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Governor's Office of Planning & Research

December 28, 2023

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STATE CLEARINGHOUSE

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SUBJECT: HARMON RANCH SPECIFIC PLAN (PROJECT), DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR), SCH #2023020009

Dear Hector Salgado:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (DEIR) from City of Poway (City) for the Harmon Ranch Specific Plan Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments on the Notice of Preparation for the Project in a letter dated March 8, 2023.

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

CDFW ROLE

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

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 *et seq.*)

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City participates in the NCCP program by implementing its approved Poway Subarea Habitat Conservation Plan / Natural Community Conservation Plan (PSHCP) and Implementing Agreement (IA). The Mitigation Area identified in the PSHCP represents large contiguous blocks of natural habitat that are important to the overall preserve function and/or are recognized as locally important for sensitive resources.

PROJECT DESCRIPTION SUMMARY

Project Location: The 11.5-acre Project site is located along Oak Knoll Road, south of Poway Road, west of Carriage Road, within the southern area of the City of Poway. The Project site consists of land north and south of Oak Knoll Road that is partially developed with four uninhabited buildings, one of which is City of Poway Historical Site 113 named the "Harmon House." This historic building was built in 1933 and would be retained. Surrounding land uses include commercial development to the north and west, the Kumeyaay Ipai Interpretive Center to the north, Poway Creek to the south, and residential homes to the south and east. The Project site is within the City's PSHCP boundary and is designated as Residential Single Family 7 (RS-7) in the City's General Plan which allows a maximum density of 8 dwelling units per acre.

Project Description: The proposed Project will demolish three uninhabited buildings and construct a 5.7-acre residential neighborhood consisting of 63 homes, private streets, and parking, 2.2 acres of natural open space, and 1 acre of open space recreation areas. In addition, the Project will create a segment of the City's General Plan Community trail connecting the northern portion of the site to an adjacent retail area north along Poway Road. The public trail would be for passive recreational use and would be maintained by the Homeowners Association (HOA). The proposed Poway Creek "overlook" area and public park located in the southern portion of the site would also be maintained by the HOA. The Project would require a General Plan Amendment/Zone Change from RS-7 to Planned Community to accommodate a higher density of 8.8 dwelling units/acre.

Biological Setting: Per the Biological Resources Technical Report (BRTR), the Project site is partially developed and has been utilized by SDG&E periodically as a staging yard. Vegetation communities within the Project area include southern willow scrub (0.02 acre), fresh water (0.14 acre), disturbed wetland (0.18 acre), disturbed land (7.94 acres), non-native riparian (0.59 acre), *Arundo donax* (*Arundo*)-dominated riparian (0.40 acre) and developed land (1.45 acres) located outside of the PSHCP Mitigation Area (Dudek 2023). Poway Creek at the southern boundary of the Project flows east to west and functions as a wildlife corridor for small vertebrates including non-migratory birds. An unnamed tributary to Poway Creek occurs within the northwestern property boundary. Sensitive species that

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were identified with the potential to occur within the Project area include least Bell's vireo (*Vireo bellii pusillus*; Endangered Species Act (ESA)-listed Endangered, California Endangered Species Act (CESA)-listed Endangered), white-tailed kite (*Elanus leucurus*; California Fully Protected Species), burrowing owl (*Athene cunicularia*; California Species of Special Concern (SSC)), Cooper's hawk (*Accipiter cooperii*; SSC), spotted bat (*Euderma maculatum*; SSC), and yellow warbler (*Setophaga petechia*; SSC).

The Project will directly impact 6.75 acres of disturbed habitat, 1.45 acres of developed land, and 0.02 acre of *Arundo*-dominated riparian habitat. No compensatory habitat mitigation is proposed given that the Project site is located outside of the City's Mitigation Area, impacts to native vegetation will be avoided, and impacts to sensitive species would be mitigated through implementation of Mitigation Measures (MM) BIO-1 thru BIO-5 (Dudek 2023) as summarized below:

- MM BIO-1: Construction fencing will be established, a worker awareness training will be conducted, and a biological monitor will be required to be on-site during vegetation clearing and grading.
- MM BIO-2: Construction fencing will limit access to adjacent wetland and riparian areas until permanent perimeter walls are established.
- MM BIO-3: Seasonal avoidance of the nesting bird breeding season (February 1-September 15) or pre-construction nesting bird surveys will be conducted within 72 hours of work and appropriate avoidance buffers (300 to 500 feet) will be established by the qualified biologist.
- MM BIO-4: Project activities and staging areas will be limited to the development footprint, kept free of trash and debris, and prohibit any pets. In addition, any construction lighting will be shielded away from adjacent habitat.
- MM BIO-5: Grading restrictions and erosion control measures consistent with the Poway General Plan and Grading Ordinance will be implemented in areas adjacent to wetland habitat.

In addition, Appendix Q of the DEIR states that all permanent exterior lighting within the Project area will be shielded away to avoid light spillage into adjacent properties.

COMMENTS AND RECOMMENDATIONS

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

- 1) Sensitive Bats. Various bat species, including spotted bat, a California SSC, have the potential to roost within the abandoned buildings on-site that are proposed to be demolished as part of the Project. Clearance of structures occupied by bats would

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result in direct take of the species. Indirect impacts to bats may result from increased noise disturbances, human activity, dust, ground disturbing activities (e.g., staging, access, mobilization, and grading) and vibrations caused by heavy equipment. Bats are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish and Game Code § 4150, California Code of Regulations § 251.1). In addition, spotted bat is not covered under the PSHCP and the DEIR does not include mitigation measures to avoid and/or minimize the potential impacts to this species from the Project-related removal of structures. To reduce potential impacts to special-status bat species to less than significant, we recommend the following protocol be incorporated into the FEIR:

- a. CDFW recommends that Project demolition and construction activities occur outside of the general bat maternity roost season of March through August to reduce any potentially significant impacts to maternity roosting bats.
 - b. If avoidance of a maternity roost season is not feasible, CDFW recommends that a pre-construction survey be conducted by a qualified bat biologist within the structures proposed to be demolished a week prior to the commencement of Project activities to determine whether these structures are occupied by bats.
 - i. If a maternity roost is present, eviction of any bats found should be avoided and we recommend notifying CDFW and coordinating on development of any mitigation and exclusion plans for concurrence prior to implementation. The mitigation plan should detail the methods of excluding bats from the roost and the plans for a replacement roost in the vicinity of the Project site.
 - ii. If the pre-construction survey determines that no active roosts are present, the suitable habitat should be removed within a week following the pre-construction survey. All potential roosting structures should be removed in a manner approved by the qualified bat biologist, which may include the presence of a biological monitor. Additionally, all construction activity in the vicinity of an active roost should be limited to daylight hours.
 - c. Even if a maternity roost is not present, CDFW suggests that a bat box be considered for installation near the on-site woodland as a possible attractant for various bat species. This is because the bat species commonly found in San Diego County are known to consume large numbers of mosquitoes and could benefit the residents.
- 2) Cooper's Hawk. The on-site trees offer potential roosting, foraging, and nesting habitat for various bird species including the Cooper's hawk which is a California SSC and covered species under the PSHCP. CDFW appreciates the Project's inclusion of Mitigation Measure BIO-3, which requires pre-construction nesting surveys within 72 hours if work occurs during the general migratory bird breeding season (February 1 to September 15). If this species is detected during pre-construction surveys, CDFW recommends that the qualified biologist maintain an appropriate buffer from construction activities if the nest is occupied (eggs, nestlings, etc.); that is, until the

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young have fledged and are no longer dependent on the nest. Other potential nesting raptors should receive similar consideration. CDFW generally recommends a 500-foot buffer from active raptor nests.

- 3) Potential Burrowing Owl Habitat. The BRTR states that that burrowing owl, a California SSC, is not expected to occur due to the disturbed nature and lack of suitable open habitat within the Project site (Dudek 2023). A review of historic aerial imagery indicates that the central disturbed habitat area on-site may have exhibited grassland habitat in the late 1990s and early 2000s prior to disturbance by SDG&E (Historic Aerials, 2023). In addition, CDFW is aware of burrowing owls occupying highly disturbed sites elsewhere in San Diego County. To ensure that the site is not suitable for burrowing owl, CDFW recommends that a qualified biologist conduct a focused habitat assessment for the species (e.g., suitable ground squirrel burrows, signs of owls) within the Project area prior to the start of Project activities as outlined in Appendix C of the Staff Report on Burrowing Owl Mitigation (CDFW 2012). The results, including negative findings of the habitat assessment, should be included in the FEIR. If burrowing owl is confirmed within the Project area, we recommend that the Project Proponent notify the City, CDFW, and USFWS to analyze Project-related impacts and develop appropriate measures to avoid, minimize, and/or mitigate impacts to burrowing owl.
- 4) Fencing. Per Appendix Q, Exhibit 3.7 Conceptual Fencing and Wall Plan, the Project does not propose perimeter fencing between the public recreation areas (OSR-1, OSR-3) and preserved open space (OS-1, OS-2). CDFW recommends that the Project establish fencing in these areas to deter trespassing into biological resource areas.
- 5) Compensatory Mitigation. Per the DEIR, four open space parcels (titled OS-1 through OS-4, 2.2 acres total) will be permanently conserved as part of the proposed Project. These open space areas will be deed restricted and be managed by the HOA to ensure that biological and/or cultural resources are protected. Section 7.4 of the PSHCP specifies that compensatory mitigation for Project impacts located outside of the City's Mitigation area should be addressed through in-kind habitat acquisition within the Mitigation Area unless biological information suggests that habitat outside of the Mitigation Area would add greater value to the Preserve than areas within the Mitigation Area (City of Poway 1996). In this circumstance, CDFW would like to clarify that the Project's proposed preservation areas on-site are considered a Project bonus feature and do not count as a compensatory mitigation "contribution" to the PSHCP preserve.
- 6) Lake and Streambed. Due to direct impacts to 0.02 acre of *Arundo*-dominated riparian habitat and proximity to Poway Creek in the southern portion of the Project, CDFW recommends that the Project Proponent submit a Lake and Streambed Alteration Notification to CDFW. Additionally, it is unclear if there are any proposed fuel modification zones that may extend into the riparian habitat on-site. Please note that any fuel modification zone activities adjacent to riparian habitat may require Notification to CDFW. Notifications can be submitted through CDFW's Environmental Permit

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Information Management System (EPIMS) at
<https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating the Project's impact on biological resources and ensuring consistency with the requirements of the PSHCP.

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

Sincerely,

DocuSigned by:

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REFERENCES

California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation. Available from:
[https://wildlife.ca.gov/Conservation/Survey-Protocols - 377281284-birds](https://wildlife.ca.gov/Conservation/Survey-Protocols-377281284-birds).

California Department of Fish and Wildlife. 2023. Environmental Permit Information System Management.
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California Public Resources Code Sections 21000-21177 and State CEQA Guidelines 14.

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Dudek. February 2023. Biological Resources Technical Report for the Harmon Ranch Project, City of Poway, California.

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