



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Via Electronic Mail Only

Governor's Office of Planning & Research

December 12, 2022

Dec 12 2022

STATE CLEARINGHOUSE

Mario Sandoval
Mountains Recreation & Conservation Authority
26800 Mulholland Highway
Calabasas, CA 91302
Public.Comments@mrca.ca.gov

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Malibu Lower-Cost Accommodations Public Works Plan, SCH #2022100327, Mountains Recreation and Conservation Authority, Los Angeles County

Dear Mr. Sandoval:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) from the Mountains Recreation and Conservation Authority (MRCA) for the Malibu Lower-Cost Accommodations Public Works Plan (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Conserving California's Wildlife Since 1870

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 2 of 13

Project Description and Summary

Objective: The Project would serve as the facilities plan for implementing, operating, and managing a variety of park facility improvement projects, public outreach programs, and operation and management of the 84-acre Malibu Bluffs Open Space (Malibu Bluffs) property. The Project would also serve as the facilities plan for operating and managing the existing campground at the 45-acre Ramirez Canyon Park property.

Facility Improvements

Malibu Bluffs – In 2017, the California State Legislature enacted Assembly Bill 250, which created the California State Coastal Conservancy’s Explore the Coast Overnight Program, calling for the preparation of a statewide Lower-Cost Coastal Accommodations Assessment. The Coastal Conservancy’s *Explore the Coast Overnight* assessment identified a high demand but little inventory for affordable overnight coastal accommodations. The Project would enhance coastal overnight accommodations in southern California through the development of a new public campground at Malibu Bluffs, designed in part for use by non-profit groups and government agencies that provide programs for underserved communities including foster youth. The majority of Project improvements would be located within the northwestern portion of Malibu Bluffs to avoid encroaching into Environmentally Sensitive Habitat Areas, culturally sensitive areas, and fuel modification zones. Project elements would include flame-less facilities (8 to 12 yurts, 16 to 20 tent cabins, and 18 to 22 tent pad sites); day use facilities (30 to 40 parking spots, restrooms, landscaping, picnic areas, amphitheater, paths, management and interpretive signage, and coastal overlook areas); trail improvements and signage on Beach to Bluffs Trail; support facilities (ranger residence, medical building, office, and kitchen); fuel modification and vegetation management to reduce wildfire hazards; pedestrian and vehicle bridges to provide access over site drainage and streams; water storage tanks; and fire protection systems (fire hydrants and fire extinguishers).

Ramirez Canyon Park – The Project would include overnight and visitor-serving improvements. All proposed Project improvements would be located on the previously disturbed and graded building pads within the western portion of the site to minimize impacts on Sensitive Environmental Resource Areas. Project elements include flame-less facilities (7 to 10 tent pad sites, at least 2 ADA accessible sites); day use facilities (36 to 42 parking spots, restrooms, landscaping, picnic areas, paths, management and interpretive signage); fuel modification and vegetation management to reduce wildfire hazards; and fire protection systems (fire hydrants and fire extinguishers).

Operation and Management

The Project would detail MRCA’s overall management plan for existing and proposed public coastal overnight accommodations. The Project would include policies and implementation measures for the operation, management, and best practices of the existing campground facilities at Ramirez Canyon Park and proposed new facilities at both Malibu Bluffs and Ramirez Canyon Park. The Project would also provide managed public access through the MRCA online reservation system to enhance the public’s ability to utilize the existing campground at Ramirez Canyon Park and the proposed campground at Malibu Bluffs. Additionally, the Project would include an Emergency Response and Evacuation Plan.

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 3 of 13

Location: Malibu Bluffs is located adjacent to Malibu Bluffs Park at 24250 Pacific Coast Highway south of Highway 1 in the City of Malibu. Malibu Bluffs is bounded by Highway 1 to the north, City of Malibu-owned 10-acre Malibu Bluffs Park to the east, private residences and the Pacific Ocean to the south, and private residences to the west. The Malibu Bluffs site is currently owned by the Santa Monica Mountains Conservancy and managed by the MRCA and is open to the public as parkland. Ramirez Canyon Park is located at 5350 Kanan Dume Road on unincorporated land in the County of Los Angeles. Ramirez Canyon Park is bounded by undeveloped land owned and managed by the MRCA, Santa Monica Mountains Conservancy, and National Park Service to the north, Escondido Canyon Park to the east, single family development to the south, and Kanan Dume Road to the west.

Comments and Recommendations

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

Specific Comments

- 1) Pedestrian and Vehicle Bridges. The NOP states that the Project at Malibu Bluffs would include "pedestrian and vehicle bridges to provide access over site drainage and streams." Construction of these bridges could result in temporary or permanent impacts on streams as well as natural communities adjacent to streams.
 - a) Stream Delineation and Impact Assessment. The DEIR should include a stream delineation for both Malibu Bluffs and Ramirez Canyon Park, which should also identify culverts, ditches, and storm channels that may transport water, sediment, pollutants, and discharge into any rivers, streams, and lakes¹. The delineation should be conducted pursuant to the USFWS wetland definition adopted by CDFW (Cowardin et al. 1979). 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. The DEIR should disclose the total temporary or permanent impacts on streams and associated natural communities resulting from construction as well as impacts occurring during the Project's operation and maintenance phase (e.g., impacts from fuel modification).
 - b) Avoidance and Setbacks. CDFW recommends the Project (e.g., flame-less facilities, day use facilities, fuel modification zones, and trails) be designed to completely avoid impacts on streams and associated natural communities at both Malibu Bluffs and Ramirez Canyon Park. Herbaceous vegetation adjacent to streams protects the physical and ecological integrity of these water features and maintains natural sedimentation processes. The DEIR should discuss how the Project has been designed to avoid and/or

¹ "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body.

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 4 of 13

minimize impacts so CDFW may assess potential impacts on biological resources. For Malibu Bluffs, the DEIR should include pedestrian and vehicle bridges design plans and discuss how they been designed to completely avoid impacts on streams and associated natural communities. CDFW recommends the DEIR include best management practices to protect streams at both Malibu Bluffs and Ramirez Canyon Park during operation and maintenance of the Project.

- c) Mitigation. If avoidance is not feasible, the DEIR should include mitigation for impacts on streams and associated natural communities. In addition, the DEIR should be conditioned to require MRCA to submit a Lake and Streambed Alteration (LSA) Notification to CDFW pursuant to Fish and Game Code Section 1600 et seq. As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream or use material from a streambed. For any such activities, the project applicant (or "entity") must notify CDFW². Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2022a).
- 2) Fuel Modification and Vegetation Management. According to the NOP, the Project would include fuel modification and vegetation management to reduce wildfire hazards. The DEIR should include a map of fuel modification zone(s) at both Malibu Bluffs and Ramirez Canyon Park. The DEIR should include a map of biological resources (e.g., natural plant communities, streams) overlaid on fuel modification zones. The DEIR should discuss what biological resources would be impacted and how many acres of impacts would occur resulting from potential fire risk and fuel modification requirements. Also, if the Project may require irrigation in fuel modification zones, CDFW recommends the DEIR discuss the Project's irrigation plan. If the Project would result in significant impacts on biological resources, the DEIR should include mitigation to offset those impacts. Lastly, CDFW recommends DEIR include best management practices to protect biological resources outside of designated fuel modification zone(s) during operation and maintenance of the Project. An irrigation plan should be designed so that water drains back into the Project site and not into any adjacent Environmentally Sensitive Habitat Areas, Sensitive Environmental Resource Areas, open space, natural areas, and conserved lands.
- 3) Trails. CDFW generally supports the Project's public access component, especially in providing accommodations for underserved communities. CDFW recommends MRCA consider trail layouts and alternatives that would balance access and protection of biological resources at Malibu Bluffs and Ramirez Canyon Park. CDFW recommends the DEIR include the Project's trail plan for both Malibu Bluffs and Ramirez Canyon Park so CDFW may evaluate the Project's trail plan for potential impacts on biological resources. The DEIR should include information on potential trail layout(s), widths, fencing, and trail surface type(s). The DEIR should discuss how proposed trail have been designed to avoid and/or minimize impacts on Environmentally Sensitive Habitat Areas, Sensitive Environmental

² CDFW's issuance of a 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 to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 5 of 13

Resource Areas, open space, natural areas, and conserved lands. The DEIR should include mitigation for potentially significant impacts on biological resources resulting from construction, operation, and maintenance of trails and public access components. Impacts may include direct impacts (e.g., permanent removal) and indirect impacts (e.g., edge effects such as spreading invasive plants) on habitat supporting rare, sensitive, or special-status plants or wildlife, Sensitive Natural Communities, and streams and associated natural communities.

- 4) Use of Native Plants and Trees. The NOP states that the Project would involve landscaping. CDFW recommends that DEIR include the Project's landscaping plan/plant palette for both Malibu Bluffs and Ramirez Canyon Park so CDFW may evaluate the plan's potential impacts on natural communities adjacent to the Project site (e.g., introducing non-native, invasive species). CDFW recommends that the Project's landscaping plan exclusively use native plants given the Project's adjacency to Environmentally Sensitive Habitat Areas Sensitive Environmental Resource Areas, and natural areas. CDFW strongly recommends the Project avoid non-native, invasive species for landscaping and restoration, particularly any species listed as 'Moderate' or 'High' by the [California Invasive Plant Council](#) (Cal-IPC 2022). CDFW recommends MRCA use native species found in naturally occurring plant communities within or adjacent to the Project site. In addition, CDFW recommends planting species of trees (where appropriate), such as oaks (*Quercus* genus), and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds. CDFW recommends retaining any standing, dead, or dying tree (snags) where possible and appropriate. Snags provide perching and nesting habitat for birds and raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

General Comments

- 5) Disclosure. The DEIR should include 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 include comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).
- 6) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental document "shall describe feasible measures which could mitigate for impacts below a significant level under CEQA."
 - a) Level of Detail. Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4). A public agency "shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures" (Pub. Resources Code, § 21081.6). The DEIR should include mitigation measures that are specific and detailed (i.e., responsible party, timing, specific actions, location) in order for

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 6 of 13

a mitigation measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

- b) Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the proposed Project, the DEIR should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the DEIR should include an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.
- 7) Biological Baseline Assessment. An adequate biological resources assessment should include a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened, rare, and sensitive species; regionally and locally unique species; and sensitive habitats. An impact analysis will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. 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)]. The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2022b);
- b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Botanical field surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the Project. Adjoining properties should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually, this is during flowering or fruiting. Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project site. This usually involves multiple visits to the Project site (e.g., in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present;
- c) Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the Project site and within adjacent areas. The [Manual of California](#)

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 7 of 13

- [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 the Project's construction and activities could lead to direct or indirect impacts off site;
- d) A complete and recent assessment of the biological resources associated with each habitat type in the Project site and within adjacent areas. CDFW's [California Natural Diversity Database](#) should be accessed to obtain current information on any previously reported sensitive species and habitat (CDFW 2022c). A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)]. An assessment should include a minimum nine-quadrangle search of the CNDDDB to determine a list of species potentially present in the Project site. A nine-quadrangle search should be included in the Project's CEQA document for adequate disclosure of the Project's potential impact on biological resources. Please see [CNDDDB Data Use Guidelines – Why do I need to do this?](#) for additional information (CDFW 2011);
- e) A complete, recent, assessment of endangered, rare, or threatened species and other sensitive species within the Project site and adjacent areas, including 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 site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) for established survey protocol (CDFW 2022d). Acceptable species-specific survey procedures may be developed in consultation with CDFW and U.S Fish and Wildlife Service; and,
- f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if Project implementation build out could occur over a protracted time frame or in phases.
- 8) Direct and Indirect Impacts on Biological Resources. The DEIR should include a thorough discussion of direct and indirect impacts expected to adversely affect biological resources with specific measures to offset such impacts. The DEIR should address the following:
- a) A discussion regarding Project-related indirect impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 8 of 13

be fully analyzed and discussed in the DEIR;

- b) A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the ecosystem supporting those species impacted [CEQA Guidelines, § 15126.2(a)];
 - c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures;
 - d) A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion should also address the potential water extraction activities and the potential resulting impacts on habitat (if any) supported by the groundwater. Measures to mitigate such impacts should be included; and
 - e) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR.
- 9) Project Description and Alternatives. To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DEIR:
- a) A complete discussion of the purpose and need for, and description of the proposed Project;
 - b) Pursuant to CEQA Guidelines section 15126.6(a), an environmental document “shall describe a reasonable range of potentially feasible alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project.” CEQA Guidelines section 15126.6(f)(2) states if the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion; and,
 - c) A range of feasible alternatives to the Project location to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends MRCA select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends MRCA consider establishing appropriate setbacks from sensitive and special status biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 9 of 13

Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DEIR “shall” include sufficient information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).

- d) Where the Project may impact aquatic and riparian resources, CDFW recommends MRCA select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level and cause the watercourse to alter its course of flow.

- 10) Cumulative Impact. Cumulative impacts on biological resources can result from collectively significant projects. The Project, when considered collectively with prior, concurrent, and probable future projects, may have a significant cumulative effect on biological resources. Biological resources that may be impacted by the Project include, but is not limited to, the biological resources described in this letter.

Accordingly, CDFW recommends the DEIR evaluate the Project’s potential cumulative impacts on biological resources. The Project may have a “significant effect on the environment” if the possible effects of the Project are individually limited but cumulatively considerable. “Cumulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects [Pub. Resources Code, § 21083(b)]. MRCA’s conclusions regarding the significance of the Project’s cumulative impact should be justified and supported by evidence to make those conclusions. Specifically, if MRCA concludes that the Project would not result in cumulative impacts on biological resources, MRCA “shall identify facts and analysis supporting MRCA’s conclusion that the cumulative impact is less than significant” [CEQA Guidelines section § 15130(a)(2)].

When using a threshold of significance, the DEIR should briefly explain how compliance with the threshold means that the Project’s impacts are less than significant. A threshold of significance is an identifiable quantitative, qualitative, or performance level of a particular environmental effect [CEQA Guidelines, § 15064.7]. Compliance with the threshold does not relieve MRCA’s obligation to consider substantial evidence indicating that the Project’s environmental effects may still be significant [CEQA Guidelines, § 15064(b)(2)]. Alternatively, if MRCA concludes that the Project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through implementation of mitigation measures, the DEIR should briefly explain how the contribution has been rendered by MRCA to be less than cumulatively considerable. MRCA “shall identify facts and analysis supporting MRCA’s conclusion that the contribution will be rendered less than cumulatively considerable” [CEQA Guidelines section, § 15130(a)(3)].

- 11) Data. CEQA requires that information developed in environmental impact reports be incorporated into a database which may be used to make subsequent or supplemental

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 10 of 13

environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and sensitive natural communities detected by completing and submitting [CNDDB Field Survey Forms](#) (CDFW 2022d). To submit information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022f). MRCA should ensure data collected for the preparation of the DEIR be properly submitted, with all data fields applicable filled out.

- 12) CESA ITP. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Appropriate take authorization from CDFW under CESA 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 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.
- 13) Compensatory Mitigation. The DEIR should include compensatory mitigation for the Project's significant direct and indirect impacts to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization 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 inadequate to 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 and 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.
- 14) 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 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 endowment should be set aside to provide for long-term

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 11 of 13

management of mitigation lands.

- 15) Wildlife Friendly Fencing. Fencing could obstruct wildlife movement and result in wildlife injury or mortality due to impalement and entanglement (e.g., chain link fencing). If the Project would include temporary and/or permanent fencing, fencing designs should be disclosed and evaluated in the DEIR for potential impacts on biological resources and wildlife movement. The DEIR should discuss how fencing proposed for the Project would minimize impacts on biological resources, specifically wildlife movement. CDFW supports the use of wildlife-friendly fencing. Wildlife-friendly fencing should be used and strategically placed in areas of high biological resource value in order to protect biological resources, habitat, and wildlife movement. CDFW recommends [A Landowner's Guide to Wildlife Friendly Fences](#) for information wildlife-friendly fences (MFWP 2012).
- 16) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or threatened plants and animals. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving plants and animals and their habitats.
- 17) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's (Commission) policies. The [Wetlands Resources](#) policy the Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California" (CFGC 2020). 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, a project should 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 benefiting local and transient 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.

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 12 of 13

- 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 & G. Code, § 5650).

Conclusion

We appreciate the opportunity to comment on the NOP for the Project to assist MRCA in preparing the Project's environmental document and identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov or (562) 619-2230.

Sincerely,

DocuSigned by:

B6E58CFE24724F5...

Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

Erinn Wilson-Olgin, Seal Beach – Erinn.Wilson-Olgin@wildlife.ca.gov
Victoria Tang, Seal Beach – Victoria.Tang@wildlife.ca.gov
Ruby Kwan-Davis, Seal Beach – Ruby.Kwan-Davis@wildlife.ca.gov
Felicia Silva, Seal Beach – Felicia.Silva@wildlife.ca.gov
Julisa Portugal, Seal Beach – Julisa.Portugal@wildlife.ca.gov
Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov
CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov

OPR

State Clearinghouse, Sacramento – State.Clearinghouse@opr.ca.gov

References:

- [CFGFC] California Fish and Game Commission. 2020. Policies. Retention of Wetland Acreage and Habitat Values. Accessed: <https://fgc.ca.gov/About/Policies/Miscellaneous>.
[CDFWa] California Department of Fish and Wildlife. 2022. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/LSA>.
[CDFWb] California Department of Fish and Wildlife. 2022. Natural Communities. Available from: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>.

Mario Sandoval
Mountains Recreation & Conservation Authority
December 12, 2022
Page 13 of 13

- [CDFWc] California Department of Fish and Wildlife. 2022. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data#43018408-cnddb-in-bios>
- [CDFWd] California Department of Fish and Wildlife. 2022. Survey and Monitoring Protocols and Guidelines. Available from: <https://wildlife.ca.gov/Conservation/Survey-Protocols>
- [CDFWe] California Department of Fish and Wildlife. 2022. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>
- [CDFWf] California Department of Fish and Wildlife. 2022. Natural Communities - Submitting Information. Available from: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>
- [Cal-IPC] California Invasive Plant Council. 2022. The Cal-IPC Inventory. Accessed at: <https://www.cal-ipc.org/plants/inventory/>.
- [CNPS] California Native Plant Society. 2022. A Manual of California Vegetation Online. Available from: <https://vegetation.cnps.org/>
- [MFWP] Montana Fish, Wildlife and Parks. 2012. A Landowner's Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind. Second Edition Revised and Updated. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=134713&inline>