



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



October 3, 2022

Sean Oberbauer
 Land Use/Environmental Planner 3
 County of San Diego Planning and Development Services
 5510 Overland Avenue
 San Diego, CA 92123
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Subject: Questhaven (Project) Notice of Preparation of an Environmental Impact Report (NOP), SCH #2022090029

Dear Mr. Oberbauer:

The California Department of Fish and Wildlife (CDFW) received a NOP of an Environmental Impact Report from the County of San Diego for the 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 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code. CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The County of San Diego (County) participates in the NCCP program by implementing its approved Subarea Plan under the County Multiple Species Conservation Plan (MSCP) and the draft North County Plan (NCMSCP). The Project site is within the NCMSCP area and is entirely within the NCMSCP draft Pre-Approved Mitigation Area.

PROJECT DESCRIPTION SUMMARY

Proponent: County of San Diego (County)

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.

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Objective: The objective of the Project is to build 76 single-family residential homes on 18.27 acres. Additionally, the Project would include recreation areas on 0.31 acre, water quality detention basins on 2.4 acres, and biological open space and fuel-modification zones on approximately 63.9 acres.

Location: The Project is located in unincorporated San Diego County, immediately south and west of the City of San Marcos and east of the City of Carlsbad. Specifically, the Project site is located south of San Elijo Road and East of Denning Drive. Access to the site would be from San Elijo Road to the north.

Biological Setting: The Project site is directly adjacent to Rancho La Costa Preserve, which connects to the site from the south and west. Sensitive vegetation communities on site include Diegan coastal sage scrub, and scrub-oak chaparral. Special-status plant species known to occur within the Project area include but are not limited to Orcutt's brodiaea (*Brodiaea orcuttii*, California Native Plant Society Rare Plant Rank (CRPR) 1B.1), southwestern spiny rush (*Juncus acutus* spp. *leopoldii*, CRPR 4.2), Nuttall's scrub oak (*Quercus dumosa*, CRPR 1B.1), and ashy spike-moss (*Selaginella cinerascens*, CRPR 4.1). Special-status animal species known to occur within the Project area include but are not limited to Cooper's hawk (*Accipiter cooperii*, CDFW Watch List species), Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*, CDFW Watch List species), and coastal California gnatcatcher (*Polioptila californica californica*, Federal Endangered Species Act listed-threatened, CDFW Species of Special Concern).

COMMENTS AND RECOMMENDATIONS

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

COMMENT #1: Prior Scoping Efforts

CDFW has met with the County regarding this Project on several occasions and appreciates the early coordination and scoping efforts. We thank the County for discussing the following elements of the project with CDFW and look forward to their discussion in the draft EIR:

- a. Mitigation of impacts to vegetation communities: Impacts to 27.3 acres of sensitive vegetation communities (including scrub oak chaparral, chamise chaparral, and Diegan coastal sage scrub) will be mitigated with 29.1 acres of on-site preservation and 15.6 acres of off-site preservation. Impacts to 5.8 acres of non-sensitive vegetation communities will be mitigated with 1.1 acres of on-site restoration of coastal sage scrub and 4.8 acres of off-site restoration of chaparral and coastal sage scrub.
- b. Preservation of Orcutt's brodiaea and Nuttall's scrub oak: A portion of the Orcutt's brodiaea population will be preserved within the on-site preserve area and the remaining population will be avoided entirely. Impacts to individual Nuttall's scrub oaks will be mitigated through preservation of individuals within the preserve areas.
- c. The creation of shallow ephemeral water holding basins to be used by western spadefoot (*Spea hammondi*) for breeding purposes: per the proposed Habitat Restoration Plan dated August 3, 2021, there will be three basin creation areas within an adjacent to the on-site preserve/restoration areas. The proposed basins are intended to hold water long enough to provide breeding locations for western spadefoot.
- d. Fuel modification Zones: Fuel modification zones will be included as part of the Project and its impacts will be analyzed accordingly.
- e. Easements and Trails: One utility access road will be included as part of the designated open space and additional roads and/or trails will not be included in conserved areas.
- f. Streambed Alteration Notification: Thank you for your submittal of the streambed alteration Notification, dated December 7, 2021.

COMMENT #2: In-perpetuity Preservation of the Mitigation Lands

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CDFW and the County discussed off-site preservation and restoration as part of mitigation for the Project. The areas proposed as mitigation lands should be protected in perpetuity with a biological conservation easement (CE), financial assurance, and dedication 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. The CE should name CDFW and US Fish and Wildlife Service (jointly, the Wildlife Agencies), as Third-Party Beneficiaries and should be approved by the Wildlife Agencies prior to its execution and follow the Agency-approved template. This CE should include all habitat that is not a manufactured slope and/or not under an existing easement. There should be no active trails or fuel modification in the CE areas. The Project Applicant should submit the CE to the Wildlife Agencies for review and approval at least 60 days prior to initiating Project impacts. The Project Applicant should submit the final easements and evidence of their recordation to the Wildlife Agencies within 60 days of receiving approval of the draft CE.

COMMENT #3: In-perpetuity Management and Protection of the Mitigation Lands

The County and Wildlife Agencies were provided an opportunity to review and comment on the draft Habitat Management Plan (HMP) for the on-site conservation areas. In order to verify that our earlier input was incorporated, and to further evaluate that adequate funding is committed to ensure the management actions can be performed in-perpetuity, CDFW requests the ability to review the final management plan and Property Analysis Record (PAR) (Center for Natural Lands Management ©1998) or similar cost estimation method. The funding program should provide sufficient funds for three years on Initial Costs and thus not depend on endowment's earnings until the fourth year of management.

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 (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

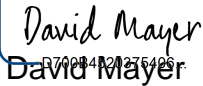
CDFW appreciates the opportunity to comment on the NOP to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Brigid Moran, Environmental Scientist, at Brigid.Moran@wildlife.ca.gov

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Sincerely,

DocuSigned by:


David Mayer

Environmental Program Manager
South Coast Region

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REFERENCES

Alden Environmental, Inc. Biological Technical Report for the Questhaven Tentative Map Project. 2020.
California Environmental Quality Act (CEQA). 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.
California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, §15126.4(2).
Center for Natural Lands Management. Introduction to "PAR" – Property Analysis Record <https://www.cnlm.org/par/>.