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March 30, 2023

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Subject: Notice of Preparation of a Draft Environmental Impact Report for the Hughes SMCC Project, SCH #2023020497, San Diego County

Dear Mr. Garcia:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of San Marcos (City; Lead Agency) for the Pacific Specific Plan (Project). 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'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;

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Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City was a local jurisdiction participant in the early planning of the Subregional Multiple Habitat Conservation Program (MHCP) in the late 1990's and early 2000's. The City had prepared a draft Subarea Plan under the Subregional MHCP, which addressed regional conservation planning across seven incorporated jurisdictions on northern San Diego County. However, the San Marcos Subarea Plan was not finalized, and state and federal permits have not been issued to the City. To date, only the City of Carlsbad has received permits pursuant to the MHCP; however, the conservation principals remain relevant for development projects occurring in other jurisdictions.

Project Description and Summary

Objective: The EIR will evaluate a request for a Site Development Plan for the proposed Project. The Project would involve development of a 67,410 square-foot light industrial building to support the expansion of the existing operations of Hughes Circuits Inc., currently located across from the proposed Project site to the south, at 546 S. Pacific Street. The 67,410 square-foot industrial building includes a 56,310 square-foot ground floor, and an 11,100 square-foot mezzanine. The proposed building would be located at the western-most portion of the Project site, and the disturbance area associated with Project construction would be limited to approximately 113,877 square feet or 2.61 acres of the 10.46-acre Project site. The remaining 7.85 acres of the 10.46-acre Project site would be preserved and restored open space and habitat area.

Location: The proposed Project site is in the northwestern portion of San Diego County within the City and is mostly surrounded by development. The Project site is located on the northeast side of South Pacific Street, to the west of South Las Posas Road, and approximately 750 feet south of Linda Vista Drive. The Project site includes Assessor's Parcel Numbers (APNs) 219-223-20-00 and 219-223-22-00.

Biological Resources: Though the Project site is mostly surrounded by development, multiple sensitive resources have previously been mapped within its boundaries, including a vernal pool/mima mound complex and multiple state and federally listed species. California Natural Diversity Database (CNDDDB) maps show historic occurrences of sensitive species over the entirety of the site, though fewer occurrences are mapped on the western-most portion of the site where Project construction is proposed. The NOP did not include any initial biological survey results.

Historical occurrences of five special status plant species are mapped on-site: San Diego button-celery (*Eryngium aristulatum* var. *parishii*; federally listed-endangered, state listed-endangered, California Native Plant Society (CNPS) Rare Plant Rank 1B.1, proposed Narrow Endemic under the MHCP), spreading Navarretia (*Navarretia fossalis*; federally listed-endangered, CNPS Rare Plant Rank 1B.1, proposed Narrow Endemic under the MHCP), thread-leaved brodiaea (*Brodiaea filifolia*; federally listed-threatened, state listed endangered, CNPS Rare Plant Rank 1B.1, proposed Narrow Endemic under the MHCP), Orcutt's brodiaea (*Brodiaea orcuttii*; CNPS Rare Plant Rank 1B.1), and San Diego thorn-mint (*Acanthomintha ilicifolia*; federally listed-threatened, state listed-endangered, California Native Plant Society (CNPS) Rare Plant Rank 1B.1, proposed Narrow Endemic under the MHCP).

One special status animal species has previously been mapped on the Project site and directly adjacent to it. San Diego fairy shrimp (*Branchinecta sandiegonensis*) is a vernal pool obligate species that is federally listed as endangered and proposed as a Narrow Endemic under the MHCP.

The Project site is located within the boundaries of the MHCP, and within the Vernal Pool Major Amendment Area in the City's Draft Subarea Plan. In the context of the MHCP, the Project site is outside of the Biological Core and Linkage Area and is identified as a "Major Amendment Area" in the MHCP Focused Planning Area. The site is not within or adjacent to any conserved lands. Although the Project site was specifically excluded from the MHCP conservation areas/acreages, estimates, and requirements, the site is recognized in the MHCP to support sensitive biological resources and is targeted as an isolated preserve area for conservation and incorporation into the MHCP preserve system.

The Project site is located within U.S. Fish and Wildlife Service (USFWS) designated critical habitat for three species, including the San Diego fairy shrimp, spreading navarretia, and thread-leaved brodiaea.

The Project site is less than two tenths of a mile from another site that is proposed to be developed under the name Pacific Specific Plan, formerly known as the Upham property, . The Upham property is just north of Linda Vista Avenue that includes the largest remaining vernal pool complex in the City supporting the San Diego fairy shrimp, San Diego button celery, and spreading navarretia. This site also includes the largest remaining non-conserved native grassland in the City that supports one of the largest known populations of thread-leaved brodiaea and Orcutt's brodiaea.

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.

Specific Comments

1. Baseline surveys for rare plants and animals, if they have not already been done, should be conducted at the appropriate time of year when the species are most likely to be detected. Rare plant surveys should take place in springtime (March-May). Mapping of vernal pools and their watershed, as well as surveys for San Diego fairy shrimp, should be conducted when the pools are still holding water.
2. CDFW recommends early consultation regarding Project design with CDFW and with the U.S. Fish and Wildlife Service (collectively the Wildlife Agencies) prior to the issuance of the DEIR. CDFW encourages a visit to the Project site during the spring months to include the Wildlife Agencies, City representatives, and Project proponents.

3. Federally endangered fairy shrimp and dually listed plants have the potential to be found in vernal pools on the Project site. Vernal pools are considered a rare resource, as it is estimated over 95% of vernal pools in San Diego County have been destroyed (USFWS 1998¹). CDFW considers the loss of these pool complexes to be regionally and biologically significant. To the extent practicable, vernal pools and depressions, and the entire sub-watershed that supports the hydrology of the pool/depression, should be avoided and conserved. The DEIR should identify any existing vernal pool habitat, analyze potential impacts, and propose avoidance and mitigation measures of any vernal pools identified on site.
4. A 25% development limit has been used in regional conservation plans in San Diego County to allow reasonable economic use of properties with exceptionally high conservation value. The Proposed Project would develop only 25% of the property and preserve and restore the remaining 75% as open space. As part of any Project approval, the undeveloped portion of the site should be maintained and managed as a Preserve, funded through a non-wasting endowment, by a land manager agreed upon by the City and Wildlife Agencies. Management should emphasize control of invasive species and prevention of human encroachment into the open space (e.g., the Preserve should be fenced and enforced against human activities).
5. CDFW requests that the DEIR's cumulative impacts analysis include a discussion of how this project's impacts to biological resources, and the impacts to biological resources as a result of the Pacific Specific Plan, are or are not cumulatively considerable (CEQA Guidelines, §15064(h)(1)). It appears from the illustration of the site plan included with the NOP that the part of the property with vernal pools and thread-leaved brodiaea will be avoided; however, Orcutt's brodiaea and San Diego thornmint (*Acanthomintha ilicifolia*) occurrences from CNDDDB overlap where the building is proposed. We anticipate that current, seasonally appropriate surveys will inform the discussion.

General Comments

To enable the Wildlife Agencies to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, wildlife, and other biological resources, we recommend the following information be included in the DEIR.

- 1) Biological Resources within the Project's Area of Potential Effect. The document should provide a complete assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. This should include a complete floral and faunal species compendium of the entire project site, undertaken at the appropriate time of year. The DEIR should include the following information.
 - a. CEQA Guidelines, section 15125(c), specifies that knowledge on the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
 - b. A thorough, recent floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to

¹ United States Fish and Wildlife Service. 1998. Vernal Pools of Southern California Recovery Plan. U.S. Fish and Wildlife Service, Portland, Oregon. 113 pp.

Special Status Native Plant Populations and Natural Communities (see <https://www.wildlife.ca.gov/Conservation/Plants/Info>). CDFW recommends that floristic, alliance-based and/or association-based mapping and vegetation impact assessments be conducted at the Project site and neighboring vicinity. The Manual of California Vegetation, second edition, should also be used to inform this mapping and assessment (Sawyer et al. 2008²). Alternately, for assessing vegetation communities located in western San Diego County, the Vegetation Classification Manual for Western San Diego County (Sproul et al. 2011³) may be used. Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

- c. A current inventory of the biological resources associated with each habitat type on site and within the area of potential effect. CDFW's California Natural Diversity Data Base in Sacramento should be contacted at <https://www.wildlife.ca.gov/Data/BIOS> to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
 - d. An inventory of rare, threatened, endangered and other sensitive species on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service.
- 2) 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 [Public Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and natural communities detected by completing and submitting CNDDDB Field Survey Forms.
 - 3) Analyses of the Potential Project-Related Impacts on Biological Resources. To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR.
 - a. A discussion of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage should also be included. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site. The discussions should also address the proximity of

² Sawyer, J. O., T. Keeler-Wolf and J.M. Evens. 2009. [A Manual of California Vegetation, Second Edition](#). California Native Plant Society Press, Sacramento.

³ Sproul, F., T. Keeler-Wolf, P. Gordon-Reedy, J. Dunn, A. Klein and K. Harper. 2011. [Vegetation Classification Manual for Western San Diego County](#). First Edition. Prepared by AECOM, California Department of Fish and Game Vegetation Classification and Mapping Program and Conservation Biology Institute for San Diego Association of Governments.

the extraction activities to the water table, whether dewatering would be necessary, and the potential resulting impacts on the habitat, if any, supported by the groundwater. Mitigation measures proposed to alleviate such impacts should be included.

- b. Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a NCCP). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.
 - c. The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the environmental document.
 - d. A cumulative effects analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
- 4) California Endangered Species Act (ESA). CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, or CESA-listed rare plant species that results from the Project is prohibited, except as authorized by State law (Fish and Game Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project, Project-related construction, or any Project-related activity for the duration of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project or at an individual project-level. Appropriate authorization from CDFW 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 a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project's CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.
- 5) Compensatory Mitigation. The DEIR should include mitigation measures for adverse Project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code, section 65967, the lead agency

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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.

- 6) To avoid impacts to nesting birds, the DEIR should require that clearing of vegetation, and when biologically warranted construction, occur outside of the peak avian breeding season which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If project construction is necessary during the bird breeding season a qualified biologist with experience in conducting bird breeding surveys should conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer should be a minimum width of 300 feet (500 feet for raptors), be delineated by temporary fencing, and remain in effect as long as construction is occurring or until the nest is no longer active. No project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

Conclusion

We appreciate the opportunity to comment on the NOP for the Hughes SMCC Project to assist the City in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Meredith Osborne, Environmental Scientist, at Meredith.Osborne@wildlife.ca.gov or (858) 354-3334.

Sincerely,

DocuSigned by:


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