



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
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GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



May 6, 2022

Greg Johansen  
 City of San Diego Planning Dept.  
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 San Diego, CA 92123  
[GJohansen@sandiego.gov](mailto:GJohansen@sandiego.gov)



**Subject: Offsite Stormwater Alternative Compliance Program – Phase 2 (Project), Notice of Preparation of a Program Environmental Impact Report (PEIR), SCH #2022040159**

Dear Mr. Johansen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Program Environmental Impact Report (PEIR) from the City of San Diego (City) for the Offsite Stormwater Alternative Compliance Program – Phase 2 (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW's Role**

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW 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.*), related authorization as provided by the Fish and Game Code will be required.

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 *et seq.* The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 1500.

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CDFW also administers the Natural Community Conservation Planning (NCCP) program (Fish and Game Code 2800 *et seq.*). The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and Implementing Agreement (IA). The PEIR for the proposed Project must ensure that all requirements and conditions of the SAP and IA are met. The PEIR should also address any biological issues that are not addressed in the SAP and IA, such as specific impacts to and mitigation requirements for sensitive species that are not covered by the SAP and IA.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** City of San Diego (City)

**Project Background:** In compliance with the San Diego Regional Municipal Separate Storm Sewer System (MS4) permit, the City is responsible for developing and enforcing stormwater regulations that prohibit pollutants and other illegal discharges from entering the storm drainage system (City of San Diego, 2022). All projects within the City are subject to the MS4 permit performance standards including (1) source control and site design practices; (2) stormwater pollutant control best management practices (BMPs); and (3) hydromodification management BMPs.

On February 16, 2016, the City implemented an Offsite Stormwater Alternative Compliance Program (Program). Under the Program, Priority Development Project (PDP) applicants may implement offsite water quality or hydromodification improvement projects, collectively “Alternate Compliance Projects” (ACPs), in lieu of onsite BMPs, to satisfy the requirements. ACPs can also be Natural System Management Practices (NSMPs), such as stream rehabilitation, land restoration, or preservation projects which prioritize predevelopment watershed functions. The City’s Program is being implemented in two phases; Phase I has been implemented as stated above. Phase II, referred to as the “Project” below, is currently in the planning stage and scheduled for implementation in 2023 (City of San Diego, 2022).

**Project Objective:** The Project proposes a subsequent phase allowing PDP applicants and/or independent entities more flexibility to implement, fund, or partially fund an offsite ACP. Participation in the Project would be contingent on the City establishing an in-lieu fee system and/or water quality credit system to ensure there is sufficient funding for ACP design and maintenance. The Project, as implemented, also aims to contribute to a greater overall water quality benefit to the City’s watershed when compared to implementing onsite BMPs on a project-by-project basis.

**Project Location:** The Project area encompasses the entire City, limited to projects occurring within the City’s corporate boundaries. The watershed management areas in City jurisdiction include San Dieguito, Los Peñasquitos, Mission Bay, San Diego River, San Diego Bay, and Tijuana River.

CDFW offers the following comment to assist the City in adequately identifying, avoiding, and/or mitigating the Project’s significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources and maintaining consistency with the SAP.

- 1) Multi-Habitat Planning Area. Per the NOP, page 8, encroachment into the City’s Multi-Habitat Planning Area (MHPA) and Cornerstone Lands could occur during implementation of the Project. CDFW recommends that the City consult with the Wildlife Agencies (jointly,

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CDFW and the United States Fish and Wildlife Service (USFWS)) early in the CEQA process to discuss the Project's potential for encroachment and associated direct and indirect impacts on resources in the preserve lands and wildlife corridors.

## Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The [CNDDDB Field Survey Forms](#) can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [CNDDDB Plants and Animals Information](#).

## FILING FEES

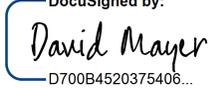
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the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

CDFW appreciates the opportunity to comment on the NOP to assist the City in identifying and mitigating Project impacts on biological resources and ensuring Project consistency with the requirements of the City's MSCP SAP.

Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, by email at [Alison.Kalinowski@wildlife.ca.gov](mailto:Alison.Kalinowski@wildlife.ca.gov).

Sincerely,

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David Mayer  
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ec: CDFW

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## References

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§15097, §15126.4(2).

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<https://www.sandiego.gov/stormwater/regulations>.