during Project construction and for the Project's lifetime. The ND does not provide measures to mitigate for potentially significant impacts on streams. Accordingly, the Project has a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated natural communities identified by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #2: CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.

Recommendation #3: CDFW recommends DRP revise the Project's CEQA document to

² "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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provide a delineation of streams and natural plant communities in the Project site and adjacent areas where there is hydrologic connectivity. The Project's CEQA documents should provide figures showing streams and natural plant communities overlaid on the proposed Project footprint.

Mitigation Measure #4: The Project Applicant should notify CDFW pursuant to Fish and Game Code 1602. The Project Applicant should submit proof to DRP that CDFW was notified prior to approval of improvement plans; issuance of grading permits; issuance of a Conditional Use Permit, and any clearing, grading, or excavation work on the Project site.

Mitigation Measure #5: The Project Applicant's notification to CDFW should provide the following information:

- 1) A description of the proposed Project, include grading and cutting work that has already occurred within the Project site;
- 2) A stream delineation in accordance with the U.S Fish and Wildlife Service wetland definition adopted by CDFW³ (Cowardin et al. 1979);
- 3) Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. Plant community names should be provided based on vegetation association and/or alliance per the [Manual of California Vegetation](#), second edition (Sawyer et al. 2009);
- 4) A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and
- 5) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation should assess a sufficient range of storm events (e.g., 100, 50, 25, 10, 5, and 2-year frequency storm events) to evaluate water and sediment transport under pre-Project and post-Project conditions.

Mitigation Measure #6: If a LSA Agreement is needed for the Project, the Project Applicant should obtain a LSA Agreement from CDFW and provide a copy of the LSA Agreement to Department of Regional Planning prior to approval of improvement plans; issuance of grading permits; issuance of a Conditional Use Permit; and any clearing, grading, or excavation work on the Project site. The Project Applicant should comply with the mitigation measures detailed in the LSA Agreement issued by CDFW.

Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2022b).

Mitigation Measure #7: The Project Applicant should provide compensatory mitigation for impacts on streams at no less than 2:1 for the impacted stream and habitat acreage, or at a ratio acceptable to CDFW.

³ Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.

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Additional Recommendations

Recommendation #4: CDFW recommends DRP include a final Biological Resources Conditions with the Project's final CEQA document, and include these conditions as part of a Mitigation Monitoring and Reporting Plan (MMRP). "A public agency shall provide the measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in reference documents which address required mitigation measures [...], or in project design [CEQA Guidelines, § 21081.6(b)]. A final Biological Resources Conditions should be equal or more effective measures as the Draft Conditions for Biological Resources and should include measures addressing all the resources identified in the draft. This includes the following:

- Landscaping;
- Fencing, walls, enclosures, and signage;
- Biological monitor;
- Pre-construction surveys for breeding birds, slender mariposa lily, and low; mobility reptiles; and
- Jurisdictional resources.

DRP should recirculate the Project's CEQA document for review if final Biological Resources Conditions are lesser or less effective than measures in the Draft Conditions for Biological Resources, and/or if DRP determines that the proposed measures or project revisions will not reduce potential effects to less than significances and new measures or revisions must be required (CEQA Guidelines, § 15073.5).

Recommendation #5: According to the Project's CEQA document, slender mariposa lily (*Calochortus clavatus* var. *gracilis*) could occur on the Project site. Slender mariposa lily has a California Rare Plant Rank of 1B.2. Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened. Most of the plants that are ranked 1B have declined significantly over the last century (CNPS 2022). The additional threat rank of 0.2 indicates a species with 20 to 80 percent of its occurrences threatened (CNPS 2022). Slender mariposa lily meets the definition of an endangered, rare, or threatened species under CEQA (CEQA Guidelines, § 15380). Impacts to slender mariposa lily and their habitat may result in a mandatory finding of significance because the Project would have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065).

Draft Biological Resources Condition 44b states, "If slender mariposa lily is detected, it shall be avoided to the greatest extent possible." However, it is unclear Biological Resources Condition 44b as it is currently proposed, would avoid impacts on rare plants and seedbank. Loss of rare plant seeds could cause a population decline. Accordingly, CDFW recommends DRP revise Biological Resources Condition 44b and include this measure as part of a MMRP, to avoid impacts on rare plants and seedbank. A minimum avoidance buffer should be provided, which may vary depending on the rare plant species. An avoidance buffer should prevent the following impacts on rare plants and seedbank:

- trampling by earthmoving equipment;
- removal of soil that renders living seeds in the soil inviable or causes them to be killed;

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- erosion of substrates supporting individuals which could cause uprooting, washing away, and burying of individuals and/or could make substrates unstable for growth; and
- death of living seeds due to mold, disease, or other reasons that cause inviability.

An adequate buffer should protect the core population and habitat while allowing for the population to spread outwards. To the extent feasible, the areas between preserved locations should also be preserved in order to establish connectivity between adjacent populations. CDFW also recommends the DRP provide an explanation of chosen buffer distance(s) to avoid impacts on rare plants, seedbank, and habitat.

In addition, if slender mariposa lily is detected, CDFW recommends DRP revise Biological Resources Condition 44b and include this measure as part of a MMRP, to require the Project Applicant to submit an avoidance and/or planting plan prior to issuance of grading permits and any clearing, grading, or excavation work on the Project site. The plan should be prepared by a qualified biologist. The plan should be reviewed and approved by DRP. The plan should include a monitoring and reporting plan to document compliance with avoidance and/or compensatory mitigation measures. Monitoring and reporting should be performed by a qualified biologist.

Recommendation #6: The Project's CEQA document should discuss what effects the two proposed solar arrays may have on biological resources in areas within and adjacent to the Project site. In addition, the Project's CEQA document should discuss what direct and indirect impacts the solar arrays may have on biological resources. Measures to mitigate the impacts of solar arrays on biological resources should be provided in the Project's CEQA document, including a discussion of the feasibility, efficacy, and enforceability of those measures.

Recommendation #7: Page 20 of the ND states, "Direct and indirect impacts to special-status species resulting from development of the site would be reduced to a less than significant level through the implementation of project conditions. The access roads and other development shall be designed to avoid impacting any areas where special-status species may be present." If DRP has determined that revisions to the project plans would avoid the effects or mitigate the effects on the environment to a point where clearly no significant effect on the environment would occur, the CEQA document should explain the reasons for determining that potentially significant effects would not be significant [CEQA Guidelines, §§ 15063(c)(3)(C); 15063(c)(5); 15064(f)(2)].

Therefore, CDFW recommends DRP revise the Project's CEQA document to discuss how the Project has been modified through "project conditions" to reduce impacts on sensitive and special-status species. Sensitive and special-status species should include all of those species identified on page 20 in the ND as well as species covered in this letter. The Project's CEQA document should also discuss how the access roads and other development have been designed, revised, and agreed to by the Project Applicant, to avoid impacting areas where sensitive and special-status species and their habitat may occur.

Recommendation #8: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2022c). Information on special status native plant populations and sensitive natural communities, the [Combined](#)

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[Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022d).

Recommendation #9: CDFW recommends DRP provide Biological Resources Mitigation Measures for the Project and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist DRP in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), enforceable through permit conditions, agreements, or other legally-binding instruments [CEQA Guidelines, § 15126.4(a)(2)], 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). DRP is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided DRP with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft 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 Los Angeles County Department of Regional Planning 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 Los Angeles County Department of Regional Planning in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the Los Angeles County Department of Regional Planning has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov or (562) 619-2230.

Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

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Attachment(s):

Attachment A: Draft Mitigation and Monitoring Reporting Plan

Attachment B: Draft Conditions for Biological Resources for Ball Mountain Single-Family Residences Project 2019-001416 (version date: April 18, 2022)

Attachment C: Gnatcatcher Habitat

References:

Calderon, A. 2019. Gnatcatcher Habitat dataset from City of Santa Clarita *Mapping Your City* Interactive Mapping Online. Last updated: December 15, 2021. [Accessed 2022 April 12]. Available from: <https://www.santa-clarita.com/city-hall/departments/administrative-services/technology-services/geographic-information-systems-gis>

[CDFWa] California Department of Fish and Wildlife. 2022. Species of Special Concern. Available from: <https://wildlife.ca.gov/Conservation/SSC>

[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. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

[CDFWd] California Department of Fish and Wildlife. 2022. Natural Communities — Submitting Information. Available from: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

[CNPS] California Native Plant Society. 2022. CNPS Rare Plant Ranks. Available from: <https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>

Cooper, D.S., Mongolo, J., and C. Dellith. 2017. Status of the California Gnatcatcher at the Northern Edge of Its Range. *Western Birds* 48:124–140, 2017; doi 10.21199/WB48.2.3

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

Hauser, S.A. 2006. *Artemisia californica*. In: Fire Effects Information System. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory (Producer). [Accessed 2022 April 15]. Available from: <https://www.fs.fed.us/database/feis/plants/shrub/artcal/all.html>

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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[USFWS] United States Fish and Wildlife Service. 2010. Coastal California Gnatcatcher (*Polioptila californica californica*) 5-year Review: Summary and Evaluation. U.S. Fish and Wildlife Service Carlsbad Fish and Wildlife Office. Available from: https://ecos.fws.gov/docs/tess/species_nonpublish/1683.pdf

[USFWS] United States Fish and Wildlife Service. 1997. Coastal California Gnatcatcher (*Polioptila californica californica*) Presence/Absence Survey Guidelines February 28, 1997. Available from: https://www.fws.gov/ventura/docs/species/protocols/cagn/coastal-gnatcatcher_survey-guidelines.pdf



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Attachment A: Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
REC-1-Discuss the Project's potential impact on coastal California gnatcatcher	DRP should revise the Project's CEQA document to include a discussion of natural vegetation communities on site with a specific emphasis on coastal scrub. The CEQA document should discuss the Project's potential impacts on coastal California gnatcatcher from the standpoint of the following: habitat loss, encroachment, fragmentation, and connectivity; edge effects; take of nests, eggs, or nestlings; and glare or strikes from the solar arrays. The Project's CEQA documents should provide figures showing gnatcatcher habitat overlaid on the proposed Project plan. Finally, the Project's CEQA document should provide measures to mitigate for potentially significant impacts on coastal California gnatcatcher.	Prior to finalizing CEQA document	Los Angeles County Department of Regional Planning (DRP)
REC-2-Fish and Game Code section 1602	To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.	Prior to finalizing CEQA document	DRP
REC-3-Fish and Game Code section 1602	DRP should revise the Project's CEQA document to provide a delineation of streams and natural plant communities in the Project site and adjacent areas where there is hydrologic connectivity. The Project's CEQA documents should provide figures showing streams and natural plant communities overlaid on the proposed Project footprint.	Prior to finalizing CEQA document	DRP
REC-4-Conditions for	DRP should include a final Biological Resources Conditions with the Project's final CEQA document and include these conditions as	Prior to finalizing	DRP

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<p>Biological Resources</p>	<p>part of a Mitigation Monitoring and Reporting Plan (MMRP). A final Biological Resources Conditions should be equal or more effective measures as the Draft Conditions for Biological Resources and should include measures addressing all the resources identified in the draft. This includes the following:</p> <ul style="list-style-type: none"> • Landscaping; • Fencing, walls, enclosures, and signage; • Biological monitor; • Pre-construction surveys for breeding birds, slender mariposa lily, and low; mobility reptiles; and • Jurisdictional resources. <p>DRP should recirculate the Project’s CEQA document for review if final Biological Resources Conditions are lesser or less effective than measures in the Draft Conditions for Biological Resources, and/or if DRP determines that the proposed measures or project revisions will not reduce potential effects to less than significances and new measures or revisions must be required.</p>	<p>CEQA document</p>	
<p>REC-5-Impacts on Rare Plants</p>	<p>DRP should revise Biological Resources Condition 44b and include this measure as part of a MMRP, to avoid impacts on rare plants and seedbank. A minimum avoidance buffer should be provided, which may vary depending on the rare plant species. An avoidance buffer should prevent the following impacts on rare plants and seedbank:</p> <ul style="list-style-type: none"> • trampling by earthmoving equipment; • removal of soil that renders living seeds in the soil inviable or causes them to be killed; • erosion of substrates supporting individuals which could cause uprooting, washing away, and burying of individuals and/or could make substrates unstable for growth; and • death of living seeds due to mold, disease, or other reasons that cause inviability. 	<p>Prior to finalizing CEQA document</p>	<p>DRP</p>

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	<p>An adequate buffer should protect the core population and habitat while allowing for the population to spread outwards. To the extent feasible, the areas between preserved locations should also be preserved in order to establish connectivity between adjacent populations. DRP should provide an explanation of chosen buffer distance(s) to avoid impacts on rare plants, seedbank, and habitat.</p> <p>If slender mariposa lily is detected, DRP should revise Biological Resources Condition 44b to require the Project Applicant to submit an avoidance and/or planting plan prior to issuance of grading permits and any clearing, grading, or excavation work on the Project site. The plan should be prepared by a qualified biologist. The plan should be reviewed and approved by DRP. The plan should include a monitoring and reporting plan to document compliance with avoidance and/or compensatory mitigation measures. Monitoring and reporting should be performed by a qualified biologist.</p>		
REC-6-Discuss the potential effects and impacts of solar arrays on biological resources	<p>The Project's CEQA document should discuss what effects the two proposed solar arrays may have on biological resources in areas within and adjacent to the Project site. In addition, the Project's CEQA document should discuss what direct and indirect impacts the solar arrays may have on biological resources. Measures to mitigate the impacts of solar arrays on biological resources should be provided in the Project's CEQA document, including a discussion of the feasibility, efficacy, and enforceability of those measures.</p>	Prior to finalizing CEQA document	DRP
REC-7-Adequate Disclosure	<p>DRP should revise the Project's CEQA document to discuss how the Project has been modified through "project conditions" to reduce impacts on sensitive and special-status species. Sensitive and special-status species should include all of those species identified on page 20 in the ND as well as species covered in CDFW's comment letter. The Project's CEQA document should also discuss how the access roads and other development have been designed, revised, and agreed to by the Project Applicant, to</p>	Prior to finalizing CEQA document	DRP

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	avoid impacting areas where sensitive and special-status species and their habitat may occur. CDFW also recommends DRP include the Draft Biological Resources Conditions with the Project's CEQA document.		
REC-8- Submitting Data for Sensitive and Special Status Species and Natural Communities	CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms . Information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program.	Prior to finalizing CEQA document	City
REC-9- Mitigation and Monitoring Reporting Plan	The City should provide Biological Resources Mitigation Measures for the Project and condition the environmental document to include mitigation measures recommended in CDFW's comment letter.	Prior to finalizing CEQA document	City
MM-BIO-1- Impacts on Coastal California Gnatcatcher- Surveys	The Project Applicant shall retain a qualified biologist to survey the Project site and adjacent areas for coastal California gnatcatcher prior to any clearing, grading, or excavation work on the Project site. The qualified biologist shall conduct surveys according to U.S Fish and Wildlife Service's Coastal California Gnatcatcher (Polioptila californica californica) Presence/Absence Survey Guidelines . The protocol shall be followed for all surveys unless otherwise authorized by the U.S Fish and Wildlife Service in writing. A report documenting survey results, including negative findings, and an impact assessment shall be prepared and provided to the U.S Fish and Wildlife Service, California Department of Fish and Wildlife, and to the Department of Regional Planning.	Prior to any clearing, grading, or excavation work on the Project site	Project Applicant

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MM-BIO-2- Impacts on Coastal California Gnatcatcher- Consult with USFWS	If gnatcatchers are present, the Project Applicant shall consult with the U.S Fish and Wildlife Service to determine if the Project would result in take of coastal California gnatcatcher.	Prior to any clearing, grading, or excavation work on the Project site	DRP/Project Applicant
MM-BIO-3- Impacts on Coastal California Gnatcatcher- Replacement Habitat	The Project Applicant shall provide replacement habitat for permanent loss of coastal California gnatcatcher habitat at no less than 2:1.	Prior to any clearing, grading, or excavation work on the Project site	Project Applicant
MM-BIO-4-Fish and Game Code Section 1602- Notify CDFW	The Project Applicant shall notify CDFW pursuant to Fish and Game Code 1602. The Project Applicant shall submit proof to Department of Regional Planning that CDFW was notified prior to approval of improvement plans; issuance of grading permits; issuance of a Conditional Use Permit, and any clearing, grading, or excavation work on the Project site.	Prior to approval of improvement plans; issuance of grading permits; issuance of a Conditional Use Permit, and any clearing, grading, or excavation work on the Project site	DRP/Project Applicant
MM-BIO-5- Fish and Game Code Section 1602- Notify CDFW	The Project Applicant's notification to CDFW shall provide the following information: 1) A description of the proposed Project, include grading and cutting work that has already occurred within the Project	Prior to approval of improvement plans;	Project Applicant

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	<p>site;</p> <ol style="list-style-type: none"> 2) A stream delineation in accordance with the U.S Fish and Wildlife Service wetland definition adopted by CDFW; 3) Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation, second edition; 4) A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 5) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation shall assess a sufficient range of storm events (e.g., 100, 50, 25, 10, 5, and 2-year frequency storm events) to evaluate water and sediment transport under pre-Project and post-Project conditions. 	<p>issuance of grading permits; issuance of a Conditional Use Permit, and any clearing, grading, or excavation work on the Project site</p>	
<p>MM-BIO-6- Fish and Game Code Section 1602-Lake and Streambed Alteration Agreement</p>	<p>If a LSA Agreement is needed for the Project, the Project Applicant shall obtain a LSA Agreement from CDFW and provide a copy of the LSA Agreement to Department of Regional Planning prior to approval of improvement plans; issuance of grading permits; issuance of a Conditional Use Permit; and any clearing, grading, or excavation work on the Project site. The Project Applicant shall comply with the mitigation measures detailed in the LSA Agreement issued by CDFW.</p>	<p>Prior to approval of improvement plans; issuance of grading permits; issuance of a Conditional Use Permit; and any clearing, grading, or</p>	<p>DRP/Project Applicant</p>

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		excavation work on the Project site	
MM-BIO-7- Fish and Game Code Section 1602-Compensatory Mitigation	The Project Applicant shall provide compensatory mitigation for impacts on streams at no less than 2:1 for the impacted stream and habitat acreage, or at a ratio acceptable to CDFW.	Prior to any clearing, grading, or excavation work on the Project site	DRP/Project Applicant

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**Attachment B: Draft Conditions for Biological Resources for Ball Mountain
Single-Family Residences Project 2019-001416 (April 18, 2022)**

BIOLOGICAL RESOURCES

- 40.** Prior to the development of the proposed single-family residence on APN 3231-010-019 or the driveway leading to it, or related grading or development, or of the proposed solar panel array on the north part of APN 3231-010-020, Conditions No. 41 through 45 shall be completed. Such development may not occur unless and until a Revised Exhibit “A” is approved by Regional Planning Staff for said development, and any other necessary permits have been issued. A Regional Planning Staff Biologist shall verify that all necessary requirements have been satisfied prior to approval of a Revised Exhibit “A” pursuant to this condition. Conditions No. 41 through 45 are only applicable for development of the proposed single-family residence on APN 3231-010-019 and the driveway leading to it, and related grading and development, and of the proposed solar panel array on the north part of APN 3231-010-020.
- 41. Landscaping**—A copy of the landscaping plan shall be submitted to the DRP for approval prior to issuance of a building permit. The landscape plan shall show size, type and location of all plants and watering facilities. Only locally indigenous native species shall be utilized outside of Fire Department mandated irrigated areas. Within irrigated zones non-invasive, drought-tolerant, non-native species may be used.
- 42. Fencing, Walls, Enclosures, and Signage**—Fencing shall be designed with materials not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, or razor/barbed wire. All hollow fence and sign posts, or posts with top holes, such as metal pipes or sign posts with open bolt holes, shall be capped and the bolt holes filled to prevent the entrapment of bird species.
- **Impermeable Fencing, Wall or Enclosure:** Impermeable fencing, walls, and enclosures shall be permitted within the development footprint and outside of natural habitat areas.
 - **Permeable Fencing:** Wildlife-permeable fencing may be permitted in order to delineate lot boundaries or to section off development features, such as streets, trails, driveways, active, recreation areas, or animal keeping structures. Such fencing shall be developed as follows:
 - Fences shall be located outside of dedicated open space areas;
 - Fences shall be of an open design and made out of materials that are visible to wildlife, such as wood rail, steel pipe, vinyl rail, PVC pipe, recycled plastic rail, or coated wire;
 - The bottom edge of the lowest horizontal rail or board shall be no closer than 18 inches from the ground;
 - Except where a different height is stated, the top edge of the topmost rail or board shall be no higher than 48 inches from the ground; and
 - Fencing shall provide sufficient sight distance at driveways and intersections to the satisfaction of the Department of Public Works.
- 43. Biological monitor**—Prior to the issuance of a grading permit, a qualified biologist shall be retained by the Applicant as the lead biological monitor subject to the approval of Regional Planning and the California Department of Fish and Wildlife (“CDFW”). That person shall

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ensure that impacts to all biological resources are minimized or avoided, and shall conduct (or supervise) pre-grading field surveys for species that may be avoided, affected, or eliminated as a result of grading or any other site preparation activities. The lead biological monitor shall ensure that all surveys are conducted by qualified personnel (e.g. avian biologists for bird surveys, herpetologists for reptile surveys, botanist for plant surveys, etc.) and that they possess all necessary permits and memoranda of understanding with the appropriate agencies for the handling of potentially-occurring special-status species. The lead biological monitor shall also ensure that daily monitoring reports (e.g., survey results, protective actions, results of protective actions, adaptive measures, etc.) are prepared, and shall make these monitoring reports available to Regional Planning and CDFW at their request.

During grading, earthmoving activities, and other construction activities the biological monitor shall be present to inspect and enforce all conditions pertaining to biological resources (Conditions No. 40 through 45) and to relocate any species that may come into harm's way to an appropriate offsite location of similar habitat. The biological monitor shall be authorized to stop specific grading or construction activities if violations of conditions or any local, state, or federal laws are suspected. The biological monitor shall file a report of the monitoring activities with Regional Planning and CDFW. If ongoing biological monitoring of construction activities reveals the presence of any special-status reptiles within an active work area, then work shall be temporarily halted until the animals can be collected and relocated to areas outside of the designated work zones. Work areas shall be surveyed for special-status species during construction activities. Any special-status species occurring within the work area shall be collected and relocated to areas outside of the designated work zones.

44. Pre-construction surveys

A. Breeding birds—Proposed project activities (including, but not limited to, staging and disturbances to native and nonnative vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from February 1-August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs. Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86), and includes take of eggs or young resulting from disturbances which cause abandonment of active nests. Depending on the avian species present, a qualified biologist may determine that a change in the breeding season dates is warranted.

If avoidance of the avian breeding season is not feasible, a qualified biologist with experience in conducting breeding bird surveys shall conduct weekly bird surveys beginning thirty days prior to the initiation of project activities, to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 500 feet of the disturbance area. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of project activities. If a protected native bird is found, the project proponent may delay all project activities within 300 feet of on- and off-site suitable nesting habitat (within 500 feet for suitable raptor nesting habitat) until August 31. Alternatively, the qualified biologist may continue the surveys in order to locate any nests. If an active nest is located, project activities within 300 feet of the nest (within 500 feet for raptor nests) or as determined by a qualified biological monitor, must

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be postponed until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Flagging, stakes, or construction fencing shall be used to demarcate the inside boundary of the buffer of 300 feet (or 500 feet) between the project activities and the nest. Project personnel, including all contractors working on site, shall be instructed on the sensitivity of the area. The project proponent shall provide the Department of Regional Planning the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds.

If the biological monitor determines that a narrower buffer between the project activities and observed active nests is warranted, he/she shall submit a written explanation as to why (e.g., species-specific information; ambient conditions and birds' habituation to them; and the terrain, vegetation, and birds' lines of sight between the project activities and the nest and foraging areas) to Regional Planning and, upon request, the CDFW. Based on the submitted information, Regional Planning (and the CDFW, if the CDFW requests) will determine whether to allow a narrower buffer.

The biological monitor shall be present on site during all grubbing and clearing of vegetation to ensure that these activities remain within the project footprint (i.e., outside the demarcated buffer) and that the flagging/stakes/fencing is being maintained, and to minimize the likelihood that active nests are abandoned or fail due to project activities. The biological monitor shall send weekly monitoring reports to Regional Planning during the grubbing and clearing of vegetation, and shall notify Regional Planning immediately if project activities damage active avian nests.

B. Slender Mariposa Lily—A seasonally appropriate survey (April – June) for slender mariposa lily shall be conducted prior to the issuance of grading permit. If slender mariposa lily is detected, it shall be avoided to the greatest extent possible. If pre-construction surveys reveal individuals that cannot be avoided, mitigation of lost slender mariposa lily shall be provided at a minimum 10:1 ratio. This acreage will be calculated with input from Regional Planning and CDFW. Additionally, because slender mariposa lilies have locally available seed sources, plantings of the lilies on appropriate soil types on Projects shall be implemented in selected areas. The lilies may also be transplanted from areas planned for disturbance to more suitable locations in the Project area. Transplantation locations must be situated within adequately buffered areas to be found suitable. The mitigation acreage may be located within the Project sites, but outside of the area of development, subject to Regional Planning and CDFW approval, if acreage of sufficient quantity and quality exists.

C. Low-mobility reptiles—Prior to the issuance of a grading or building permit, drift fence or other barrier impermeable to reptiles shall be erected around the construction area and pre-construction surveys shall be conducted for special-status ground-dwelling reptiles. Surveys shall be conducted by installing an array of pit-fall traps, coverboards, or other devices as determined to be appropriate by the biological monitor on the ground prior to the commencement of construction. Pit-fall traps, if used, must be checked daily. Coverboards shall be installed no less than 4 weeks prior to construction and checked at least weekly. Pit-fall traps shall be covered during periods when daily checking is not possible (weekends, holidays, in the event of during construction delays, etc.). Any special-status reptiles or other species determined important by the qualified biological monitor (i.e., biologist must be appropriately permitted for collection and relocation

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activities) occurring within the work area prior to the start of work shall be collected and relocated to areas outside of the designated work zones.

45. Jurisdictional resources—If jurisdictional waters cannot be avoided, the Project Applicant shall apply for a Section 401 permit from the Regional Water Quality Control Board (RWQCB) and a 1602 Streambed Alteration Agreement from CDFW. These permits shall be obtained prior to approval of improvement plans; issuance of grading permits; and/or any clearing, grading, or excavation work on the Project site. The Project Applicant shall ensure that the Project would result in no net loss of Waters of the State by providing mitigation through impact avoidance; impact minimization; and/or compensatory mitigation for the impact, as determined in the Streambed Alteration Agreement. Compensatory mitigation may consist of (a) obtaining credits from a mitigation bank; (b) making a payment to an in-lieu fee program that would conduct wetland, stream, or other aquatic resource restoration, creation, enhancement, or preservation activities (these programs are generally administered by government agencies or nonprofit organizations that have established an agreement with the regulatory agencies to use in-lieu fee payments collected from permit Applicants); and/or (c) providing compensatory mitigation through an aquatic resource restoration, establishment, enhancement, and/or preservation activity. This last type of compensatory mitigation may be provided at or adjacent to the impact site (i.e., on-site mitigation) or at another location, usually within the same watershed as the permitted impact (i.e., off-site mitigation). The Project Applicant retains responsibility for the implementation and success of the mitigation project. Evidence of secured permits shall be provided prior to approval of improvement plans; issuance of grading permits; and/or any clearing, grading, or excavation work on the Project site.

Temporary construction staking or fencing shall be erected under the supervision of a qualified Biologist at or outside the edge of the impact areas where they interface with jurisdictional features. This fencing shall be erected prior to commencement of grading activities and shall demarcate areas where human and equipment access and disturbance from grading are prohibited. A qualified Biologist shall monitor all site preparation and grading activities near these interfaces during construction. Staging areas shall be restricted to approved impact areas only.

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Attachment C: Gnatcatcher Habitat

