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Governor's Office of Planning & Research

August 30, 2022

**Aug 30 2022**

**STATE CLEARINGHOUSE**

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**Subject: Comments on the Notice of Preparation of a Draft Program Environmental Impact Report for the Decommissioning and Remediation of the Chevron Carpinteria Oil and Gas Processing Facility Project #2128, SCH #2022080026, Santa Barbara County**

Dear Steve Goggia:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Decommissioning and Remediation of the Chevron Carpinteria Oil and Gas Processing Facility Project #2128 (Project). The City of Carpinteria (City) is the lead agency preparing a DEIR pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code, § 15082 et. seq.) with the purpose of informing decision-makers and the public regarding potential environmental effects related to the Project.

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

#### **CDFW's Role**

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & Game Code, §§ 711.7, subdivision (a) & 1802; Public 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 (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 et seq.). Likewise, to the extent

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implementation of the Project as proposed may result in “take” (see Fish & Game Code, § 2050) of any species protected under the California Endangered Species Act (CESA; Fish & Game Code, § 2050 *et seq.*) or the Native Plant Protection Act (NPPA; Fish & Game Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

**Project Location:** Access to the Project site is from U.S. Highway 101 to Bailard Avenue and west onto Carpinteria Avenue to Dump Road. The site is bisected by Dump Road from west to east, and by the Union Pacific Railroad from north to south. The eastern portion of the Project site remains mainly developed by oil and gas processing equipment. The western portion of the site is primarily open space. The southern third of the site is open space along the bluffs with two large parking areas available for the Casitas Pier operations.

Surrounding land uses include the Carpinteria City Hall, Carpinteria Avenue, and U.S. Highway 101 to the north, the Pacific Ocean to the south, the Concha Loma single-family residential neighborhood to the west, and a public golf driving range, agriculture, and open space to the east.

**Project Description/Objectives:** The Project's purpose is to demolish and remove surface and subsurface facilities and subsequent remediation of impacted soils at the onshore Carpinteria Oil and Gas Processing Facility to accommodate the site's potential future redevelopment. Remediation is targeted to the most stringent clean up levels as determined by the Santa Barbara County Public Health Department, Environmental Health Services Department, Regional Water Quality Control Board, and U.S. Environmental Protection Agency, while preserving existing site resources, including mature trees and bluffs, and buffer zones adjacent to the railroad right-of-way. Tier 1 Environmental Screening Levels for residential uses are being used as the standard for on-site soil remediation, consistent with Chevron's clean up objectives. Project objectives include:

**Onshore**

- Idling and removal of all existing surface and subsurface equipment, piping, and structures within the Oil and Gas Processing Plant;
- Removal of concrete foundations, asphalt, oil spray and road base;
- Excavation/remediation of any impacted soil;
- Recycling/disposal of all materials removed from the Project site(s); and
- Site restoration.

**Beach Crossing and Offshore Pipelines (State Waters)**

- Pig and flush pipelines in preparation for removal;
- Removal of offshore Project pipeline segments out to 3-mile State waters limit;
- Potential nighttime activities in surf zone due to tidal restrictions;
- Removal of nearshore beach crossing pipeline segments;
- Recycling/disposal of all materials removed from the Project site(s); and,
- Site restoration.

Based on the proposed Project application package, the Project is expected to require 670 days over a three-year period.

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## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations 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.

### **Marine Comments**

#### **Sensitive Marine Habitats**

According to the Project's Marine Biological Resources Report (Report), the following sensitive marine habitats occur or may occur in the Project area: rocky reefs, kelp forest, eelgrass (*Zostera* spp.) beds, and surf grass (*Phyllospadix* spp.) beds. These habitats have been designated as habitat areas of particular concern (HAPC) within the Pacific Coast Groundfish Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act. HAPC, a subset of Essential Fish Habitat, are habitats of special importance to fish populations due to their rarity, vulnerability to development and anthropogenic degradation, and/or ability to provide key ecological functions. Eelgrass is further protected under state and federal "no-net-loss" policies for wetland habitats. Additionally, the importance of eelgrass protection and restoration as well as the ecological benefits of eelgrass are identified in the California Public Resources Code, section 35630.

In-water Project activities may impact sensitive marine habitats. Kelp or surf grass attached to the pipelines would be directly affected by pipeline removal. Similarly, in sections where the pipelines are buried, eelgrass growing in those sediments would likely be uprooted as the pipelines are excavated. The resuspension and distribution of sediments by underwater excavation methods such as jetting may also impact sensitive marine habitats via direct burial/smothering, increased turbidity, and/or decreased light availability.

CDFW agrees with the Report that further study is needed to determine whether eelgrass is present near the Project area. CDFW recommends conducting eelgrass surveys in accordance with the California Eelgrass Mitigation Policy (NMFS 2014) and in consultation with the National Marine Fisheries Service. Further study is also needed to determine if kelp, eelgrass, or surf grass are growing on or above the pipelines. The DEIR should document these findings as well as all sensitive marine habitats within the Project area. Project activities should avoid sensitive marine habitats to the greatest extent possible. If these habitats cannot be avoided, the DEIR should include appropriate mitigation measures.

#### **Sensitive Marine Species Surveys and Monitoring**

CDFW agrees with the Report that California grunion (*Leuresthes tenuis*) may occur seasonally within the Project area. California grunion are endemic to California and Baja California and support a culturally important recreational fishery. Grunion are known to regularly spawn on several nearby beaches during the spawning season (March–August). Project activities occurring below the highest tide line (e.g., sand moving, use of heavy equipment) during this timeframe may disturb or bury incubating grunion eggs and larvae. In-water activities in the surf zone/nearshore that generate high underwater sound levels or turbidity may also deter grunion from spawning.

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Project activities on the beach (below the highest tide line) and in the surf zone during March–August should be avoided to the greatest extent feasible. If work during this time cannot be avoided, the DEIR should provide measures to mitigate for the Project’s potential impacts on California grunion. CDFW recommends that a qualified biological observer monitor the work site prior to the start of activities in the intertidal zone during the previous forecast grunion run period (3–4 nights in a row). If grunion is 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>.

The Report also identifies black abalone (*Haliotis cracherodii*) and white abalone (*Haliotis sorenseni*) as special-status species that may occur in the Project area. There is some probability that abalone could be found on the pipelines themselves in unburied sections. For this reason, CDFW recommends conducting abalone surveys on the unburied sections of pipeline prior to removal under consultation with the National Marine Fisheries Service. The DEIR should consider the potential impacts to abalone that may be found on the pipelines and include appropriate mitigation measures.

### **Underwater Noise**

Some Project activities, such as jack hammering and cutting of the pipelines, may generate underwater noise (e.g., high underwater sound levels) that is harmful to marine mammals and/or fish. For assessing impacts of underwater noise on fish, CDFW relies on guidance from the Fisheries Hydroacoustic Working Group to set safe sound pressure level (SPL) criteria (FHWG 2008). The criteria include a peak SPL of 206 decibels and a cumulative sound exposure (SEL) level of 187 decibels for fish two grams and heavier or a cumulative SEL of 183 decibels for fish lighter than two grams. While these criteria were developed for pile driving, they are applicable to any noise-producing underwater activity.

The DEIR should discuss potential impacts to marine mammals and fish from underwater noise-producing activities and include an analysis of anticipated underwater sound levels for these activities. If activities will generate high underwater sound levels, CDFW recommends using a “soft-start” technique for these activities so that any marine mammals or fish present may vacate the area before injury occurs. CDFW appreciates AMM 3 (Marine Wildlife Contingency Plan Implementation), which includes the presence of a Marine Wildlife Monitor during Project activities offshore and on the beach and looks forward to reviewing this document once it is available. CDFW recommends that the Marine Wildlife Contingency Plan include exclusion zones for marine mammals, which should be developed in consultation with the National Marine Fisheries Service and CDFW.

### **Oil Spill Response**

CDFW appreciates the inclusion of AMM 6 (Oil Spill Response and Contingency Plan Implementation) and recommends coordinating closely with CDFW’s Office of Spill Prevention and Response (OSPR) while developing this plan.

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### Marine Life on Pipelines

CDFW expects that a variety of marine life is currently growing on or attached to the pipelines proposed for removal. These organisms may include, but are not limited to, mussels, barnacles, hydroids, surf grass, kelp, and other marine algae. The DEIR should explain in detail what the Project plans to do with the marine life attached to the pipelines; for instance, if organisms will be removed, how and where they will be removed, etc. Special consideration should be given to special-status species, such as black abalone, and what mitigation measures may be required. CDFW recommends that the Project proponent consult with CDFW on what authorizations may be required for the removal of species attached to the pipelines.

### Terrestrial Comments

CDFW uses natural communities, as found in the online version of the Manual of California Vegetation (2022), to track vegetation communities of California as well as their rarity. Many of the alliances listed in the NOP were not able to be verified in either the current Manual of California Vegetation 2022 (online version) or the CDFW list of natural community alliances and associations list (links provided below). CDFW is unable to verify the rarity ranking or determine if these natural communities (alliances/association) are Sensitive Natural Communities without the proper nomenclature. Alliances and associations are continuously updated; as such, the book version published in 2009 should no longer be solely relied on as accurate.

Section 3.4 (b) of the NOP lists several alliances without any ranking, and some alliances whose names CDFW could not verify as currently existing alliances/associations. Of the alliances listed in the NOP, CDFW has designated the following Manual of California Vegetation (2022 version; MCV) alliances and associations as Sensitive Natural Communities.

Alliance Listed in NOP	Ranking	Issue
Platanus racemosa – Quercus agrifolia Alliance	S3	This alliance is considered rare by CDFW. The NOP should include this ranking information.
Artemisia californica shrubland alliance/California sagebrush scrub	Not a recognized alliance	This appears to be an older alliance name that is no longer used. The NOP should use current nomenclature for natural communities to allow CDFW to assess the rarity ranking of the habitat.
Atriplex lentiformis alliance	S4 - CEQA locally rare	CDFW considers this alliance locally rare in Carpinteria and coastal Santa Barbara County due to high levels of loss.
Baccharis pilularis alliance	S5 - CEQA locally rare	CDFW considers this alliance locally rare in Carpinteria and coastal Santa Barbara County due to high levels of loss.
Isocoma menziesii alliance	S3	This alliance is considered rare by CDFW. The NOP should include this ranking information.

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"Heteromeles arbutifolia shrubland alliance" and "toyon chaparral"	Not a recognized alliance	The NOP should update to currently recognized nomenclature. The Heteromeles arbutifolia (Provisional Association 37.912.01) might be a good fit, and this alliance has been given a rare rank and should be considered a sensitive natural community. CDFW is not clear if this was the association found onsite as the naming is unclear.
Rhus integrifolia Shrubland Alliance	S3	This alliance is considered rare by CDFW. The NOP should include this ranking information.
"Sambucus nigra alliance"	Not a recognized alliance	The NOP should update to currently recognized nomenclature. The Sambucus nigra association (63.410.01) might be a good fit, and this alliance is listed as rare. CDFW is not clear if this was the association found onsite as the naming is unclear.

CDFW recommends re-assessing the natural communities on-site using current MCV online (2022) nomenclature. CDFW recommends avoiding all sensitive natural communities. The complete list of alliances/associations can be found here

<https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities> or here: <https://vegetation.cnps.org/search?>

### General Comments

- 1) California Endangered Species Act (CESA). Project-related activities may adversely impact potential habitat for this species. 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 State-listed rare plant species that results from the Project is prohibited, except as authorized by State law (Fish and Game Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project 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 authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required in order 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 CEQA document addresses all Project impacts to 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.

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- 2) Fully Protected Species. CDFW cannot authorize the take of any fully protected species as defined by State law. State fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for its take except for collecting those species for necessary scientific research and relocation of the bird species for protection of livestock (Fish & G. Code, §§ 3511, 4700, 5050, 5515). Take of any species designated as fully protected under the Fish and Game Code is prohibited.
  
- 3) Project Description and Alternatives. To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the DEIR:
  - a) A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas; and,
  
  - b) A range of feasible alternatives to Project component location and design features to ensure that alternatives to the proposed Project are fully considered and evaluated. The alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and wildlife movement areas.
  
- 4) Lake and Streambed Alteration (LSA) Agreements. 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 provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a LSA Agreement with the applicant is required prior to conducting the proposed activities. CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require related environmental compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document prepared by the local jurisdiction (Lead Agency) for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the DEIR should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA Agreement<sup>1</sup>.
  - a) The Project area supports aquatic, riparian, and wetland habitats; therefore, a preliminary jurisdictional delineation of the streams and their associated riparian habitats should be included in the DEIR. The delineation should be conducted pursuant to the U. S. Fish and Wildlife Service (USFWS) wetland definition adopted by the CDFW (Cowardian, 1970). Some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' section 404 permit and Regional Water Quality Control Board section 401 Certification.
  
  - b) In areas of the Project site which may support ephemeral streams, herbaceous vegetation, woody vegetation, and woodlands also serve to protect the integrity of

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<sup>1</sup> A notification package for a LSA may be obtained by accessing the CDFW's web site at [www.wildlife.ca.gov/habcon/1600](http://www.wildlife.ca.gov/habcon/1600).



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ephemeral channels and help maintain natural sedimentation processes; therefore, CDFW recommends effective setbacks be established to maintain appropriately-sized vegetated buffer areas adjoining ephemeral drainages.

- c) Project-related changes in drainage patterns, runoff, and sedimentation should be included and evaluated in the DEIR.
- 5) Wetlands Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's policies. The Wetlands Resources policy (<http://www.fgc.ca.gov/policy/>) of the Fish and Game Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement and expansion of wetland habitat in California. Further, it is the policy of the Fish and Game Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."
- a) The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, the Project must include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions for the benefit to on-site and off-site wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DEIR and these measures should compensate for the loss of function and value.
- b) The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this state that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this state; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & Game Code, § 5650).
- 6) Biological Baseline Assessment. To provide a complete assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying



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endangered, threatened, sensitive, regionally and locally unique species, and sensitive habitats, the DEIR 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)];
- 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 Natural Communities* (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>). Anyone who collects scientific plant specimens of state-listed species, or who may encounter a state-listed species that needs to be identified during field surveys should have a plant voucher collection permit (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=44384&inline>);
- c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the Project site and within the neighboring vicinity. *The Manual of California Vegetation* online edition should also be used to inform this mapping and assessment (<https://vegetation.cnps.org/search?>). Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. 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 the project. CDFW's California Natural Diversity Data Base (CNDDDB) in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat. CDFW recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Online forms can be obtained and submitted at [http://www.dfg.ca.gov/biogeodata/cnddb/submitting\\_data\\_to\\_cnddb.asp](http://www.dfg.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp);
- 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 SSC and California Fully Protected Species (Fish & Game 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 the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should 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 two years, in non-drought conditions. Some aspects of the 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.

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- 7) Biological Direct, Indirect, and Cumulative Impacts. To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR:
- a) A discussion of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address Project-related changes on drainage patterns and downstream of the project site; 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 site. The discussion should also address the proximity of the extraction activities to the water table, whether dewatering would be necessary 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;
  - b) A discussion regarding indirect Project 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 (NCCP, Fish & Game 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 DEIR;
  - c) An analysis of impacts from land use designations 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 DEIR; and,
  - d) 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 communities and wildlife habitats.
- 8) Avoidance, Minimization, and Mitigation for Sensitive Plants. The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts. CDFW considers these communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3 and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in MCV.
- 9) Compensatory Mitigation. The DEIR should include mitigation measures for adverse Project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project 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

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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.

- 10) Long-Term Management of Mitigation Lands. For proposed preservation and/or restoration, the DEIR 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.
- 11) Nesting Birds. CDFW recommends that measures be taken to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Title 50, § 10.13, Code of Federal Regulations). 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). Proposed Project activities including (but not limited to) staging and disturbances to native and nonnative vegetation, structures, and substrates should occur outside of the avian breeding season which generally runs from February 1 through September 1 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, CDFW recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300-feet of the disturbance area (within 500-feet for raptors). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.
- 12) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of moving an individual from the Project site 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 rare, threatened, or endangered plant or animal species. 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 sensitive plants and animals and their habitats.
- 13) Moving out of Harm's Way. The proposed Project is anticipated to result in clearing of natural habitats that support many species of indigenous wildlife. To avoid direct mortality, we recommend that a qualified biological monitor approved by CDFW be on-site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grubbing or Project-related construction activities. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting project impacts

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associated with habitat loss. If the project requires species to be removed, disturbed, or otherwise handled, we recommend that the DEIR clearly identify that the designated entity shall obtain all appropriate state and federal permits.


- 14) Revegetation/Restoration Plan. Plans for restoration and re-vegetation should be prepared by persons with expertise in southern California ecosystems and native plant restoration techniques. Plans should identify the assumptions used to develop the proposed restoration strategy. Each plan should include, at a minimum: (a) the location of restoration sites and assessment of appropriate reference sites; (b) the plant species to be used, sources of local propagules, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) a local seed and cuttings and planting schedule; (e) a description of the irrigation methodology; (f) measures to control non-native vegetation on site; (g) specific, measurable success criteria; (h) a detailed qualitative monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought. Monitoring should demonstrate a positive trend for native species cover, diversity, and abundance, and a negative trend for non-native species cover with no further manipulation of the site occurring during this period. If manipulation of the site is still occurring (replacing dead plants, irrigation, weeding) then this is still considered the installation period and should not be used as monitoring data to determine success. The monitoring period should start after the installation period has been completed and the site is not being actively manipulated, as manipulation of the site skews any data collection toward prematurely meeting success criteria that might not have been met had the site been left alone.
- a) CDFW recommends that local on-site propagules from the Project area and nearby vicinity be collected and used for restoration purposes. On-site seed collection should be initiated in the near future to accumulate sufficient propagule material for subsequent use in future years. On-site vegetation mapping at the alliance and/or association level should be used to develop appropriate restoration goals and local plant palettes. Reference areas should be identified to help guide restoration efforts. Specific restoration plans should be developed for various Project components as appropriate.
- b) Restoration objectives should include providing special habitat elements where feasible to benefit key wildlife species. These physical and biological features can include (for example) retention of woody material, logs, snags, rocks and brush piles (see Mayer and Laudenslayer, 1988).

## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Kelly Schmoker, Senior Environmental Scientist, at (626) 848-8382 or by email at [Kelly.Schmoker@wildlife.ca.gov](mailto:Kelly.Schmoker@wildlife.ca.gov).

Steve Goggia  
Community Development Director  
City of Carpinteria  
August 30, 2022  
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Sincerely,

DocuSigned by:  
  
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Erinn Wilson-Olgin  
Environmental Program Manager I  
South Coast Region

cc: CDFW

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