State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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***GAVIN NEWSOM, Governor***
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December 5, 2024

Julia Ayres, Principal Planner
City of Brisbane
50 Park Place
Brisbane, CA 94005
JAyres@brisbaneca.org

Subject: Guadalupe Quarry Redevelopment Project, Draft Environmental Impact Report, SCH No. 2022060358, City of Brisbane, San Mateo County

Dear Julia Ayres:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of Draft Environmental Impact Report (EIR) from the City of Brisbane (City) for the Guadalupe Quarry Redevelopment Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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 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, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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 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. As proposed, for example, the Project may be subject to CDFW's Lake and Streambed

[1] 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 15000.

Alteration (LSA) 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.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

**California Endangered Species Act and Native Plant Protection Act**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA or Native Plant Protection Act (NPPA), either during construction or over the life of the Project. Under CESA, take is defined as "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." Issuance of an ITP is subject to CEQA documentation. If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. Fully protected species may not be taken or possessed at any time (Fish and Game Code, §§ 3511, 4700, 5050, and 5515.)

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080 et. seq.

**Lake and Streambed Alteration**

CDFW requires a LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting river, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Any impacts to the mainstems, tributaries and floodplains or associated riparian habitat would likely require an LSA Notification. CDFW, as a responsible agency under CEQA, will consider the EIR for the Project. CDFW may not

execute a final LSA Agreement until it has complied with CEQA as the responsible agency.

**Raptors and Other Nesting Birds**

CDFW has authority over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** The City of Brisbane

**Objective:** The proposed Project plans to close Guadalupe Quarry to construct and operate a three-story, 500,000 square-foot warehouse facility with a maximum height of 100 feet. Primary Project activities include constructing the new warehouse and access routes, construction of a new underground electrical line from the Pacific Gas and Electric Company (PG&E) Martin Substation to the Project site, General Plan amendment of the land use designation from Planned Development-Trade Commercial to Trade Commercial, subdividing the quarry property and making parcel boundary adjustments along access routes, amending the San Bruno Mountain Habitat Conservation Plan (HCP) to include the Project property, and annexing approximately 104 acres into the City of Brisbane.

The Project also plans to protect 36 acres of the property under a conservation easement and donate 46 acres to San Mateo County Parks as Conserved Habitat under the amended San Bruno Mountain Area HCP.

**Location:** The Project site is located in the City of Brisbane, San Mateo County, CA 94005, at the junction of Quarry Road and South Hill Drive; APN 005270110, 005260480, 005270080, 005270070, 005270090, and 005260380; Latitude 37.685350, Longitude -122.421261.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

## I. Project Description and Related Impact Shortcoming

**Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or U.S. Fish and Wildlife Services?**

**COMMENT 1: Riparian Encroachment**

**Issue:** A Biological Resources Analysis Supplemental Technical Memo (Appendix F) prepared by Monk and Associates for the Project identifies the proposed Project may impact up to 1.08 acres of riparian woodland community identified as Central Coast Riparian Scrub (Holand 1986) considered a State Ranking of S3 – Vulnerable plant community by the CDFW. According to the Project EIR, impacts to this riparian community will occur from activities related to road access. Two options are being considered. Alignment A would result in greater impacts to riparian habitat [approximately 1.08-acre (804-linear feet) in total] as the road would run along this drainage. Alignment B is currently under consideration as an alternative as it would cross the drainage at a perpendicular angle with a clearspan bridge resulting in fewer impacts.

**Evidence the impact would be significant:** Central Coast Riparian Scrub "is vulnerable in the State due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors making it vulnerable to extirpation in California" (from CDFW 2018 referenced in Appendix F of the Project). Continued loss of this riparian habitat from Project encroachment is damaging to the watershed's biotic and abiotic integrity. Encroachment in the riparian zone can negatively impact sensitive riparian species and can lead to increased pollutants and deleterious materials entering the stream. Riparian trees and vegetation, and associated floodplains, provide many essential benefits to stream and aquatic species habitat (Moyle 2002, CDFW 2007), including thermal protection, cover, and large woody debris. Substantial removal of trees and other vegetation significantly reduces suitable nesting and roosting habitat for many bird and bat species, such as pallid bat, an Species of Special Concern (SSC), and causes the loss of important refugia for small mammals. Development adjacent to the riparian zone can result in fragmentation of riparian habitat and decreases in native species abundance and biodiversity (Davies et al. 2001, Hansen et al. 2005, CDFW 2007). An estimated two to seven percent of California's riparian habitat remains intact and has not been converted to other land uses (Katibah 1984, Dawdy 1989). Riparian buffers help keep pollutants from entering adjacent waters through a combination of processes including dilution, sequestration by plants and microbes, biodegradation, chemical degradation, volatilization, and entrapment within soil particles. Narrow riparian buffers are considerably less effective in minimizing the effects of adjacent

development than wider buffers (Castelle et al. 1992, Brosofske et al. 1997, Dong et al. 1998, Kiffney et al. 2003, Moore et al. 2005).

**Recommendation 1:** CDFW recommends the Project avoid to the greatest extent feasible all impacts to Central Coast Riparian Scrub and establish protective riparian buffer zones to limit development and vegetation clearing to outside of and away from riparian areas. To address Project activities that cannot avoid impacts to the riparian zone, CDFW recommends that the EIR include a plan detailing any proposed on and/or off-site mitigation needs necessary to compensate for net-loss of riparian or stream resources. Examples of permanent impacts include but are not limited to: hardscape materials and geo-textile fabric within the bed, bank or channel of a stream; loss of riparian vegetation and mature trees; and expansion of existing infrastructure footprints. CDFW recommends the proposed mitigation plan include details such as mitigation location(s), proposed actions, monitoring, success criteria, and any corrective actions. Further, CDFW recommends the Project not rely on "enhancement" mitigation alone for permanent impacts to riparian habitat. Alternative options may include compensatory mitigation in the form of permanent protection of riparian resources and/or creation of riparian habitat along streams such as streamside pavement removal and riparian revegetation.

**COMMENT 2: Special-Status Plant Surveys**

**Issue:** Mitigation Measure BIO-1 in the draft EIR describes avoidance and minimization measures that would be used to protect special-status plants that may occur within the Project area. Under this measure, surveys for special-status plants could occur up to five years in advance of commencement of Project grading and vegetation clearing activities. Special-status plant surveys should occur closer to the date of commencement of Project activities.

**Evidence the impact would be significant:** The conservation of special-status native plants is essential to maintaining biodiversity in the California Bay Area. Native plants are better adapted to the local environment, allowing them to grow more efficiently, require less maintenance, and provide habitat resources for other native species (Berthon et al. 2020). Industrial land development is a leading threat to endangered plant communities, causing resource depletion through direct habitat replacement and increased input of pollutants into the environment (Czech et al. 2000). Limited distribution and small population sizes of special-status plants can increase the difficulty in species detection, and robust survey efforts are imperative to determine whether plant species protected under the CESA and NPPA occur within the Project area. Robust and timely survey efforts are a necessary first step in avoiding take of listed species.

**Recommendation 2:** CDFW recommends the EIR amend Mitigation Measure BIO-1 with the following bolded changes:

> A Qualified Biologist approved by the City shall conduct pre-construction presence/absence surveys for special-status plants (species with federal or state listing and/or CRPR 1 or 2 species) identified as having potential to occur in the Project area (including low potential) in accordance with the most recent USFWS, CDFW, and California Native Plant Society (CNPS) plant survey guidelines. Surveys shall occur **within one year of commencement of Project grading and vegetation clearing activities**. To capture variability of special-status species distribution, surveys shall be conducted during the appropriate flowering periods for each species as listed below.
>
> - Robust spineflower (*Chorizanthe robusta* var. *robusta*): **April** through September
> - Kellogg's horkelia (Horkelia cuneata var. sericea): **February through July**
> - San Francisco lessingia (Lessingia germanorum): **July** through November
> - Choris' popcornflower (Plagiobothrys chorisianus var. chorisianus): **March** through June
> - Mondarella (Monardella sinuata nigrescens): **May through July**

**COMMENT 3: Crotch's Bumble Bee**

**Issue:** The draft EIR does not identify Project potential to impact Crotch's bumble bee (*Bombus crotchii*, CBB), however their potential presence within the Project area is not ruled out (see page 40 of Appendix F). The current range of CBB, a species listed as candidate endangered under the CESA, encompasses the proposed Project area. Bumble bees, including CBB, are found in a wide variety of natural, agricultural, urban and rural habitats, and require suitable nesting and overwintering sites as well as availability of nectar and pollen from floral resources (Hatfield et al. 2018). Proposed Project activities as described in the draft EIR could impact bumble bees if they are present on-site.

**Evidence the impact would be significant:** The Project as described in the draft EIR would impact approximately 4.8 acres of potentially suitable bumblebee habitat, consisting of grassy and scrub mosaic habitats which could potentially provide nesting and/or foraging habitat for CBB. Bumble bee nests are most often located underground in abandoned holes made by ground squirrels and rodents, and

occasionally in abandoned bird nests. Any near-surface or subsurface ground disturbance could result in the direct take of bumble bee colonies or overwintering queens. Project activities involving removal of floral resources would also impact survival of resident bumble bees, given that bumble bees visit native and non-native flowering plants alike to collect the pollen and nectar resources needed to sustain their colonies and provision nest cells. Further, the use of pesticides and herbicides in landscaping during Project operation could cause direct or indirect mortality of special-status bees, including CBB.

Many bumble bee species, once common in the western United States, have undergone a dramatic decline in both distribution and abundance and are now extirpated from much of their historic ranges. Many bumble bees are threatened with extinction due primarily to reductions in habitat from urbanization, intensive agricultural practices, and invasive species introductions. CBB is a candidate species under CESA and therefore should be considered a threatened, endangered, or rare species under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if CBB occur at the Project site and Project impacts to CBB would occur, this may result in a substantial reduction in the species' population, which would be a mandatory finding of significance (CEQA Guidelines, § 15065).

**Recommendation 3:** CDFW recommends the EIR amend Mitigation Measure BIO-4 to include the following measures for CBB avoidance and mitigation:

**Crotch's Bumble Bee Habitat Assessment**

CDFW recommends the EIR be revised to include a thorough habitat assessment for CBB within the Project area and surrounding areas that may be impacted by Project construction and operations. The assessment should be conducted by a qualified entomologist knowledgeable with the life history and ecological requirements of CBB, and include all areas of suitable overwintering, nesting, and foraging habitats.

Suitable habitat includes areas of grasslands and upland scrub that contain requisite habitat elements such as small mammal burrows and forage plants. Potential nest habitat (late February to late October) could contain underground abandoned small mammal burrows, perennial bunch grasses and/or thatched annual grasses, brush piles, old bird nests, dead trees, or hollow logs. Overwintering sites (November through early February) utilized by mated queens in self-excavated hibernacula could be present in soft, disturbed soil, sand, well-drained, or loose soils, under leaf litter or other debris with ground cover requisites such as barren areas, tree litter, bare patches within short grass in areas lacking dense vegetation.

**Crotch's Bumble Bee Surveys**

The EIR should address specific requirements for bumble bees. It should state that pre-construction surveys will be conducted within the Project area and surrounding areas which may be impacted by Project construction and/or operations. CDFW recommends following the guidance outlined in the California Bumble Bee Atlas Habitat surveys- Cali Bumble Bee Atlas – California Bumble Bee Atlas (https://www.cabumblebeeatlas.org/habitat-surveys.html).

The peak flying time for CBB is March to August, but bees could be flying anytime between February 1 and October 31. Surveys between March and June are expected to have the highest detection probability and are therefore the period recommended for pre-construction surveys. Surveys should be conducted no more than 30 days prior to start of Project construction activities, assessing all areas of suitable habitat for overwintering, nesting and foraging at, and within 100 feet of the proposed work area. Surveys should include a minimum of three survey efforts, over a three-day period within a temperature range of 15C and 30C although bumblebees and can fly and forage at near freezing temperatures. If the surveyor suspects CBB detection or occupancy, CDFW should be consulted immediately.

Goals of the surveys should be to potentially identify the bee species through non-take methods (close lens photography), foraging plants, and potential ground nest sites on site. Surveys should include examining flowering vegetation, any potential preferred nectar plants, small mammal burrows, bunch grasses, thatch, brush piles, old bird bests, dead trees, or hollow logs. Survey results, after the protocol was followed, would be good for one year (until the next flying period season) but a pre-activity survey would still be needed prior to ground-disturbing activities.

**Avoidance of Crotch's Bumble Bee Nesting Colonies**

CDFW recommends that inactive small mammal burrows and thatched/bunch grasses be avoided whenever feasible. If an inactive burrow may be disturbed by Project activities, it should be resurveyed for CBB presence within seven days prior to the scheduled disturbance. If CBB has been detected during surveys, the qualified entomologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, 45-foot no-disturbance buffer zones should be established around nests to reduce the risk of disturbance or accidental take. If Project activities may result in disturbance or potential take, the qualified entomologist should expand the buffer zone as necessary to prevent disturbance or take.

**Crotch's Bumble Bee Take Authorization**

If surveys document presence of CBB within the Project area, due to the difficulty of completely avoiding take of individuals of the species, CDFW strongly recommends that the Project proponent apply for an ITP under CESA to provide take authorization for CBB as a covered species.

**Crotch's Bumble Bee Compensatory Mitigation**

CDFW recommends that the EIR include compensatory mitigation for the loss of all suitable CBB habitat. Bumble bee floral resources should be mitigated at a 3:1 ratio for permanent impacts in the absence of information regarding the compensatory mitigation site. Floral resources should be replaced as close to their original location as is feasible. If active Crotch's bumble bee nests have been identified and floral resources cannot be replaced within 600 feet of their original location, floral resources should be planted in the most centrally available location relative to identified nests. This location should be no more than 4,900 feet (1.5-km) from any identified nest. Replaced floral resources may be split into multiple patches to meet distance requirements for multiple nests.

**COMMENT 4: San Bruno Mountain Ecological Reserve**

**Issue:** It is unclear if the Quarry Road expansion described in the draft EIR would impact or enter the San Bruno Mountain Ecological Reserve (SBMER) which is owned and managed by CDFW.

**Recommendation:** The EIR should clearly state whether the expanded road could impact the Ecological Reserve. If the Quarry Road expansion Project could impact the SBMER, close coordination with CDFW staff is required, and a Right of Entry permit from CDFW would be required at a minimum.

**ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations 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 during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

## ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (See 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 draft EIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Shannon Husband, Environmental Scientist, at (707) 337-1364 or Shannon.Husband@wildlife.ca.gov, or Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento

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