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**GAVIN NEWSOM, Governor**  
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Governor's Office of Planning & Research

**NOV 17 2022**

**STATE CLEARING HOUSE**

Via Electronic Mail Only

November 17, 2022

Alex Jimenez  
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**Subject: Notice of Preparation of a Draft Environmental Impact Report for the Elephant Hill Project, SCH #2022100416, City of Pomona, Los Angeles County**

Dear Ms. Jimenez:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) from the City of Pomona (City) for the Elephant Hill Project (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*

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## Project Description and Summary

**Objective:** The 120.6-acre Project site is located at Elephant Hill, a largely undeveloped foothill within the City. The Project proposes to develop 43.77 acres (Development Area) and retain 76.83 acres as open space (Open Space Area). The Development Area would consist of 228 residential dwelling units, a 1.02-acre recreational center, 21.01 acres of developed open space (including landscaped slopes, fuel modification areas, and trails), 6.42 acres of paved roadways, 666 parking spaces, and utility infrastructure (including stormwater, water, sewer, electrical, and other dry utilities). Terraces would be retained by a mechanically stabilized earth (MSE) retaining wall measuring 22 to 25 feet tall.

The Open Space Area would consist of 68.57 acres of undeveloped and untouched open space (Natural Open Space Area), while approximately 8.26 acres of biological habitat mitigation is proposed within the northern portion of the Open Space Area (Mitigation Area). The Mitigation Area would include 4.95 acres of coastal sage scrub restoration and 3.31 acres of preservation areas. The preservation areas would include 2.01 acres of coastal sage scrub, 1.19 acres of walnut, and 0.11 acres of many-stemmed dudleya (*Dudleya multicaulis*) preservation. The preservation of many-stemmed dudleya will include approximately 5,000 individual plants. The coastal sage scrub restoration activities would include weed removal, planting, and annual maintenance and monitoring, subject to a Habitat Mitigation and Monitoring Plan and Long-Term Maintenance Plan.

The Project would require grading of 35.98 acres. Grading would involve approximately 1,111,998 cubic yards of cut and approximately 1,215,939 cubic yards of fill. The Project proposes to cut into the hill area and utilize that material to create terraces at the base of the hillside. Blasting would be required in order to cut into the hillside and would occur during grading from January 2024 to September 2024. No more than one blast per day, and a couple per week, would occur during construction activities. Grading would not be phased and would be expected to begin during the first quarter of 2024.

**Location:** The Project is located directly to the east of State Route 57; south of the Union Pacific Railroad tracks right-of-way, Spadra Cemetery, and the Los Angeles County Pomona Water Reclamation Plant; north of Mission Boulevard and Sorrento Ridge residential development and Eaves apartments; northwest of the Pomona Police Department Range and Inland Valley Humane Society; and approximately 370 feet west of Humane Way. The Project site consists of three parcels (Assessors' Parcel Numbers 8707-020-001, 8707-020-008, and 8708-021-058).

## Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City 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.

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## Specific Comments

- 1) Development of Open Space. According to the City's Zoning Ordinance [Section 0.220](#) *Open space land zone district Intent and purpose*, "the open land use district, 'O,' is intended to provide for permanent open spaces and governmental facilities in the community." Per [Section 0.221](#) *Uses permitted*, "no building structure or land shall be used [...] except for open space uses allowed by conditional use permit only." Open spaces use allowed by a conditional use permit includes the following: 1) archery ranges, 2) bridle trails, 3) campgrounds, 4) driving ranges, 5) fishing ponds, 6) accessory food and beverages uses, 7) any other use the city planner determines to be similar to the above.

The Project could be using land zoned as Open Space in a manner that is inconsistent with the City's Zoning Ordinance. According to Figure 5 in the NOP, the Development Area's 21.01 acres of developed open space could convert (or use) open space by grading and removing existing natural vegetation, and introducing lawns, artificial turf, non-native plants, imported soils, chemicals, fertilizers, engineered slopes, terraces, irrigation, culverts, and drainages. The DEIR should provide a map showing the Project plan overlaid on the City's zoning map, discuss how the Project would use or convert Open Space, discuss the Project in relation to the City's Zoning Ordinance for Open Space, and discuss how the City and Project Applicant are proposing to compensate for loss of public Open Space.

- 2) Mitigation Area. The City/Project Applicant is proposing to provide 76.83 acres of the Project site as open space. The DEIR should discuss what impacts would be offset through those 76.83 acres. In addition, the DEIR should discuss if the City/Project Applicant is proposing to provide 76.83 acres as open space that may already be zoned and conserved as open space. Furthermore, the Project Applicant is proposing 8.26 acres of Mitigation Area. The DEIR should discuss what impacts these 8.26 acres would mitigate and why providing those 8.26 acres would be adequate to ensure no net loss of biological resources in the City. The DEIR should discuss why those 4.95 acres selected for coastal sage scrub restoration would be suitable to support coastal sage scrub (i.e., existing species composition, soils, aspect, and slope). The DEIR should discuss whether restoration would cause one or more significant effects (e.g., impact in-situ rare plants) in addition to those effects that would be caused by the Project (CEQA Guidelines, § 15126.4).

The DEIR should discuss the quality of 2.01 acres of coastal sage scrub, 1.19 acres of walnut, and 0.11 acres of many-stemmed dudleya to be preserved. The DEIR should compare the impact area to the preservation areas (i.e., species abundance, richness, density, cover, composition) and discuss why the preservation areas would be appropriate mitigation.

Lastly, the DEIR should discuss what mechanism(s) the City/Project Applicant is proposing to protect 76.83 acres in perpetuity. Mitigation lands should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands<sup>1</sup>. An appropriate endowment should be provided for the long-term management of mitigation lands.

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<sup>1</sup> Pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code sections 65965-65968. Under Government Code section 65967(c), 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.

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- 3) Fire. The Project proposes a new residential development in a 'Very High' Fire Severity Zone (VHFSZ) (County of Los Angeles 2022). Development in a VHFSZ and wildland urban interface could increase fire risk, frequency, and intensity. Residential developments in the wildland-urban interface and other wildfire prone areas can significantly increase the risks of wildfires for several reasons (State of California DOJ 2022). First, introducing more people - via additional development - into a flammable landscape increases the likelihood of 1) a wildfire igniting due to the increased presence of people and 2) the ignition becoming a wildfire because of the placement of homes amongst the flammable vegetation. Second, building housing units in the wildland-urban interface puts more people in harm's way. The fundamental driver of increased wildfire risk is the introduction of people into a flammable landscape (State of California DOJ 2022).

The DEIR should discuss how the Project may impact biological resources, Open Space Area, and natural areas adjacent to the Project site as a result of introducing and intensifying land use in a VHFSZ. In addition, the DEIR should discuss how fuel modification may impact biological resources and provide maps showing potential fuel modification zones. Fuel modification may result in additional habitat loss and have perpetual impacts on biological resources. CDFW recommends reviewing our State Attorney General's [Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act](#) (State of California DOJ 2022).

CDFW recommends the City require the Project Applicant to design the Project with features such as block walls or other alternatives to reduce wildfire risk and reduce the acreage of natural areas that would need to be removed for fuel modification. Block walls, for example, may reduce the extent and amount of vegetation and habitat that may need to be removed. Also, if the Project may require irrigation in fuel modification zones, CDFW recommends the City require the Project Applicant to provide an irrigation plan such that water drains back into the development and not onto any adjacent open space, natural areas, and conserved lands. The DEIR should discuss how the Project has been designed to avoid or minimize impacts on biological resources resulting from potential fire risk and fuel modification requirements.

- 4) Wildlife Movement. The Project site is located between two large landscape blocks: Chino Hills State Park and the Angeles National Forest. The Project site could serve as a steppingstone connecting Chino Hills State Park, Frank G. Bonelli Regional Park, and the Angeles National Forest. Accordingly, the DEIR should discuss the Project's impact on wildlife movement.
- 5) Open Space and Natural Areas. The Project proposes a 76.83-acre Open Space Area adjacent to the Development Area. The Project could encroach onto the Open Space Area during fuel modification if there is an insufficient setback from the Development Area to the Open Space Area. Encroachment onto open space/natural areas creates an abrupt transition between two different land uses. Encroachment onto open space/natural areas could affect environmental and biological conditions and increase the magnitude of edge effects such as spread of non-native plants and pests (e.g., Argentine ants), fuel modification, and nighttime lighting. Edge effects can result in habitat type conversion (e.g., native to more non-native species) and reduce plant and wildlife species richness (Mitrovich et al. 2009). CDFW recommends the City require the Project Applicant to design the Project with effective setbacks adjoining open space/natural areas. The DEIR discuss how the

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chosen setback distance fully avoids encroachment onto open space/natural areas and does not reduce the acreage of the proposed Open Space Area.

- 6) Streams and Associated Natural Communities. According to the U.S. Fish and Wildlife Service's (USFWS) [National Wetlands Mapper](#), there are two wetland features in the Project site (USFWS 2022). The proposed Project plan would develop over these two wetland features. In addition, the Project may impact ephemeral streams. Buildout of the Project may impact streams and associated natural communities as a result of cutting, grading, filling, blasting, and terracing hillsides. Streams could be channelized or diverted underground. Streams could become impaired as a result of increased sediment, pollution, or construction equipment spills or leaks during Project construction. Natural communities adjacent to streams could be removed or degraded through habitat modification (e.g., loss of water source, encroachment by the Project, edge effects leading to introduction of non-native plants).
- a) Stream Delineation and Impact Assessment. The DEIR should provide a stream delineation, which should also identify culverts, ditches, and storm channels that may transport water, sediment, pollutants, and discharge into any rivers, streams, and lakes<sup>2</sup>. 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. In addition, the DEIR should disclose the total impacts (linear feet and/or acreage) including impacts resulting from fuel modification on any river, stream, or lake and associated natural communities.
- b) Avoidance and Setbacks. CDFW recommends the Project avoid impacts on streams and associated natural communities by avoiding or minimizing Project-related development adjacent to streams. Herbaceous vegetation adjacent to streams protects the physical and ecological integrity of these water features and maintains natural sedimentation processes. CDFW recommends the City require the Project Applicant to modify the Project so that impacts on streams are avoided and/or minimized. The Project should be designed with effective setbacks adjoining streams and associated natural communities. The DEIR should discuss how the Project has been designed to avoid and/or minimize impacts so CDFW may assess potential impacts on biological resources.
- c) Mitigation. If avoidance is not feasible, the Project Applicant should fully compensate for impacts on streams and loss of associated natural communities. Higher mitigation should be provided to compensate for impacts on streams supporting rare, sensitive, or special status fish, wildlife, and natural communities. In addition, the DEIR should be conditioned to require the Project Applicant 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

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<sup>2</sup> "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.

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(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 CDFW<sup>3</sup>. Please visit CDFW’s [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2022a).

- 7) Coastal California Gnatcatcher (*Polioptila californica californica*). According to the California Natural Diversity Database (CNDDDB), there is a coastal California gnatcatcher (gnatcatcher) an occurrence in the open space across from the Project site (CDFW 2022b). In addition, the Project site is less than 1.5 miles from critical habitat for the gnatcatcher (USFWS 2022). Finally, the Project site contains coastal scrub. Gnatcatchers are closely tied to coastal scrub vegetation for reproduction (USFWS 2010). During the non-breeding season, gnatcatchers may also occur in other nearby plant communities (USFWS 2010).
- a) Protection Status. Gnatcatcher is a California Species of Special Concern (SSC) and a species listed as threatened under the Endangered Species Act (ESA). CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065). As an ESA-listed species, gnatcatcher is considered an 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.
- b) Surveys. In preparation of the DEIR, CDFW recommends the City require the Project Applicant to retain a qualified biologist perform protocol-level surveys for gnatcatcher in order to determine if gnatcatcher is present. The qualified biologist should conduct surveys according to the [Coastal California Gnatcatcher \(\*Polioptila californica californica\*\) Presence/Absence Survey Guidelines](#) (USFWS 1997). The protocol should be followed for all surveys unless otherwise authorized by the USFWS in writing (USFWS 1997).
- c) Disclosure and Mitigation. The DEIR should provide full disclosure of the presence of gnatcatcher and the Project’s potential impact on gnatcatcher, and not deferred until a later time (i.e., preconstruction surveys). The DEIR should discuss noise impacts from the Project, especially during blasting to cut into the hillside (e.g., duration, maximum noise level, hourly average noise level). The DEIR should be conditioned to provide measures to avoid or mitigate impacts if avoidance is not feasible. If avoidance is not feasible, mitigation may include obtaining take authorization from USFWS. In addition, the Project Applicant should provide replacement habitat to ensure no net loss. The DEIR should discuss why mitigation measures proposed would be adequate to avoid or

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<sup>3</sup> 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.

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offset impacts to gnatcatcher and habitat.

- 8) Crotch bumble bee (*Bombus crotchii*). The Project site may support habitat for Crotch bumble bee, which includes grasslands and scrub. If Crotch bumble bee is present in the Project site, the Project could grade and/or develop habitat supporting Crotch bumble bee. The Project may result in temporal or permanent loss of suitable nesting and foraging habitat. In addition, Project ground-disturbing activities and vegetation removal during construction and fuel modification activities may cause death or injury of adults, eggs, and larva, burrow collapse, nest abandonment, and reduced nest success.
- a) Protection Status. The California Fish and Game Commission accepted a petition to list the Crotch bumble bee as endangered under CESA, determining the listing “may be warranted” and advancing the species to the candidacy stage of the CESA listing process. Crotch bumble bee is granted full protection of a threatened species under CESA. 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). In addition, Crotch bumble bee has a State ranking of S1/S2. This means that the Crotch bumble bee is considered critically imperiled or imperiled and is extremely rare (often five or fewer populations). Crotch bumble bee is also listed as an invertebrate of conservation priority under the [Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#) (CDFW 2017).
- b) Surveys and Disclosure<sup>4</sup>. CDFW recommends the City require the Project Applicant to retain a qualified biologist familiar with the species to survey the Project site for Crotch bumble bee and habitat. Surveys for Crotch bumble bee 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). The DEIR should provide full disclosure of the presence of Crotch bumble bee and the Project’s potential impact on Crotch bumble bee, and not deferred until a later time (i.e., preconstruction surveys).
- c) Mitigation. The DEIR should include measures to first avoid impacts on Crotch’s bumble bee. If Crotch bumble bee is present, a qualified biologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, 15-meter no-disturbance buffer zones should be established around nests to reduce the risk of disturbance or accidental take. If the Project cannot avoid impacts, the City should require the Project Applicant to consult CDFW to determine if a CESA Incidental Take Permit (ITP) is required. In addition, the City should require the Project Applicant to provide compensatory mitigation for removal or damage to any floral resource associated with Crotch bumble bee. Floral resources should be replaced as close to their original location as is feasible.
- d) CESA ITP. 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, subs. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain

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<sup>4</sup> Please note that lack of records in the CNDDDB for Crotch bumble bee at the Project site does not mean that Crotch bumble bee is not present. Reporting data to the CNDDDB is voluntary and it was only recently that entry of data became strongly recommended or required for candidate species like and Crotch bumble bee. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review.

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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.

- 9) Rare Plants. The Project is proposing to preserve many-stemmed dudleya on site, which suggests the Project site supports rare plants including, but potentially not limited to many-stemmed dudleya. According to Calflora, there is a record of intermediate mariposa lily (*Calochortus weedii* var. *intermedius*) on site (Calflora 2022). In preparation of the DEIR, CDFW recommends the City require the Project Applicant to retain a qualified biologist to survey the entire Project site for rare plants in accordance with established protocol (see General Comment #3b). CDFW recommends the City require the Project Applicant to design the Project to fully avoid impacts on rare plants and habitat, especially those that are CESA and/or ESA-listed and has a California Rare Plant Rank of 1B. The DEIR should discuss and show how the Project has been designed to fully avoid impacts. If impacts cannot be avoided, the DEIR should fully disclose where impacts would occur and how many plants and acres of habitat would be impacted. The DEIR should be conditioned to provide compensatory mitigation for loss of individual rare plants as well as acres of habitat. The DEIR should discuss why mitigation measures proposed would be adequate to avoid or offset impacts to rare plants and habitat.
- 10) Sensitive Natural Communities. A qualified biologist should map all natural communities within the Project site as well as areas subject to off-site impacts such as edge effects in accordance with established protocol (see General Comment #3b and 3c). The qualified biologist should identify and map natural communities including, but not limited to California walnut groves (*Juglans californica* Alliance) and oak forest and woodland (*Quercus* genus Alliance). CDFW considers impacts to oak woodlands and Sensitive Natural Communities to be significant (see General Comment #3a). The DEIR should fully disclose where impacts would occur, how impacts would occur, and how many acres of natural communities would be impacted. The DEIR should be conditioned to provide compensatory mitigation for impacts on Sensitive Natural Communities. Due to local/regional rarity and significance, compensatory mitigation should be higher for impacts on Sensitive Natural Communities with a State Rarity Ranking of S1 or S2 and/or a Sensitive Natural Community with an additional ranking of 0.1 or 0.2. The DEIR should discuss how compensatory mitigation would be adequate to reduce the Project's impact on Sensitive Natural Communities to below a level of significance.
- 11) Nesting Birds. The Project proposes to develop open space and adjacent to open space that likely supports nesting birds. In addition, the Project is seeking a Major Oak Tree Permit from the City to remove existing oak trees on site. Oak woodlands have higher levels of biodiversity than any other terrestrial ecosystem in California. Over 330 species of birds,

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mammals, reptiles, and amphibians depend on oak woodlands in California at some stage in their life cycle (CalPIF 2002). Large oak trees in oak woodland habitats are important for cover, nesting sites for cup nesting species and cavity nesting species, as well as caching sites for birds storing acorns (CalPIF 2002). Accordingly, the Project may impact nesting birds. Project activities occurring during the bird nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.

- 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 Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.
  - b) Avoidance. CDFW recommends that measures be taken to avoid impacts on nesting birds. CDFW recommends the DEIR include a measure whereby the Project avoids ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal during the avian breeding season which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds or their eggs.
  - c) Minimizing Potential Impacts. If impacts on nesting birds cannot be avoided, CDFW recommends the DEIR include measures to minimize impacts on nesting birds. Prior to starting ground-disturbing activities and vegetation removal, CDFW recommends a qualified biologist conduct breeding bird surveys to identify nests occurring in the Project site and 100 feet from the Project site to the extent allowable and accessible. The qualified biologist should establish no-disturbance buffers to minimize impacts on those nests. CDFW recommends a minimum 300-foot no-disturbance buffer around active bird nests. For raptors, the no-disturbance buffer should be expanded to 500 feet and 0.5 mile for special-status species, if feasible. Project personnel, including all contractors working on site, should be instructed on nesting birds, sensitivity of the area, and adherence to the no-disturbance buffers. Reductions in the buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors determined by a qualified biologist.
- 12) Loss of Bird Nesting Habitat. The DEIR should discuss the Project's impact on nesting habitat. Edge effects and impacts due to fuel modification should also be discussed. The DEIR should disclose the acreage of nesting habitat that could be impacted and lost as a result of the Project. CDFW recommends the Project avoid and minimize development and encroachment onto nesting habitat. The City should require the Project Applicant to provide compensatory mitigation for the loss of nesting habitat.
- 13) Los Angeles County Significant Ecological Areas (SEAs). The Project site is located within the East San Gabriel Valley Significant Ecological Area (SEA). [Los Angeles County Significant Ecological Areas](#) are officially designated areas within Los Angeles County identified as having irreplaceable biological resources (LACDRP 2019). These areas represent the wide-ranging biodiversity of Los Angeles County and contain some of Los Angeles County's most important biological resources. The DEIR should discuss the Project's impact on the East San Gabriel Valley SEA.

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14) California 30x30. In October 2020, Governor Newsom signed the Nature Based Solutions [Executive Order N-82-20](#), elevating the role of natural and working lands in the fight against climate change and advancing biodiversity conservation as an administration priority. As part of this Executive Order, California committed to the goal of conserving 30 percent of our lands and coastal waters by 2030 (30x30). For the Los Angeles Region, a pathway to support 30x30 is to conserve coastal sage scrub, shrublands and chaparral, oak woodlands, and grasslands (CNRA 2021). Natural lands provide habitat for plants and wildlife, connect large landscape blocks, and enable wildlife movement across the landscape. The Project would convert natural lands to development, contributing to continued loss of natural lands in the Los Angeles Region. Furthermore, the City has very few natural lands remaining, limited to Elephant Hill and south of West Mission Blvd (southwest end of the City). CDFW recommends the City require the Project Applicant to design the Project to reduce the Project's footprint to the maximum extent feasible in order to conserve natural lands. The DEIR should discuss how the Project has been designed to minimize direct and indirect impacts on natural lands (see General Comment #5).

### General Comments

- 1) Disclosure. The DEIR 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 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).
- 2) 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 provide mitigation measures that are specific and detailed (i.e., responsible party, timing, specific actions, location) in order for 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 provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s).

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Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

- 3) **Biological Baseline Assessment.** An adequate biological resources assessment should provide 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 2022c);
  - 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 Vegetation](#) (MCV), second edition, should also be used to inform this mapping and assessment. 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 2022d). An assessment should include a minimum nine-quadrangle search of the CNDDDB to determine a list of species potentially

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present in the Project site. A nine-quadrangle search should be provided 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 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)];
  - f) 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 2022e). Acceptable species-specific survey procedures may be developed in consultation with CDFW and USFWS; and,
  - g) 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.
- 4) Direct and Indirect Impacts on Biological Resources. The DEIR should provide 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 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;

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- 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.
- 5) 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 the City select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends the City 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.

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 the City 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

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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.

- 6) 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. The Project may have a potential to substantially reduce the number or restrict the range of endangered, rare, or threatened species. Species 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)]. The City's conclusions regarding the significance of the Project's cumulative impact should be justified and supported by evidence to make those conclusions. Specifically, if the City concludes that the Project would not result in cumulative impacts on biological resources, the City "shall identify facts and analysis supporting the City'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 the City's obligation to consider substantial evidence indicating that the Project's environmental effects may still be significant [CEQA Guidelines, § 15064(b)(2)]. Alternatively, if the City 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 the City to be less than cumulatively considerable. The City "shall identify facts and analysis supporting the City's conclusion that the contribution will be rendered less than cumulatively considerable" [CEQA Guidelines section, § 15130(a)(3)].

- 7) Data. CEQA requires that information developed in environmental impact reports be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and sensitive natural communities detected by completing and submitting [CNDDB Field Survey Forms](#) (CDFW 2022f). 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 2022g). The City should ensure data collected for the preparation of the DEIR be properly submitted, with all data fields applicable filled out.

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- 8) Compensatory Mitigation. The DEIR should include compensatory mitigation measures 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.
- 9) 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 management of mitigation lands.
- 10) 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, prior to preparation of the DEIR, CDFW recommends the City require the Project Applicant to provide wildlife friendly fencing designs. 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).
- 11) Use of Native Plants and Trees. CDFW recommends the City require the Project Applicant to provide a native plant palette for the Project. The Project's landscaping plan should be disclosed and evaluated in the DEIR for potential impacts on biological resources such as natural communities adjacent to the Project site (e.g., introducing non-native, invasive species). CDFW supports the use of native plants for the Project especially considering the Project's location adjacent to protected open space and natural areas. CDFW strongly recommends avoiding 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 supports the use of native species found in naturally occurring plant communities within or adjacent to the Project site. In addition, CDFW supports planting species of trees, 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.

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CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

- 12) 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.
- 13) 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.
- 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

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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 Elephant Hill Project to assist the City 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](mailto:Ruby.Kwan-Davis@wildlife.ca.gov) or (562) 619-2230.

Sincerely,

DocuSigned by:  
  
B6E58CFE24724F5...

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