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November 29, 2022

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**Subject: Notice of Preparation of a Draft Program Environmental Impact Report Connect SoCal 2024 Regional Transportation Plan, Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura County, State Clearinghouse No. 2022100337**

Dear Ms. Calderon:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a Draft Program Environmental Impact Report (PEIR) from the Southern California Association of Governments (SCAG) for the 2024-2050 Regional Transportation Plan and Sustainable Communities Strategy (Connect SoCal 2024; Project). For the purposes of this comment letter, “Applicant” will refer to subsequent project proponents (Applicant) that tier from SCAG’s PEIR. Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. CDFW appreciates the extension to accept comments after the November 16, 2022, deadline. 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 for the people of the State [Fish & Game 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). CDFW is also directed to provide 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.*). To the extent implementation of the Project as proposed may result in “take” of any species protected under the California Endangered Species Act (CESA; Fish & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900

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*et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

## **Project Description and Summary**

**Objective:** The Southern California Association of Governments (SCAG) is proposing the Connect SoCal 2024 that would provide program-level direction for development of a regional transportation plan. Plans associated with this Project are updated every four years and act as a long-range plan to accommodate an eight-year projection of housing needs and associated transportation networks. No construction was purposed as part of the Project and the PEIR will be used for planning purposes. To determine the framework of potential regional development and transportation patterns, SCAG is in collaboration with 197 local jurisdictions to collect land use data. Considerations to lowering greenhouse gas emission (GHG) are also included within the scope of the Project. The Project will build off the policies established within the Connect SoCal 2020.

**Location:** The Project area includes 38,000 square miles and spans throughout Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties. Within the six counties, 191 cities are included within the Project area.

## **Comments and Recommendations**

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

### **Alternatives Analysis**

CDFW recommends the PEIR describe and analyze a range of reasonable alternatives to the Project that are potentially feasible, would "feasibly attain most of the basic objectives of the Project," and would avoid or substantially lessen any of the Project's significant effects (CEQA Guidelines § 15126.6[a]). The alternatives analysis should also evaluate a "no project" alternative (CEQA Guidelines § 15126.6[e]).

## **COMMENTS AND RECOMMENDATIONS**

### **Specific Comments**

- 1) Impacts on Wildlife Corridors and Habitat Connectivity. Within the Project area there are various wildlife corridors and essential habitat blocks. These areas support native biodiversity and areas essential for ecological connectivity between them. By implementing new transportation and development networks across 6 counties the Project could impact the ecological integrity and function of wildlife corridors and steppingstones supporting resident and transient wildlife movement. Habitat fragmentation could threaten the viability of remaining natural resources for wildlife, including sensitive and special status species. Maintaining wildlife corridors and habitat connectivity is essential for wildlife movement and is increasingly important considering habitat loss and climate change. The South Coast Missing Linkages project has developed a comprehensive plan to connect existing corridors and open spaces to aid wildlife movement

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(<http://www.scwildlands.org/reports/scmlregionalreport.pdf>). The California Essential Habitat Connectivity Project provides guidance for mitigating the fragmenting effects of roads and for developing and implementing local and regional connectivity plans (Spencer et al. 2010). SCAG should avoid development within these potential linkage networks when developing their PEIR.

- a) Ventura County. According to the Ventura County GIS viewer, the Santa Monica-Sierra Madre and the Sierra Madre-Castaic wildlife corridors transect Ventura County in multiple areas (Ventura County 2022a). Likewise, there are several critical wildlife passage areas throughout Ventura County including the [Oak View critical wildlife passage area](#), the [Simi Hills critical wildlife passage area](#), and the [Tierra Rejada critical wildlife passage area](#) (CVRMA 2019). Future development of transportation networks through these areas undermine the goal of [Ventura County's non-coastal zoning ordinance](#) to "preserve functional connectivity for wildlife and vegetation throughout the [wildlife corridor] overlay zone by minimizing direct and indirect barriers, minimizing loss of vegetation and habitat fragmentation and minimizing impacts to those areas that are narrow, impacted or otherwise tenuous with respect to wildlife movement." Transportation corridors and roads create extended linear barriers to wildlife. State routes 118 and 23, and the 101 freeway already constitute significant barriers to wildlife movement in Ventura County. Transportation networks can also create "pinch points" and funnel wildlife to unsafe crossing areas or habitat less suitable to wildlife species.
- b) Analysis and Disclosure. CDFW recommends the Applicant analyze whether the Project would impact wildlife corridors and essential connectivity blocks within the entirety of the Project area. Impacts include (but are not limited to) habitat loss and fragmentation, narrowing of a wildlife corridor, and introduction of barriers to wildlife movement. CDFW recommends such an analysis be supported by studies to document wildlife activity and movement through Project area where development is proposed. Further, the PEIR should analyze the cumulative impacts of creating transportation networks within these important movement areas as part of their analysis. The Applicant should consider current, planned, and future wildlife passage projects when analyzing Project impacts. Technical detail such as data, maps, diagrams, and similar relevant information should be provided to permit full assessment of significant environmental impacts by reviewing agencies and members of the public (CEQA Guidelines, §15147).
- c) Avoidance. Future placement of transportation and development patterns should not exacerbate barriers to wildlife movement. The Project should avoid impacts to wildlife corridors, essential connectivity blocks, and potential "least cost" linkage areas. To more effectively avoid passage areas the Applicant should at a minimum consider the following datasets: the Missing Linkages in California's landscape California Natural Diversity Database (CNDDDB) layer (ds420), South Coast Missing Linkages (ds419), and Essential Connectivity Areas (ds620). Based on these datasets, the Applicant should identify areas of possible impact. The Project should also consider the South Coast Missing Linkages projected "least cost" linkage designs for the South Coast Ecoregion (South Coast Wildlands 2008). The Applicant should also review CDFW's Priority Wildlife Movement Barrier locations report (CDFW 2020a). CDFW recommends a minimum half-mile buffer is recommended around wildlife corridors to maintain the integrity of these connectivity areas. Likewise, a minimum 1,000-foot setback should be provided for other passage areas such as essential connectivity blocks to avoid impacts

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from edge effects.

- d) Mitigation. CDFW recommends the Project avoid developing and encroaching onto wildlife corridors, essential connectivity blocks, critical wildlife passage areas, or potential linkage areas. Future transportation and development networks should avoid areas important to wildlife movement to the extent feasible. If avoidance is not feasible, CDFW recommends the PEIR provide measures to minimize and mitigate for the Project's significant impacts on wildlife corridors (see General Comments 10 & 11). If impacts are anticipated to occur within movement areas, the applicant should be required to construct a crossing or passage with wildlife fencing to maintain wildlife movement in the impacted area as part of the Project. The PEIR should provide minimum criterion for design features, dimensions, and locations of potential crossings. The Applicant may also consider acquiring contiguous adjacent land parcels to be protected in perpetuity from encroachment and development. CDFW also recommends the PEIR provide measures where any future development patterns facilitated by the Project mitigates (avoids first if feasible) for project-level impacts on wildlife corridors not previously identified in the PEIR.
- 2) Mountain Lion (*Puma concolor*). Implementation of new transportation networks across multiple counties may impact mountain lion by narrowing or fragmenting movement corridors to suitable habitat units. Mountain lions are currently protected under CESA as a candidate species and are exceptionally vulnerable to human disturbance (Lucas 2020). The biggest threat to mountain lion is fragmentation of movement corridors and habitat loss through conversion of natural vegetation into another land use such as development (e.g., commercial, residential, industrial). Further, Project implementation will include the development of new roads and higher vehicle usage. Increased traffic paired with continuous development could create "pinch points" which can lead mountain lion towards unsafe road crossings, causing vehicle strikes. Habitat loss and fragmentation due to roads and development has driven the southern California mountain lion population towards extinction (Yap et al. 2019).
- a) Protection Status. Mountain lion is a specially protected mammal in the State (Fish and Game Code, § 4800). In addition, on April 21, 2020, the California Fish and Game Commission accepted a petition to list an evolutionarily significant unit (ESU) of mountain lion in southern and central coastal California as threatened under CESA (CDFW 2020b). 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. CDFW recommends the Applicant include a discussion on potential impacts to the Southern California Evolutionary Significant Unit (ESU) of mountain lion and each subpopulation under the ESU within the PEIR. Impacts from habitat loss and wildlife movement should be discussed. The Applicant should evaluate the mountain lion territory size and use of habitat within and around the Project vicinity. The Applicant should analyze the change (i.e., increase) in human presence and area of anthropogenic influence that will be in mountain lion habitat and how it may impact mountain lion behavior, reproductive viability, and overall survival success. The Applicant should review datasets related to mountain lion such as CDFW's Mountain Lion Habitat Suitability dataset (ds2916) and California Wildlife Habitat Relationships Mountain Lion Predicted Habitat dataset (ds2616) in addition to datasets previously

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mentioned in Specific Comment 1. CDFW also recommends reviewing National Park Service (NPS) data of collared individuals and assessing potential pinch points through mountain lion strike data.

- c) Avoidance. CDFW recommends the PEIR provide measures where future development patterns facilitated by the Project avoids encroachment into mountain lion habitat and movement corridors. This includes areas of movement, hunting, and denning. The PEIR should include appropriate buffers and setbacks to potential mountain lion habitat and movement corridors.
- d) Mitigation. If impacts cannot be avoided, habitat should be replaced to compensate for the temporal or permanent loss habitat within a Project site (see General Comments 10 & 11). If impacts to movement corridors occur the Project should include plans to implement wildlife crossing structures or passages with directional wildlife fencing to mitigate impacts to mountain lion in impacted areas. The PEIR should provide minimum criterion for design features, dimensions, and locations of potential crossings and associated fencing. The Applicant may also consider acquiring contiguous adjacent land parcels to be protected in perpetuity from encroachment and development.
- a) CESA ITP. If “take” or adverse impacts to mountain lion cannot be avoided either during Project construction and/or over the life of the Project, the Applicant must consult with CDFW to determine if a CESA Incidental Take Permit (ITP) is required (pursuant to Fish & Game Code, § 2080 *et seq.*).

Appropriate take authorization from CDFW under CESA may include an 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 the project and mitigation measures may be required to obtain an ITP. 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 for the Project unless the Project’s CEQA document addresses all the Project’s impact on CESA endangered, threatened, and/or candidate species. The Project’s CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW’s ITP be described in detail in the Project’s CEQA document. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project’s impact on a CESA endangered, threatened, and/or candidate species proposed in the Project’s CEQA document may not necessarily satisfy mitigation required to obtain an ITP.

- 3) Sensitive Habitats and Open Space. There are various areas of critical habitat, sensitive habitat, and open spaces (parks and reserves) throughout the Project area. Future development patterns and transportation projects should avoid these areas to preserve the sensitive plants, wildlife, and communities.
  - a) Analysis and Disclosure. CDFW recommends the Applicant review online resources to determine the distribution of critical habitats within the Project area. Critical habitat areas should be avoided to reduce impact to Endangered Species Act (ESA-) and CESA-listed

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species present in the various counties (USFWS 2022a). CDFW recommends the Applicant analyze and discuss the Project's direct impacts on critical habitat, sensitive habitats, and open space within the Project area. The Project could result in loss of critical habitat, sensitive habitats, and open space through development of future transportation networks in these areas. PEIR should disclose the acreage of critical habitat, sensitive habitats, and open space that would be lost as a result of any subsequent network designs, including all areas subject to vegetation clearing and grading to accommodate development. CDFW also recommends the Applicant analyze and discuss the Project's potential impacts on conserved lands adjacent to the Project area.

- b) Avoidance. CDFW recommends the Project avoid developing and encroaching onto critical habitat and sensitive habitats/open space. Encroachment onto sensitive habitats/open space creates an abrupt transition between two different land uses. Encroachment onto sensitive habitats/open space could affect environmental and biological conditions and increase the magnitude of edge effects on biological resources. CDFW recommends the PEIR provide alternatives to the Project that would not result in conversion of critical habitat, sensitive habitat, or open space into developed areas. CDFW also recommends the PEIR provide alternatives that would not encroach onto sensitive habitats/open space, particularly conservation easements. Pursuant to CEQA Guidelines section 15126.6, a PEIR "shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasible attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives." Furthermore, a PEIR "shall include sufficient information about alternatives to allow meaningful evaluation, analysis, and comparison with the proposed project" (CEQA Guidelines, § 15126.6) (see General Comment 12).
- c) Mitigation. If avoidance is not feasible, CDFW recommends the PEIR provide measures to mitigate for impacts to critical habitat, sensitive habitats, and open space. There should be no net loss of sensitive habitats/open space. CDFW recommends the PEIR provide measures where any future development patterns facilitated by the Project mitigates (avoids first if feasible) for project-level impacts on sensitive habitats/open space not previously identified in the PEIR. CDFW recommends the PEIR provide a measure where any future development patterns facilitated by the Project establishes unobstructed vegetated buffers and setbacks. The PEIR should provide standards for an effective buffer and setback; however, the buffer and setback distance should be increased at a project-level as needed. The PEIR should provide justifications for the effectiveness of all proposed mitigation measures. The PEIR should provide sufficient information and disclosure to facilitate meaningful public review, analysis, and comment on the adequacy of proposed mitigation measures to offset Project-related impacts on sensitive habitats/open space.
- 4) Coastal California Gnatcatcher (*Poliioptila californica californica*). Project activities could include the implementation of new transportation patterns in areas currently occupied by coastal California gnatcatcher. Future Projects occurring during the breeding and nesting season could also result in the incidental loss of fertile eggs or nestlings. Placement of roads and associated development in or surrounding occupied habitat may result in permanent impacts to coastal California gnatcatcher through alteration, fragmentation, and/or loss of

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suitable nesting and foraging habitat. Populations of coastal California gnatcatcher have been found to be genetically isolated from other populations within their range. Lack of genetic mixing between other geographical populations is likely due to heightened fragmentation and loss of suitable habitat across their range in southern California (Vandergast 2019). Coastal California gnatcatcher are non-migratory, territorial, and have been found not to disperse far from their natal nests (Bailey 1998; Vandergast 2019). Thus, the preservation of sensitive natural communities which they have been documented to utilize is paramount.

- a) Protection Status. Coastal California gnatcatcher is an ESA-listed species and a California SSC. ESA-listed species are considered endangered, rare, or threatened species under CEQA (CEQA Guidelines, § 15380). Take under the 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. CEQA provides protection not only for State and federally listed species, but for any species including, but not limited to SSC, which can be shown to meet the criteria for State listing. SSC's meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC's could require a mandatory finding of significance (CEQA Guidelines, § 15065).
  - b) Disclosure and Analysis. CDFW recommends the PEIR analyze and discuss the Project's potential impacts on coastal California gnatcatcher and their habitat. The Applicant should review the U.S. Fish and Wildlife Service (USFWS) Final Critical Habitat dataset (ds404) on the Biogeographic Information and Observation System (BIOS). The PEIR should have a discussion regarding how the project avoids impacts to coastal California gnatcatcher and associated habitat (see Specific Comment 3). The PEIR should be conditioned to perform project-level surveys for coastal California gnatcatcher in areas of potential impact.
  - c) Avoidance. CDFW recommends the PEIR provide measures where future development patterns facilitated by the Project avoids encroachment or fragmentation of coastal California gnatcatcher habitat and critical habitat. The Project should avoid coastal sage scrub and any associations or alliances that fall under the coastal sage scrub community. Ground disturbance and vegetation clearing should avoid the nesting bird season (see Specific Comment 7).
  - d) Mitigation. If avoidance is not feasible the Applicant should protect or create habitat suitable for coastal California gnatcatcher. Replacement habitat should be protected in perpetuity (see General Comments 10 & 11). CDFW recommends the PEIR be conditioned to provide replacement habitat to ensure no net loss to gnatcatcher habitat. The PEIR should discuss why mitigation measures proposed would be adequate to avoid or offset impacts to gnatcatcher and habitat. If presence is confirmed the Applicant should consult with USFWS and CDFW before ground disturbing activities.
- 5) Crotch's Bumblebee (*Bombus crotchii*). Future transportation patterns developed with the implementation of the Project may cause direct mortality to Crotch's bumblebee or injury of adults, eggs, and larva, burrow collapse, nest abandonment, and reduced nest success. Suitable Crotch's bumblebee habitat is far ranging as they are generalist foragers and can

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utilize many different plant and vegetation communities. Suitable habitat includes areas of grasslands, coastal sage scrub, and arid desertscape that contain requisite habitat elements, such as small mammal burrows.

- b) Protection Status. A petition to list the Crotch's bumble bee as an endangered species under CESA is currently pending before the California Fish and Game Commission (Commission) (Cal. Reg. Notice Register 2018, No. 45-Z, pp. 1986–1987 [November 9, 2018]). The Commission designated the Crotch's bumble bee as a candidate species under CESA in June 2019 (Cal. Reg. Notice Register 2019, No. 26-Z, pp. 954–955 [June 28, 2019]). The Commission's decision to designate the Crotch's bumble bee as a candidate species is the subject of a pending legal challenge (Almond Alliance of California v. Fish and Game Commission [2022] 79 Cal. App. 5th 337, pet. for review pending, S275412). On September 30th, 2022, candidacy was reinstated for the four bumble bee species petitioned for listing—franklin's, Crotch's, western, and suckle cuckoo.
  - c) Disclosure and Analysis. The Applicant should condition the PEIR to perform project-level surveys in areas of impact with suitable habitat for Crotch's bumblebee. Surveys should be performed by a qualified entomologist familiar with the species behavior and life history to determine the presence/absence of Crotch's bumble bee. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983).
  - d) Mitigation. If avoidance is not feasible and Crotch's bumblebee is present, the PEIR should be conditioned to mitigate for impacts to Crotch's bumblebee. A qualified biologist should identify and record the locations of all nests in or adjacent to the Project site. CDFW recommends the PEIR be conditioned with a measure where a 50-foot buffer zone should be established around nests where no work should occur. If impacts are unavoidable the Applicant should consult CDFW to see if a CESA ITP is required. Compensatory mitigation should also be provided to offset loss of habitat and vegetation communities associated with Crotch's bumblebee.
- 6) Impacts to Special Status and Sensitive Species. Given the large expanse of area included within the Project area, CDFW is concerned the Project may affect sensitive species that occur within these geographical areas. Grading, vegetation removal, and other ground disturbances could crush and bury listed or sensitive plants and animals, resulting in direct mortality. Likewise, these activities could remove foraging, breeding and nesting habitat for a multitude of species. The Project may also impact specific areas where networks are proposed for placement or modification as well as adjacent habitat through loud noises, lighting, increased human presence and activity, fugitive dust, increased temperatures from asphalt (heat island effect), hydrocarbons from asphalt paving within the floodplain, and spreading invasive weeds, resulting in stress, displacement, and mortality of these species. CDFW recommends to following:
- 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 rare plant species that results from the Project is prohibited, except as authorized by State law (Fish & Game Code, §§ 2080, 2085; California Code of Regulations, tit. 14, § 786.9). Likewise, CDFW considers State



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listed communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S1, S2, and S3 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 the [Manual of California Vegetation](#) (CNPS 2022).

- b) Analysis and Disclosure. Given this Project is proposed across six counties, the potential for direct and indirect impacts to sensitive, listed, and fully protected species should be thoroughly addressed. The PEIR should include specific information on species locations and specifically how the project will be sited to avoid impacts to this species or vegetation communities. If the Project will impact a sensitive species or vegetation community, specific mitigation to offset the loss of habitat (acreage and type) should be included in the PEIR.
  - c) Avoidance. The PEIR should include measures to fully avoid and otherwise protect special status, sensitive, and rare plant and wildlife species and plant communities from Project-related direct and indirect impacts. The Project should discuss how the Project has been designed to avoid impacts to special status species so that CDFW may assess whether impacts have been lowered to less than significant.
  - d) Mitigation. To mitigate for lost or altered habitat CDFW recommends the PEIR specify that individual projects are conditioned to require to protect or create appropriate habitat for species impacted (see General Comments 10 & 11). The PEIR should specify that individual projects could also use alternatives to hydrocarbon-based asphalt paving to mitigate for potential hydrocarbon and heavy metal contamination.
- 7) Special Status Bird Species. If future Project activities tiering off of the PEIR occur during the breeding season incidental loss of fertile eggs, or nestlings, or nest abandonment may occur in trees and shrubs directly adjacent to the Project. The Project could also lead to the loss of foraging habitat for sensitive bird species.
- 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 MBTA).
  - b) Analysis and Disclosure. The PEIR should assess the Project's potential impacts on nesting birds and raptors. The environmental document should discuss potential impacts that could occur during construction, ground disturbing activities, and vegetation removal associated with the Project.
  - c) Avoidance. CDFW recommends that measures be taken, primarily, to avoid Project impacts to nesting birds. The PEIR should be conditioned with measures to avoid impacts on special status birds. 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 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs.

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- d) Mitigation. 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.
- 8) Burrowing Owl. Future placement of transportation and development networks may cause direct impacts to burrowing owl. Projects tiered off from the PEIR may remove burrowing owl foraging, breeding, nesting habitat.
- a) Protection Status. Burrowing owl is an SSC. CEQA provides protection not only for CESA-listed species, but for any species including but not limited to Species of Special Concern (SSC) which can be shown to meet the criteria for State listing. Burrowing owl is an SSC that meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.”
- b) Analysis and Disclosure. CDFW recommends the PEIR analyze and discuss the Project’s potential impacts on burrowing owl and their habitat. The PEIR should have a discussion regarding how the project avoids impacts to burrowing owl and associated habitat. The PEIR should be conditioned to perform project-level surveys for burrowing owl in areas of potential impact.
- c) Avoidance. The PEIR should be conditioned to avoid impacts to burrowing owl. In areas where burrowing owl may be present ground disturbing should be avoided. If not feasible biological monitors should be present at all times. Burrowing owl are susceptible to impacts year-round as their breeding season extends from February 1 to August 31 and their overwintering period from September 1 to January 31. While overwintering burrowing owl may be less likely to be detected as they overwinter underground in burrows.
- d) Mitigation. In areas where burrowing owl may be present, CDFW recommends that the Applicant follow the recommendations and guidelines provided in the [Staff Report on Burrowing Owl Mitigation](#) (2012 Staff Report; CDFW 2012c). The 2012 Staff Report specifies three steps for project impact evaluations: a habitat assessment; surveys; and an impact assessment. Impact assessments should evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance by the Project. If impacts to burrowing owl or their associated habitat are to occur the PEIR should be conditioned such that the Applicant protects or creates habitat appropriate for burrowing owl. Habitat should be secured or created based on site-specific analysis and consideration into the wide variation of natal area, home range, foraging area, and other factors influencing burrowing owls and burrowing owl population persistence in a particular area. Permanent impacts to nesting, occupied,

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and satellite burrows and burrowing owl habitat should be on, adjacent or proximate to the impact site where possible and where habitat is sufficient to support burrowing owls present. If mitigation occurs offsite, it should include (a) permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) be sufficiently large acreage with the presence of fossorial mammals. Suitable mitigation lands should be based on a comparison of the habitat attributes of the impacted and conserved lands, including but not limited to type and structure of habitat being impacted or conserved; density of burrowing owls in impacted and conserved habitat; and significance of impacted or conserved habitat to the species range wide.

- 9) Loss of Bird and Raptor Nesting Habitat. Project implementation could result in a significant loss of nesting habitat for passerine and raptor species. The biggest threat to birds is habitat loss and conversion of natural vegetation into another land use such as development (e.g., commercial, residential, industrial). Urban forests and street trees, both native and some non-native species, provide habitat for a high diversity of birds (Wood and Esaian 2020). Some species of raptors have adapted to and exploited urban areas for breeding and nesting (Cooper et al. 2020). For example, raptors (*Accipitridae*, *Falconidae*) such as red-tailed hawks (*Buteo jamaicensis*) and Cooper's hawks (*Accipiter cooperii*) can nest successfully in urban sites. Red-tailed hawks commonly nest in ornamental vegetation such as eucalyptus (Cooper et al. 2020).
- a) Analysis and Disclosure. The Applicant should analyze how forecasted development and transportation networks will impact bird and nesting habitat within the counties. The Applicant should provide a discussion on cumulative impacts due to any current, future, and foreseeable projects.
- b) Avoidance. CDFW recommends the PEIR provide measures where future development patterns facilitated by the Project avoids removal of any native trees, large and dense-canopied native and non-native trees, and trees occurring in high density (Wood and Esaian 2020). CDFW also recommends avoiding impacts to understory vegetation (e.g., ground cover, subshrubs, shrubs, and trees).
- c) Mitigation. If impacts to trees cannot be avoided, trees should be replaced to compensate for the temporal or permanent loss habitat within a Project site. Depending on the status of the bird or raptor species impacted, replacement habitat acres should increase with the occurrence of a California SSC. Replacement habitat acres should further increase with the occurrence of a CESA-listed threatened or endangered species. CDFW recommends planting native tree species preferred by birds. This includes coast live oak (*Quercus agrifolia*) and California sycamore (*Platanus racemosa*) (Wood and Esaian 2020). CDFW recommends Audubon Society's Plants for Birds for more information on selecting native plants and trees beneficial to birds (Audubon Society 2022).
- 10) Bats. Future work tiered off from the PEIR may impact bat species through the introduction of increased noise, vibration, light, and human activity. Accordingly, CDFW recommends the PEIR provide measures where future Projects tiered off from the PEIR avoids potential

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impacts to bats.

- 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).
  - b) Analysis and Disclosure. CDFW recommends a project-level biological resources survey provide a thorough discussion and adequate disclosure of potential impacts to bats and roosts from Project construction and activities including (but not limited to) ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal. If necessary, to reduce impacts to less than significant, a project-level environmental document should provide bat-specific avoidance and/or mitigation measures [CEQA Guidelines, § 15126.4(a)(1)].
  - c) Avoidance. The Project should be conditioned to avoid impacts to bats. If the Project would impact bats, CDFW recommends the PEIR provide measures to avoid/minimize impacts on bats, roosts, and maternity roosts. Project activities should avoid the maternity season for bat species which generally spans from March 1 to September 30.
  - d) Mitigation. The PEIR should incorporate mitigation measures in accordance with [California Bat Mitigation Measures](#) (Johnston *et al.* 2004).
- 11) Habitat Conservation Plans and Natural Conservation Community Plans. Compliance with approved habitat plans is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. CDFW recommends coordinating with CDFW on each of the Natural Conservation Community Plans (NCCPs) that may be impacted by the proposed Project.
- a) Western Riverside County Multiple Species Habitat Conservation Plan.

CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the Western Riverside County MSHCP per Section 2800, et seq., of the California Fish and Game Code on June 22, 2004. The MSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit. An assessment of the impacts to the MSHCP because of this Project is necessary to address CEQA requirements. To obtain additional information regarding the MSHCP please go to: <http://rctlma.org/epd/WR-MSHCP>.

For CDFW to evaluate any inconsistencies between the proposed Project and the MSHCP, CDFW recommends that the PEIR require that individual projects demonstrates, at a minimum, how projects complies with:

The policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, set forth in Section 6.1.2 of the MSHCP; the policies for the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the MSHCP; Additional Survey Needs and Procedures as set forth in Section 6.3.2 of

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the MSHCP; the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; Best Management Practices and the siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the MSHCP.

Applicants for individual projects may be the lead agency but not signatory to the MSHCP, therefore, to participate in the MSHCP they would need to act as a Participating Special Entity (PSE). If the applicant chooses to act as a PSE and obtain take through the MSHCP then all of the MSHCP policies and procedures discussed above in this letter will apply to this Project, and the environmental document for the project should discuss how the project will demonstrate consistency with the MSHCP. If the project is not processed through the MSHCP for covered species, then the project may be subject to the Federal Endangered Species Act (FESA) and/or CESA for threatened, endangered, and/or candidate species.

Regardless of whether take of threatened and/or endangered species is obtained through the MSHCP or through a CESA ITP, individual projects need to address how the proposed project will affect the policies and procedures of the MSHCP. Therefore, all surveys required by the MSHCP policies and procedures listed above to determine consistency with the MSHCP should be conducted and results included in projects so that CDFW can adequately assess whether the project will impact the MSHCP.

To examine how the project might contribute to, or conflict with, assembly of the MSHCP Conservation Area consistent with the reserve configuration requirements, CDFW recommends that the projects identify the specific Area Plan and Area Plan Subunit within which the project is located, and the associated Planning Species and Biological Issues and Considerations that may apply to the projects, further discussed below. The environmental document should also discuss the specific Criteria for Cells within which the project is located and identify the associated Core(s) and/or Linkage(s). Next, the environmental document should identify the vegetation communities toward which conservation should be directed along with the connectivity requirements.

Following this sequential identification of the relationship of the project to the MSHCP the environmental document should then include an in-depth discussion of the project in the context of these aforementioned elements, and as mentioned, examine how the project might contribute to, or conflict with, the conservation criteria of the MSHCP.

#### *Covered Activities*

CDFW also recommends that PEIR specify that applicants demonstrate how their project is consistent with Section 7.0 of the MSHCP, if applicable.

Roads. For projects proposed inside the MSHCP Criteria Area, the environmental document should include a discussion of the Project and its consistency with Covered Activities (Section 7.3 of the MSHCP) and specifically Existing Roads Within the Criteria Area (Section 7.3.4) and Planned Roads Within the Criteria Area (7.3.5). Where maintenance of existing roads within the Criteria Area is proposed, CDFW recommends that the SCAG reference MSHCP Section 7.3.4 and Table 7-3, which provides a

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summary of the existing roads permitted to remain in the MSHCP Criteria Area. Planned roads within the MSHCP Criteria Area are discussed in MSHCP Section 7.3.5 and identified on Figure 7-1. Please note that roadways other than those identified in Section 7.3.5 of the MSHCP are not covered without an amendment to the MSHCP in accordance with the procedures described in MSHCP Section 6.10. CDFW recommends that the SCAG review MSHCP Section 7.3.5 and include in the PEIR information that demonstrates that Project-related roads are MSHCP covered activities. The PEIR should also discuss design and siting information for all proposed roads to ensure that the roads are sited, designed, and constructed in a manner consistent with MSHCP conservation objectives.

Allowable Uses in MSHCP Conservation Areas – Trails. CDFW recommends that the PEIR also include a discussion of the Project and MSHCP Allowable Uses (Section 7.4) and Conditionally Compatible Uses (Section 7.4.2) in MSHCP Conservation Area such as trails. For example, if trails are proposed as part of the Project, the PEIR should discuss whether the trail is identified on Figure 7-4, and provide details regarding trail construction (siting and design), and operations and maintenance that demonstrate that the proposed trail is consistent with MSHCP Section 7.4.

Urban/Wildland Interface Guidelines. As the MSHCP Conservation Area is assembled, hardline boundaries are established between development and MSHCP Conservation Areas. Development near MSHCP Conservation Area may result in edge effects that will adversely affect biological resources within the MSHCP Conservation Area. To minimize edge effects and maintain conservation value within the Conservation Areas, Permittees are required to implement the Urban/Wildlands Interface Guidelines (MSHCP Section 6.1.4) for drainage, toxics, lighting, noise, invasives, barriers, and grading/land development. Potential indirect impacts for the Project may include but are not limited to noise, lighting, invasive plants, and possibly toxic materials such as herbicides and pesticides used in landscaping and maintenance, as well as non-hazardous oils and fuels used during project operations. The MSHCP identifies that project review and impact mitigation are provided through the CEQA process to address the Urban/Wildland Interface guidelines. CDFW recommends that potential Project impacts are addressed by including in the PEIR Project specific biological mitigation measures to address the Urban/Wildland Interface guidelines.

The PEIR should include analysis of Project impacts on edge effects such as noise, lighting, trespass, and toxics that have potential indirect impacts from development. The PEIR should include Project specific measures that address Projects impacts to avoid and minimize edge effects. Such measures can include, but are not limited to:

Lighting Plan. A Lighting Plan that identifies existing ambient lighting conditions, analyzes the Project lighting impacts on the adjacent Conservation Area, and demonstrates that the proposed lighting plan will not significantly increase the lighting on the Conservation Area. The Lighting Plan should identify measures that address light and glare from interior and exterior building lighting, safety and security lighting, and vehicular traffic accessing the site at a minimum.

Noise Plan. A Noise Plan to avoid and minimize noise impacts based on a Noise assessment of Project noise impacts on adjacent conservation areas during

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construction and post development. The MSHCP identifies that Project noise impacts do not exceed the residential standards within the Conservation Areas.

Landscaping Plan. A Landscaping Plan that includes the use of native plant material on the Project site and avoids the use of invasive plant species identified.

Fencing Plan. A Barrier and Fencing Plan that provides specific details designed to minimize unauthorized public access, domestic animal predation, illegal trespass, and dumping in the MSHCP Conservation Area (such as block walls along areas directly adjacent to potential conservation areas).

b) Coachella Valley Multiple Species Habitat Conservation Plan.

CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) per Section 2800, et seq., of the California Fish and Game Code on September 9, 2008. The CVMSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit. An assessment of the impacts to the CVMSHCP as a result of this Project is necessary to address CEQA requirements. To obtain additional information regarding the CVMSHCP please go to: <http://www.cvmshcp.org/>.

The proposed Project occurs within the CVMSHCP area and is subject to the provisions and policies of the CVMSHCP. To be considered a covered activity, Permittees should demonstrate that proposed actions are consistent with the CVMSHCP and its associated Implementing Agreement. Regardless of whether take of threatened and/or endangered species is obtained through the CVMSHCP or through a CESA ITP, the DEIR needs to address how the proposed Project will affect the conservation objectives of the CVMSHCP. Therefore, all surveys required by the CVMSHCP to determine consistency should be conducted and results included in the DEIR so that CDFW can adequately assess whether the Project will impact the CVMSHCP.

c) Stephens' Kangaroo Rat Habitat Conservation Plan.

The Project occurs within the Stephens' kangaroo rat (*Dipodomys stephensi*) Habitat Conservation Plan (SKR HCP) fee area boundary, SKR HCP plan area map available here: <https://rchca.us/DocumentCenter/View/200/SKR-Plan-Area>. State and federal authorizations associated with the SKR HCP provide take authorization for Stephens' kangaroo rat within its boundaries, and the MSHCP provides Take Authorization for Stephens' kangaroo rat outside of the boundaries of the SKR HCP, but within the MSHCP area boundaries. The PEIR should identify if any portion of the Project will occur on SKR HCP lands, or on Stephens' kangaroo rat habitat lands outside of the SKR HCP, but within the WRMSHCP. Note that the SKR HCP allows for encroachment into the Stephens' kangaroo rat Core Reserve for public projects, however, there are no provisions for encroachment into the Core Reserve for privately owned projects. If impacts to Stephens' kangaroo rat habitat will occur from the proposed Project, the PEIR should specifically identify the total number of permanent impacts to Stephens' kangaroo rat core habitat and the appropriate mitigation to compensate for those impacts.

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## General Comments

- 1) **Objectives.** Section 15124(b) of the CEQA Guidelines requires that the project description contain a clear statement of the project objectives. It is the policy of the State of California to protect, restore, and enhance the functioning of fish, wildlife, and habitat connectivity in connection with the planning, construction, and improvement of transportation infrastructure throughout the state and, where feasible, the operation and maintenance of transportation infrastructure throughout the state (Assembly Bill No. 2344, 2021-2022 session). CDFW recommends that a PIER should include an objective to protect, restore, and enhance wildlife and habitat connectivity.
- 2) **Disclosure.** A PEIR 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 appropriateness of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).
- 3) **Biological Baseline Assessment.** CDFW recommends providing a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area, with 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. The PEIR 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 PEIR should include measures to fully avoid and otherwise protect [Sensitive Natural Communities](#) (CDFW 2022d) from Project-related impacts. Project implementation may result in impacts to rare or endangered plants or plant communities that have been recorded adjacent to the Project vicinity;
  - b) A complete floristic assessment within and adjacent to the Project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. This should include a thorough, recent, floristic-based assessment of special status plants and natural communities;
  - 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 (MCV), second edition, should also be used to inform this mapping and assessment (CNPS 2022). Adjoining habitat areas should be included in this assessment where site activities 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 the Project. CDFW's CNDDDB in Sacramento should be contacted to obtain current information on



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any previously reported sensitive species and habitat. CDFW recommends that [CNDDDB Field Survey Forms](#) (CDFW 2022e) be completed and submitted to CNDDDB to document survey results;

- 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 & 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 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;
  - 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 two years as long as there was not a prevailing drought during the time of the botanical survey. 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; and
  - g) Presence/absence determinations of wildlife and rare plants in the Project area, specifically areas that would be impacted due to Project implementation (e.g., existing facilities), should be determined based on recent surveys. CDFW recommends the PEIR provide any recent survey data.
- 4) 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 impact report 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, 15041). 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 that SCAG prepare 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 (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). 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 environmental document should include a discussion of the effects of proposed

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mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the environmental document 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.

- 5) 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 PEIR:
- 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 PEIR;
  - 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 PEIR; 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.
- 6) 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 Fish and Game Code Section 1600 *et seq.* CDFW's issuance of a Lake and Streambed Alteration (LSA) Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the environmental document of 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 environmental document should fully identify the potential impacts

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to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. Please visit CDFW's Lake and Streambed Alteration Program webpage for information about LSA Notification (CDFW 2022f).

- a) The Project area support aquatic, riparian, and wetland habitats; a preliminary delineation of the streams and their associated riparian habitats should be included in the environmental document. Be advised that 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 Project areas which may support ephemeral or episodic streams, herbaceous vegetation, woody vegetation, and woodlands also serve to protect the integrity of these resources and help maintain natural sedimentation processes. Therefore, CDFW recommends effective setbacks be established to maintain appropriately sized vegetated buffer areas adjoining ephemeral drainages. The environmental document should provide a justification for the effectiveness of the chosen distance for the setback.
  - c) Project-related changes in upstream and downstream drainage patterns, runoff, and sedimentation should be included and evaluated in the environmental document.
- 7) 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](#) 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. (Ca.gov 2019)"
- 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 PEIR and these measures should compensate for the loss of function and value.

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- 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).
- 8) CESA. 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). Consequently, if the Project 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 ITP or a consistency determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subs. (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.
- 9) Moving out of Harm's Way. The proposed Project may result in impacting habitats on and/or adjacent to the Project site that may support wildlife. To avoid direct mortality, CDFW recommends 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 associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, we recommend that the PEIR clearly identify that the designated entity shall obtain all appropriate state and federal permits.
- 10) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of moving an individual from a 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.

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- 11) Compensatory Mitigation. An environmental document 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.
- 12) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, an environmental document 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.
- 13) 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 PEIR:
  - 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. Potential impacts to wildlife movement areas should also be evaluated, avoided, or mitigated consistent with applicable requirements of region-specific plans, regulations, and ordinances.
- 14) Landscaping. Habitat loss and invasive plants are a leading cause of native biodiversity loss. CDFW recommends that the PEIR stipulate that no invasive plant material be used. Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants. We recommend using native, locally appropriate plant species for landscaping on the Project site. Information on native plants suitable for the Project location and nearby nurseries is available at CALSCAPE: <https://calscape.org/>. Local water agencies/districts and resource conservation districts may be able to provide information on plant nurseries that carry locally native species. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: Around the Yard ([saveourwater.com](http://saveourwater.com)). A list of invasive/exotic plants that should be avoided as well as suggestions for suitable landscape plants can be found [here](#) (CAL IPC 2022).

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## Conclusion

We appreciate the opportunity to comment on the NOP to assist SCAG in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Angela Castanon (Ventura County), Environmental Scientist, at [Angela.Castanon@wildlife.ca.gov](mailto:Angela.Castanon@wildlife.ca.gov) or at 626-513-6308 or Heather Pert (Riverside County), Senior Environmental Scientist Supervisor, at [Heather.Pert@wildlife.ca.gov](mailto:Heather.Pert@wildlife.ca.gov).

Sincerely,

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

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OPR  
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