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SENT BY EMAIL ONLY

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Subject: Notice of Preparation of a Draft Environmental Impact Report for the Topanga Lagoon Restoration Project, SCH # 2022050478, California Department of Parks and Recreation, Los Angeles County

Dear Ms. LeFer:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) from the California Department of Parks and Recreation (CDPR) for the Topanga Lagoon Restoration Project (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 & 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.

Project Description and Summary

Objective: The proposed Project is a multi-agency effort to restore the ecological values and enhance the hydrologic functions of the Topanga Lagoon ecosystem and the adjacent upland. The proposed Project intends to conduct restoration activities and expand the existing one-acre footprint of the lagoon. In addition, the riparian, transitional, and upland habitat along Topanga Creek would be restored to a certain extent depending on each build alternative. Within the Project site lies the Topanga Ranch Motel and State Park concessions, which include Cholada, Wylie's Bait and Tackle, Rosenthal's Wine Bar and Patio, Reel Inn, Oasis Imports, and Malibu Feed Bin. The motel and concession leases would be altered depending on each build alternative. The proposed Project also seeks to reconstruct the existing Pacific Coast Highway (PCH) bridge over Topanga Creek with a longer span to accommodate a wider lagoon. The lifeguard tower, restrooms, helipad, and parking area associated with Topanga Beach would also be reconstructed as part of the proposed Project. The Project proposes three build alternatives and a no project alternative that will be discussed in the EIR. Construction activities for Alternative 2 through Alternative 4 is anticipated to last approximately 24 months.

- **Alternative 1: No Project Alternative** – Alternative 1 would result in no restoration activities towards the Topanga Lagoon and adjacent upland. The Project site would remain the same and consist of 3.6 acres of wetted area, 33.8 acres of riparian/transitional/upland area, and 4.18 acres of Topanga beach. The PCH bridge would not be reconstructed, and Topanga Ranch Motel and existing business leases would remain. The lifeguard tower, helipad, and restrooms would not be reconstructed. Each respective area would continue to function under its existing conditions.

- **Alternative 2: Maximum Lagoon Habitat and Removal of Motel** – Alternative 2 would result in the maximum increase in lagoon, wetland, and riparian bank habitats. Following complete buildout, the Project site would encompass 9.5 wetted acres, 27.8 acres of restored riparian/transitional/upland habitat, and expansion of the beach to 4.39 acres. Grading and soil removal would be required to recontour the creek and widen the lagoon. Restoration would entail recontouring the western side of the lagoon with more natural side channels to accommodate sea level rise and storm surge conditions. In addition, the Topanga Ranch Motel and all existing business leases would be removed and replaced with riparian and transitional habitats. Furthermore, the existing PCH bridge would be replaced with a new bridge that spans 460 feet (200-foot primary span, with side spans of 130 feet each). Lastly, the lifeguard headquarters, beach restroom, and helipad would be demolished, relocated north, and reconstructed closer to the existing realigned access road.

- **Alternative 3: Limited Lagoon Habitat Expansion and Retention of Motel** – In Alternative 3, expansion of the lagoon as well as riparian and transitional habitat on the west side of the existing creek channel would not be as extensive as Alternative 2. Following complete buildout, the Project site would encompass 7.7 wetted acres, 29.47 acres of restored riparian/transitional/upland habitat, and expansion of the beach to 4.42 acres. In Alternative 3, only the existing main channel within the lagoon area would be restored. Grading and soil removal activities would also be required in this alternative. In

regard to the Topanga Ranch Motel, 21 structures would be restored to its historic configuration, which would include relocation of some structures from the west side to avoid further flood and bank erosion. Aside from a restaurant concession that would be remodeled and remain in operation, no other business leases would remain. The changes to the PCH bridge would remain the same as detailed in Alternative 2. In addition, the existing realigned access road would be moved slightly to the east. Similar to Alternative 2, the lifeguard headquarters and beach restroom would be demolished, relocated north, and reconstructed closer to the realigned access road. However, the helipad would be relocated at PCH with a gated separation from the west end of the parking lot on the same level.

- **Alternative 4**: **Maximum Managed Retreat and Partial Motel Retention** – Alternative 4 would result in an expanded lagoon as well as riparian and transitional habitat, primarily on the west side of the existing channel. Following complete buildout, the Project site would encompass 7.6 wetted acres, 29.48 acres of restored riparian/transitional/upland habitat, and expansion of the beach to 4.56 acres. In Alternative 4, PCH would be realigned to move northward, curving the freeway inland over the lagoon and expanding the beach area to its maximum amount. In addition to realignment of PCH, the existing PCH bridge would be replaced with a new bridge that spans 460 feet (200-foot longer center span and a 130-foot side span on each side). In addition, 17 structures of the Topanga Ranch Motel located east of the current motor court access lane would be retained. Similar to Alternative 3, the restaurant concession would be remolded, continue to operate, and the other existing business leases would be terminated. Lastly, the lifeguard headquarters and helipad would be demolished, relocated north, and rearranged with parking for staff, emergency vehicles, and ADA disabled parking. Alternative 4 would provide the most sea level rise resilience and maximize recreational the beach area.

Location: The Project site encompasses 59 acres of Topanga State Park, Topanga Ranch Motel, and Topanga Beach located on the coastal slope of the Santa Monica Mountains in unincorporated Los Angeles County. The Project site is within the Santa Monica Mountains National Recreation Area and located west of the intersection of Topanga Canyon Boulevard and State Route 1 Pacific Coast Highway. The Project site is located on Assessor Parcel Number: 4448-002-901, 4448-001-900, and 4448-002-900.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the CDPR in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. The EIR should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151]. CDFW looks forward to commenting on the EIR when it is available.

Specific Comments

1) Alternative 3 and 4. The Topanga Creek flows through Topanga Canyon directly west of the Topanga Ranch Motel until it reaches the Topanga Lagoon. Riparian habitat with high biological value also resides along the stream banks located west and north of the Topanga

Ranch Motel. The motel is surrounded by undisturbed habitat that provides essential ecological resources for wildlife that dwell within it. Additionally, the Topanga Ranch Motel has been closed to the public and vacant since 2005.

Alternative 3 proposes a full retention of the Topanga Ranch Motel. Alternative 4 proposes a partial retention of the Topanga Ranch Motel. Both build alternatives would involve rehabilitation activities in an effort to have the motel open to the public and operational for overnight accommodations. Retention and operation of the motel would facilitate an increase of human presence within the Project site. Increased human presence may produce a multitude of adverse impacts, including but not limited to, increase of human-wildlife interactions, encroachment on fully protected species, increased potential of human-wildlife conflict, introduction of non-native species, injury or death of wildlife, and destruction of riparian and upland habitat. Elevated levels of human presence near or within wildlife breeding grounds may result in reduced reproductive success and an overall reduced local species population. Moreover, operation of the Topanga Ranch Motel may also alter wildlife behavior through introduction of elevated noise, increased trash or debris, unnatural food sources via trash receptacles, and new artificial lighting. The CDPR should consider the effects of Alternative 3 and Alternative 4 on wildlife and biological resources in relation to increased human presence and anthropogenic factors.

The Project should move forward with the alternative that prevents environmental damage and provides the least significant environmental effects on biological resources within the Project site (CEQA guidelines §15021(c) and §15002(a)(3)). Furthermore, for all build alternatives, the EIR should provide a complete discussion of the purpose and need for, and description of, the proposed alternative, including all staging areas; access routes to the construction and staging areas; and grading footprint. Each Project alternative should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6).

2) Impacts to Mountain Lion (*Puma concolor*). The Project is located within the range of the Southern California/Central Coast Evolutionary Significant Unit of mountain lion. More specifically, the Project is located within the range of the San Monica Mountain's mountain lion population. Mountain lions typically require large areas of undisturbed habitats and can inhabit in a variety of habitats, including but not limited to, riparian woodlands, oak woodlands, streams, and chaparral. Mountain lions have also been deemed as a keystone species that support plant recruitment in riparian areas, stabilize stream banks, and sustain healthy habitats for aquatic and terrestrial species (CBD 2019). In addition, CDFW's Mountain Lion Predicted Habitat model predicts that the riparian, transitional, and upland habitat along Topanga Creek may provide medium suitability for mountain lion (CWHR 2016). The proposed Project may impact mountain lion through temporary and permanent habitat modification, restoration activities, grading, and removal of riparian vegetation.

   a) Protection Status. CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, or CESA-listed plant species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). The mountain lion is a specially protected mammal in the State (Fish and G. Code, § 4800). In addition, on April 21, 2020, the California Fish and Game Commission accepted a petition to list the Southern California/Central Coast

Evolutionary Significant Unit of mountain lion as threatened under CESA (CDFW 2020). As a CESA candidate species, the mountain lion in southern California is granted full protection of a threatened species under CESA.

b) Analysis and Disclosure. During Project-related construction activities, several temporary impacts may occur such as habitat modification, increased human presence, increased levels of noise and dust, and encroachment on foraging habitat. Although there may be temporary adverse effects during Project activities, the overall Project aims to restore riparian habitat along Topanga Creek resulting in a permanent beneficial effect for mountain lion. The EIR should analyze and discuss the Project's temporary, permanent, and cumulative impact on mountain lion throughout the Project. Impacts on mountain lion behavior, reproductive viability, and overall survival success should also be analyzed and discussed in the EIR. In addition, the EIR should analyze from the standpoint of the following impacts: 1) introducing an operational motel; 2) habitat modification and encroachment during construction activities; 3) increased human presence; and 4) use of herbicides, pesticides, and rodenticides. Lastly, the EIR should discuss the Project's potential effect on any on-going or planned habitat recovery and restoration efforts for mountain lion.

c) CESA. If the Project or any Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate take authorization under CESA may include an Incidental Take Permit (ITP) among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)].

3) Impacts to Southern California steelhead (*Oncorhynchus mykiss*). Southern California steelhead (southern steelhead) is designated as an Endangered Species Act (ESA)-listed endangered species and a candidate CESA-listed species. Southern steelhead are anadromous fish that will spawn within Topanga Creek, migrate downstream to the Topanga Lagoon for smoltification, migrate to the ocean, and return to its spawning grounds as a mature adult. Furthermore, the NOP states that the only currently reproducing population of southern steelhead within the Santa Monica Mountains is present within the Project site. Although the Project aims to restore habitat and enhance fish passage, Project-related activities such as grading, soil removal, and recontouring of the stream bank will have a temporary and permanent impact on the southern steelhead population and its habitat.

a) Protection Status. Pursuant to Section 2074.2 of the Fish and Game Code, on April 21, 2022, the California Fish and Game Commission (Commission) determined that listing southern steelhead as threatened or endangered under CESA may be warranted (CDFW 2022a). This commences a one-year status review of the species, and at a future meeting, the Commission will make a decision whether listing of southern steelhead as threatened or endangered under CESA is warranted. During the status review, southern steelhead is protected under CESA as a candidate species pursuant to Section 2085 of the Fish and Game Code, provided that notice has been given as required by Section 2074.4 of the Fish and Game Code. The CDPR is prohibited from undertaking or authorizing activities that result in take of any endangered, threatened, or candidate species, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

b) Analysis and Disclosure. The EIR should analyze and discuss the Project's potential impact on southern steelhead population, habitat, substrate, and passage. The EIR should assess the potential impacts of habitat modification from restoration activities, grading, removal of soil, and vegetation removal along stream banks. Additionally, the EIR should assess the Project's effects on substrate composition within the Topanga Lagoon and Topanga Creek. An analysis of passage should include passage of adults from the ocean to spawning grounds within Topanga Creek and passage of smolts or juveniles from nursing grounds to the Topanga Lagoon and the ocean. The EIR should analyze the Project's effect on the hydrology and hydraulics (velocity, depth, and temperature) of Topanga Lagoon and Topanga Creek and how those effects may impact southern steelhead. An adequate analysis should provide the following information at a minimum:

- A study reach extending from the ocean and the Topanga Lagoon to upstream spawning and rearing habitats within Topanga Creek whereby the Project's effects on flow is analyzed;
- Project effects on flow (cfs, acre-feet) and hydraulics (velocity, depth, dissolved oxygen, temperature, and wetted perimeter) during the wet season (November through March), dry season (April through October), and both above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year) under pre-project (i.e., baseline conditions) and post-project conditions;
- Percent changes in flow, velocity, depth, temperature, and wetted perimeter (acres gained/lost) under Project conditions;
- Project effects on water quality (dissolved oxygen and turbidity) throughout the study reach under pre-project (i.e., baseline conditions) and post-project conditions;
- Any Project-related temporal, partial, or total barriers that would impact fish passage for southern steelhead; and
- Any additional potential effects to on-going habitat recovery and restoration efforts for southern steelhead on a local or regional scale.

CDFW recommends such analysis and evaluation apply a function flows approach to evaluate impacts on biological resources. The functional flows approach provides the basis for guidance provided in the California Environmental Flows Framework (UC Davis 2022). Functional flows are distinct aspects of a natural flow regime that sustain ecological, geomorphic, or biogeochemical functions, and that support the specific life history and habitat needs of native aquatic species. Retaining key functional flow components in managed flow regimes is thus expected to support foundational physical and ecological processes that sustain biological communities.

c) Avoidance. The Project should be conditioned to fully avoid all impacts to southern steelhead. No work should occur in the lagoon, stream channel, or stream banks during the winter rainy season, which typically occurs between December 1 through March 31 (NMFS 2012). Additionally, no work should occur during periods of high flow and when steelhead smolt are likely to be in the area during periods of receding flows from November 1 through June 15.

d) CESA. If the Project or any Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate take authorization under CESA may include an Incidental Take Permit (ITP) among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. To obtain appropriate take authorization under CESA, early consultation with CDFW is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project's CEQA document addresses all Project impacts on CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

4) Impacts to Special Status Fish. The Project site supports habitat for the tidewater goby (*Eucyclogobius newberryi*) and arroyo chub (*Gila orcuttii*). Tidewater goby is designated as an ESA-listed endangered species and the arroyo chub is considered a California Species of Special Concern (SSC). The tidewater goby is an endemic fish species that is primarily found in coastal lagoons, estuaries, and coastal brackish waters. Tidewater gobies spend all of their life stages in lagoons, estuaries, and river mouths (USFWS 2005). Unlike tidewater goby, arroyo chub are native to streams and rivers of the Los Angeles watershed and have been introduced to streams along the coast (UCANR 2022). Arroyo chub can be physiologically adapted to varying stream habitats but are primarily found in stream habitat with slow-moving water, mud, sand substrate (CDFW 2022g). Project restoration and construction activities may result in temporary or permanent habitat modification, direct injury, reduced capacity, and population decline.

a) Protection Status. Tidewater goby is protected under the ESA and meets the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines CEQA§ 15065). Arroyo chub is a sensitive species with a state ranking of S2 and protected as an SSC. CEQA provides protection not only for ESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. Take of SSC could require a mandatory finding of significance by the CDPR (CEQA Guidelines, § 15065). 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 by CDFW or U.S. Fish and Wildlife Service (USFWS).

b) Analysis and Disclosure. The EIR should analyze and discuss the Project's potential impact on fish species population, habitat, substrate, and passage. The EIR should analyze and disclose temporal and permanent habitat modification related to removal of substrate, soil removal, recontouring of Topanga Creek, grading activities, and widening of Topanga Lagoon. The EIR should also analyze the Project's effect on the hydrology and hydraulics (velocity, depth, and temperature) of Topanga Lagoon and Topanga Creek and how those effects may impact special status fish species. An adequate analysis should provide the information listed under Analysis and Disclosure in Specific Comment #3.

c) Avoidance. The Project activities should be conditioned to fully avoid all impacts to tidewater goby and arroyo chub. No work should occur during the winter rainy season, which typically occurs between December 1 through March 31 (NMFS 2011). No work should occur during peak breeding activities for tidewater goby which occurs from April 1 through June 31. Additionally, no work should occur during the breeding season for arroyo chub which occurs from February 1 through August 31 (UCANR 2022).

d) ESA. Take under the federal 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. Consultation with the USFWS, in order to comply with ESA, is advised well in advance of any Project-related ground-disturbing activities where impacts to special status fish will occur.

5) Impacts to California grunion (*Leuresthes tenuis*). According to the NOP, the beach adjacent to Topanga Lagoon supports a significant run of California grunion. Impacts to grunion may result from Project activities occurring below the highest tide line during grunion spawning season (March-August). Activities such as sand moving and use of heavy equipment in the intertidal zone may disturb or bury incubating grunion eggs and larvae.

California grunion are endemic to California and Baja California and support a culturally important recreational fishery. Recent data have shown declines in grunion run sizes in Los Angeles, Orange, and San Diego Counties over the past decade (Martin *et al.* 2019). In February, the California Fish and Game Commission adopted new regulations to protect and recover the grunion population, establishing a bag and possession limit and closing the month of June to recreational take of grunion. Recreation take of grunion is now prohibited during the months of April, May, and June.

a) Analysis and Disclosure. The EIR should discuss the Project's potential impact on California grunion and grunion spawning habitat.

b) Avoidance. If Project activities will occur in the intertidal zone, CDFW strongly recommends avoiding grunion spawning season (March–August) for these activities to the greatest extent feasible. If Project activities must occur below the highest tide line during grunion spawning season, the EIR should provide measures to mitigate for the Project's potential impacts on California grunion. Additionally, CDFW recommends that a qualified biological observer monitor the work site prior to the start of activities in the intertidal zone during the previous expected grunion run period (3–4 nights in a row). If grunion are observed at the work site, the Project should suspend activities below the highest tide line for at least two weeks to allow grunion eggs to incubate and hatch out. The expected run schedule and further information about grunion can be found on CDFW's website: https://wildlife.ca.gov/Fishing/Ocean/Grunion.

6) Hydroacoustic Effects on Fish. Alternative 2 through Alternative 4 proposes to widen the Topanga Lagoon and restore riparian, transitional, and upland habitat along Topanga Creek. In addition, the PCH bridge will be demolished and reconstructed over the Topanga Lagoon. These Project activities may produce hydroacoustic effects on the fish species within the Project site. Fish are susceptible to pressure-mediated (sound pressure and barotrauma) injury to the ears and general body tissues. Sound pressure caused by construction

equipment, tunneling, and pile driving could result in altered behavior, tissue damage, injury, or mortality of fish; fish could be impacted both physiologically and physically (Popper *et al*. 2019). In addition to impacts on individual fish, the Project could adversely impact a population of fish if exposure to sound pressure has an impact on breeding or feeding success or alters migratory patterns.

a) Analysis and Disclosure. In preparation of the EIR, CDFW recommends the EIR evaluate and discuss the following:

- Species of native and non-native fish that are present or could be present within the Project site;
- For native fish species, specify whether the species is sensitive, special status under CESA and/or the Endangered Species Act, or may meet the CEQA definition of endangered, rare, or threatened (CEQA Guidelines, § 15380);
- Project construction and activities that would result in sound pressure and ground vibrations;
- Sound pressure sources and sound pressure levels (decibels) associated with each source, including peak sound pressure (Peak) and accumulative sound elevation level (SEL);
- Frequency and duration of each sound pressure source;
- Project's impact on fish resulting from each sound pressure source; and
- Methods to attenuate sound pressure to avoid/minimize impacts on fish.

7) Stream Delineation and Impact Assessment. Alternative 2 through Alternative 4 intend to expand the Topanga Lagoon and restore wetted and riparian habitats within the Project site. Restoration activities involve grading, soil removal, vegetation removal, and widening the Topanga Lagoon and recontouring a portion of Topanga Creek.

b) Analysis and Disclosure. In preparation of the EIR, CDFW recommends the EIR include a stream delineation and evaluation of impacts on any river, stream, or lake. The delineation should be conducted pursuant to the USFWS wetland definition adopted by CDFW (*Cowardin et al.* 1979). The EIR should discuss the Project's impact on Topanga Creek and Topanga Lagoon including impacts on associated natural communities. Impacts may include channelizing or diverting streams, impairing a watercourse, and removing or degrading vegetation through habitat modification (e.g., loss of water source, loss of substrate, encroachment, and edge effects leading to introduction of non-native plants).

b) Fish and Game Code Section 1602. 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. As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream or use material from a streambed. For any such activities, the project applicant (or "entity") must notify CDFW. Accordingly, if the Project would impact streams, the EIR should include measures to notify CDFW pursuant to Fish and Game Code section 1602 prior to starting activities that may impact streams. Please visit CDFW's Lake and Streambed

Alteration Program webpage for more information (CDFW 2022d).

8) Impacts to California Species of Special Concern. The NOP states that the greater area of the Project site provides habitat for two SSC species: two-striped garter snake (*Thamnophis hammondii*) and southern western pond turtle (*Emys marmorata pallida*). Two-striped garter snakes are highly aquatic and forage primarily in and along streams for fish and amphibians. Similar to two-striped garter snakes, the southern western pond turtle relies on streams and frequently occupy deep pools with low velocity for habitat. The proposed Project may result in temporal loss of habitat, injury or mortality, reduced population, and stifled reproducing capacity.

   a) Protection Status. Two-striped garter snake and southern western pond turtle are considered SSC and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). CDFW considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

   b) Analysis and Disclosure. The EIR should analyze and discuss the Project's potential impact and cumulative impact on both SSC species. Impacts on behavior, reproductive viability, and overall survival success should be analyzed and discussed in the EIR. In addition, the EIR should analyze use of herbicides, pesticides, and rodenticides. Lastly, the EIR should discuss the Project's potential effect on SSC population for both species on a local and regional scale.

   c) Surveys. In preparation of an EIR, the CDPR should retain a qualified biologist(s) to conduct species-specific and season appropriate surveys where suitable habitat occurs in the Project site. Surveys for southern western pond turtles and potential habitat should follow the United States Geological Survey's 2006 Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion (USGS 2006). Surveys for two-striped garter snake should be conducted when this species is most likely to be encountered, usually conducted between June and July, and during the warm days of summer afternoons. In addition, all potential refugia should be searched including but not limited to holes, mammal burrows, crevices, under rotting logs, woodpiles, boards, and other surface debris. Positive detections of SSC and suitable habitat at the detection location should be mapped and a summary report should be disclosed in the EIR.

9) Impacts to Bats. Bats have the potential to forage and roost in trees and natural areas throughout the Project site. Bats and roost may be impacted by removal of trees, vegetation, and/or structures supporting roosting bats. Bats and roosts may also be adversely impacted by increased noise, human activity, dust, and ground vibration.

   a) Protection Status. Bats are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs., § 251.1). In addition, some bats are considered a California Species of Special Concern (SSC). CEQA provides protection not only for 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 endangered, rare, or threatened species (CEQA Guidelines, § 15380). Take of SSC could require a mandatory finding of

significance (CEQA Guidelines, § 15065).

b) Analysis and Disclosure. CDFW recommends the EIR should discuss the Project's potential impact on bats and habitat supporting roosting bats. A discussion of potential impacts should include impacts that may occur during ground-disturbing activities and vegetation removal.

c) Surveys. In preparation of the EIR, CDFW recommends the CDPR retain a qualified bat specialist identify potential daytime, nighttime, wintering, and hibernation roost sites and conduct bat surveys within these areas (plus a 100-foot buffer as access allows) to identify roosting bats and any maternity roosts. CDFW recommends using acoustic recognition technology to maximize detection of bats. Positive detections of bats and roost locations should be mapped, and a summary report should be disclosed in the EIR.

10) Impacts to Rare Plants. According to the California Natural Diversity Database (CNDDB), Braunton's milkvetch (*Astragalus brauntonii*), Santa Monica mountains dudleya (*Dudleya cymosa* ssp. *ovatifolia*), and white-veined monardella (*Monardella hypoleuca* ssp. *hypoleuca*) have been observed and recorded within the Project site (CDFW 2022b).

a) Protection Status. Braunton's milkvetch is designated as an ESA-listed endangered species. Santa Monica mountains dudleya is designated as an ESA-listed threatened species. White-veined monardella has a California Rare Plant Rank (CRPR) of 1B.3. Plants with a CRPR of 1B are rare throughout their range with most of them endemic to California. Most of the plants that are ranked 1B have declined significantly over the last century (CNPS 2022). Plants with a CRPR of 1B meet the definition of endangered, rare, or threatened species pursuant to CEQA Guidelines section 15380.

b) Surveys. CDPR should retain a qualified biologist to conduct focused rare plant surveys in order to analyze the Project impacts on rare plants for Alternative 2 through Alternative 4. The survey area should include all areas subject to Project-related ground-disturbance activities (e.g., mobilization, parking, staging, and access) and vegetation removal during Project construction and over the Project's lifetime. The survey area should also include areas subject to Project-related herbicide application, spread of invasive species, altered hydrology, and altered habitat conditions (e.g., recontouring, soils, slope, and pollinators) supporting rare plants which are habitat specialists. Per established protocol, botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Botanical field surveys should be spaced throughout the growing season (e.g., early, mid, and late season) to capture the floristic diversity at a level necessary to determine if special status plants are present (CDFW 2018).

11) Impact on Sensitive Natural Communities. There are various riparian communities throughout the Santa Monica Mountains. These riparian communities provide high biological value and typically occur along canyon and valley bottoms where streams, such as Topanga Creek, exist. According to CNDDB, Southern Sycamore Alder Riparian Woodland (*Platanus racemosa - Alnus rhombifolia*) occurs within the Project site. This sensitive natural community has a state rarity ranking of S3. There may also be additional sensitive natural communities within the Project site that are not identified within the NOP.

a) Protection Status. Natural communities with ranks of S1, S2, and S3 are considered sensitive natural communities to be addressed in the environmental review process of CEQA [CEQA Guidelines, §15125(c)]. Many sensitive vegetation communities are associated with perennial or ephemeral sources of water, including groundwater dependent ecosystems. These sensitive communities are deteriorating or have been significantly degraded at local, regional, and state levels. Without identifying the alliance/association vegetation community or their state ranking, the Project may impact sensitive vegetation communities or wildlife species that depend on these communities. The Project may result in substantial adverse direct effect on any S1, S2, or S3 sensitive vegetation communities.

b) Analysis and Disclosure. CDFW recommends the EIR discuss the Project's potential impacts on sensitive plant communities. To analyze the Project's impacts on natural communities within the Project site, the CDPR should retain a qualified biologist to identify and map the natural communities. The qualified biologist should adhere to established protocols for mapping natural communities listed in General Comment #1. Association level mapping is recommended for alliances that have some associations that are designated as sensitive. CDFW recommends the CDPR avoid and minimize development and encroachment onto sensitive trees and woodlands. If avoidance is not feasible, CDFW recommends the EIR include a measure to provide sufficient replacement for the number of impacted trees and acres of impacted woodland. The number of replacement trees and woodland habitat should be higher if the Project would impact large mature trees; impact a woodland supporting rare, sensitive, or special status plants and wildlife; or impact a woodland with a State Rarity Ranking of S1, S2, or S3.

12) Impacts to Nesting Birds. Riparian woodlands are located within the Project site and are known to provide significant habitat for nesting birds. The proposed Project may impact nesting birds through grading activities and removal of vegetation and trees within riparian, transitional, and upland habitat. Furthermore, Project activities occurring during the nesting bird season, especially in areas providing suitable nesting habitat, could result in the incidental loss of fertile eggs or nestlings, or nest abandonment.

a) Protection Status. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

b) Analysis and Disclosure. CDFW recommends the EIR discuss the Project's potential impact on nesting birds and raptors within the Project site. A discussion of potential impacts should include impacts that may occur during ground-disturbing activities and vegetation removal. The EIR should analyze and discuss the Project's impact on bird and raptor nesting and breeding habitat for Alternative 2 through Alternative 4. Edge effects and temporal loss should also be analyzed and discussed. The EIR should also disclose the acreage of bird and raptor nesting and breeding habitat that could be impacted and lost as a result of the proposed Project.

c) Avoidance. CDFW recommends the EIR include a measure to fully avoid impacts to nesting birds and raptors. To the extent feasible, no construction, ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating), and vegetation removal during the avian breeding season which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs.

If impacts to nesting birds and raptors cannot be avoided, CDFW recommends the EIR include measures to minimize impacts on nesting birds and raptors. Prior to starting ground-disturbing activities and vegetation removal, a qualified biologist should conduct nesting bird and raptor surveys to identify nests. The qualified biologist should establish no-disturbance buffers to minimize impacts on those nests. CDFW recommends a minimum 300-foot no disturbance buffer around active bird nests. For raptors, the no disturbance buffer should be expanded to 500 feet and 0.5 mile for special status species, if feasible. Personnel working on the Project, including all contractors working on site, should be instructed on the presence of nesting birds, area sensitivity, and adherence to no-disturbance buffers. Reductions in the buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors determined by a qualified biologist.

13) Landscaping. The proposed Project involves restoration activities that entail removal and replacement of vegetation and trees. CDFW recommends the CDPR only use native species found in naturally occurring vegetation communities within or adjacent to the Project site. The proposed Project should not plant, seed, or otherwise introduce non-native, invasive plant species to areas that are adjacent to and/or near native habitat areas. Accordingly, CDFW recommends the CDPR restrict use of any species, particularly 'Moderate' or 'High' listed by the California Invasive Plant Council (Cal-IPC 2022). These species are documented to have substantial and severe ecological impacts on physical processes, plant and animal communities, and vegetation structure.

14) Pest Management. The proposed Project may have the potential to spread tree pests and diseases throughout the Project site and into adjacent natural habitat not currently exposed to these stressors. This could result in expediting the loss of native trees. As such, CDFW recommends the EIR provide measures to develop and implement an infectious tree disease management plan or provide mitigation measures. The infectious tree disease management plan or mitigation measures should be developed in consultation with an arborist and describe how the plan or mitigation measures will avoid or reduce the spread of tree insect pests and diseases.

15) Use of Rodenticides. If the Project results in enhanced landscaping, vegetation may need to be managed via chemical methods. Herbicides, pesticides, and rodenticides may impact wildlife. Second generation anticoagulant rodenticides are known to have harmful effects on the ecosystem and wildlife. Assembly Bill 1788 prohibits the use of any second-generation anticoagulant rodenticides because second generation anticoagulant rodenticides have a higher toxicity and are more dangerous to nontarget wildlife (California Legislative Information 2020). CDFW recommends the EIR include a discussion as to the Project's use of herbicides, pesticides, and second-generation anticoagulant rodenticides to maintain the restored areas within the Project site in perpetuity. CDFW recommends the CDPR include measures that would prohibit the use of any second-generation anticoagulant rodenticides

throughout the Project.

General Comments

1) Biological Baseline Assessment. The EIR should provide an adequate biological resources assessment, including a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place emphasis upon identifying endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project site. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. An environmental document should include the following information:

   a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The EIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the Vegetation Classification and Mapping Program - Natural Communities webpage (CDFW 2022c).

   b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). Adjoining habitat areas should be included where Project construction and activities could lead to direct or indirect impacts off site.

   c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at a Project site and within the neighboring vicinity. The Manual of California Vegetation (MCV), second edition, should also be used to inform this mapping and assessment (Sawyer et al. 2009). Adjoining habitat areas should be included in this assessment the Project could lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

   d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by a Project. California Natural Diversity Database in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat. An assessment should include a nine-quadrangle search of the CNDDB to determine a list of species potentially present at a Project site. A lack of records in the CNDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur in the Project site. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)].

e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of a Project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's Survey and Monitoring Protocols and Guidelines for established survey protocol for select species (CDFW 2022e). Acceptable species-specific survey procedures may be developed in consultation with CDFW and the USFWS; and

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

2) Scientific Collecting Permit. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2022h).

3) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation are the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or threatened plants and animals. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving plants and animals and their habitats.

4) Disclosure. A EIR should provide an adequate, complete, and detailed disclosure about the effect which a proposed Project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, §15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).

5) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant,

avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental document "shall describe feasible measures which could mitigate for impacts below a significant level under CEQA."

a) Level of Detail. Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the Lead Agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4). A public agency "shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures" (Pub. Resources Code, § 21081.6). CDFW recommends the CDPR provide mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). Adequate disclosure is necessary so CDFW may provide comments on the adequacy and feasibility of proposed mitigation measures.

b) Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the Project as proposed, the EIR should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the EIR should provide an adequate, complete, and detailed disclosure about a project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

6) Data. CEQA requires that information developed in environmental impact reports be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and natural communities detected by completing and submitting CNDDB Field Survey Forms (CDFW 2022f). The CDPR should ensure data collected for the preparation of the EIR be properly submitted, with all data fields applicable filled out. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred.

7) Biological Direct, Indirect, and Cumulative Impacts. CDFW recommends providing a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The EIR should address the following:

a) A discussion regarding Project-related indirect impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the EIR.

b) A discussion of both the short-term and long-term effects to species population

distribution and concentration and alterations of the ecosystem supporting the species impacted [CEQA Guidelines, § 15126.2(a)].

c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures.

d) A discussion of Project-related changes on drainage patterns; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project sites. The discussion should also address the potential water extraction activities and the potential resulting impacts on the habitat (if any) supported by the groundwater. Mitigation measures proposed to alleviate such Project impacts should be included.

e) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the EIR; and

f) A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant and wildlife species, habitat, and vegetation communities. If the CDPR determines that the Project would not have a cumulative impact, the EIR should indicate why the cumulative impact is not significant. The CDPR's conclusion should be supported by facts and analyses [CEQA Guidelines, § 15130(a)(2)].

8) Compensatory Mitigation. The EIR should include mitigation measures for adverse Project-related direct or indirect impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code, section 65967, the Lead Agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.

9) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, an EIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.

Conclusion

We appreciate the opportunity to comment on the NOP for the Topanga Lagoon Restoration Project to assist the CDPR in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Julisa Portugal, Environmental Scientist, at Julisa.Portugal@wildlife.ca.gov or (562) 330-7563.

Sincerely,

DocuSigned by:
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