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SENT BY EMAIL ONLY

April 28, 2023

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Subject: Flint Canyon Wash Trail Restoration Project, Mitigated Negative Declaration, SCH #2023030371, City of La Cañada Flintridge, Los Angeles County

Dear Mr. Taber:

The California Department of Fish and Wildlife (CDFW) has reviewed a Mitigated Negative Declaration (MND) and Biological Technical Report (BTR) from the City of La Cañada Flintridge (City) for the Flint Canyon Wash Trail Restoration Project (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; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description and Summary

Objective: The Project proposes to improve a 1,000-foot section of the 2.4-mile-long Flint Canyon Wash Trail. To prevent further erosion issues, a staircase wall of 3-foot by 3-foot gabions will be installed along the downslope of the unprotected bank. The gabion wall will be constructed with steel wire mesh cages filled with large rock aggregate. In addition to a gabion wall, soil nails will be placed to stabilize the embankment. The soil nails will be placed in a grid-like pattern along the length and height of the wall. Gabions will be placed in front of the soil nails, facing the wash. Furthermore, five erosion monitoring stations will be installed along the stream where high velocity flows occur. Installment of these stations will require rebar to be driven horizontally into the slope. The City will utilize the exposed rebar to gauge the extent of erosion occurring over a period of time. The Project also proposes to enhance the natural habitat adjacent to the trail. Habitat enhancement would consist of non-native vegetation removal and may include planting of native vegetation. A temporary staging area for the Project may occur along the trail south of the proposed improvements. Other potential temporary staging areas may include a portion of the parking lot of the La Cañada United Methodist Church and the adjacent dirt lot located south of Berkshire Place or east of the westbound Interstate 210 off-ramp at Berkshire Place. Construction of the proposed Project is expected to commence in Spring 2024 and operate through Summer 2024.

Location: The Project site consists of nine discontinuous sections near and along the banks of the Flint Canyon Wash. The Project site is bounded by Berkshire Place to the north, Interstate 210 Freeway to the northeast, open space to the south, and the Flint Canyon Tennis Club to the west. The Project location encompasses Assessor's Parcel Number 5821-020-007, 5821-020-900, 5821-020-008, 5821-020-010, 5821-020-011, and 5821-020-902.

Comments and Recommendations

Based on our review of the Project's CEQA documents, CDFW offers the comments and recommendations below to assist the City in adequately avoiding and/or mitigating the Project's impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Impacts to Least bell's vireo (*Vireo bellii pusillus*)

Issue: The Project could impact habitat for least bell's vireo, a CESA-listed and federal Endangered Species Act (ESA)-listed species.

Specific Impacts: Direct tree removal, thinning of tree branches, and human disturbance will have an impact on potential breeding and foraging habitat for least Bell's vireo.

Why impacts would occur: According to the BTR, least Bell's vireo have a moderate potential to occur within the Project site. Although least Bell's vireo was not observed during field surveys, the Project site supports riparian habitat, which is known to be utilized for nesting opportunities by this species. Additionally, recent observations of least Bell's vireo within and

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adjacent to the Project site have been recorded on [California Natural Diversity Database](#) (CDFW 2023d). Furthermore, the BTR states a successful nest was documented at the Hahamongna Watershed Park, which is located less than half a mile from the Project site. Project activities could result in temporary or long-term loss of suitable nesting, sheltering, and foraging habitats. Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from construction activities, generators, and heavy equipment may disrupt vireo mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009), and songbird abundance and density was significantly reduced in areas with high levels of noise (Bayne et al. 2008). Additionally, noise exceeding 70 dB(A) may affect feather and body growth of young birds (Kleist et al. 2018). Despite the recent observations of least Bell's vireo near the Project site and moderate potential for this species to occur, the MND does not include avoidance and minimization measures for least Bell's vireo, such as focused surveys. Without focused surveys, the Project may result in missed detection of the species and adverse impacts. Adverse impacts that may occur to least Bell's vireo include but is not limited to direct injury, direct mortality by heavy machinery, or entrapment.

Evidence impacts would be significant: There are only a few populations and breeding pairs of least Bell's vireo remaining in Los Angeles County. Project construction and activities resulting in loss of breeding pairs or nestlings or habitat supporting least Bell's vireo may result in the Project potentially causing a wildlife population to drop below self-sustaining levels; threaten to eliminate an animal community; or substantially reduce the number of restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). Accordingly, impacts on least Bell's vireo may require a mandatory finding of significance (CEQA Guidelines, § 15065).

CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. Inadequate avoidance, minimization, and mitigation measures for impacts on the least Bell's vireo will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a wildlife species identified as special status by CDFW and USFWS.

As to 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). 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.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: Take under the 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. CDFW recommends consultation with the USFWS, in order to comply with ESA, well in advance of any ground-disturbing activities and/or vegetation removal that may impact least Bell's vireo.

Mitigation Measure #1: The Project Applicant should retain a qualified biologist to conduct protocol surveys for least Bell's vireo. The qualified biologist should conduct surveys according to the United States Fish and Wildlife Service's [Least Bell's Vireo Survey Guidelines](#) (USFWS

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2001). Per protocol, all potential least Bell's vireo habitat should be surveyed at least eight times during the period from April 10 through July 31. CDFW recommends CDFW and USFWS should be notified of survey findings, including negative findings, within 45 calendar days following the completion of protocol-level surveys.

Mitigation Measure #2: If take or adverse impacts to least Bell's vireo cannot be avoided, the Project Applicant should consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project Applicant should comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project Applicant should provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.

Mitigation #3: The Project's mitigation measure for nesting birds may be inadequate to reduce the Project's impact to a level less than significant. CDFW recommends the City revise Mitigation Measure BIO-6: Nesting Bird Surveys and Protection Measures by incorporating the underlined language and removing the language that has strikethrough:

All vegetation and tree removal activities shall be conducted during the bird non-breeding season (between September 16 and January 29 of any given year). Prior to commencement and within three (3) days of trail restoration activities that are scheduled to begin or continue within the bird breeding season (generally February 1- September 15 for most species), a preconstruction nesting bird survey shall be conducted by a qualified biologist for the detection of any special-status species and active nests (contain eggs, chicks, or young dependent on the nest or immediate nest area) within 300 feet of the construction work area. The surveys shall be conducted by a qualified biologist with experience in conducting nesting bird surveys. The surveys shall continue on a weekly basis throughout the nesting bird season and throughout the duration of construction activities.

If an active nest is found, the qualified biologist will develop and implement appropriate protection and avoidance measures for that nest. ~~Appropriately sized~~ The qualified biologist shall establish a minimum 300 foot no-work buffers around will be assigned to each active nest identified during the preconstruction and weekly surveys. For raptors, the no-work buffer shall be expanded to 500 feet and 1,000 feet for special status species (e.g., least Bell's vireo) if feasible. Personnel working on the Project, including all contractors working on site, shall be instructed on the presence of nesting birds, area sensitivity, and adherence to no-disturbance buffers. The qualified biologist may approve adjustments to the buffer size around active nests that are not considered special status species (e.g., least Bell's vireo, CESA-listed). Adjustments to the buffer size may be based on the species' life history, species' sensitivity to disturbances (e.g., noise, vibration, human activity), individual behavior, nest stage (eggs, incubation, nestlings, etc.), location of nest and site conditions, presence of screening vegetation, anticipated project activities, preconstruction (ambient) conditions, and effectiveness of protection measures that may be employed. These protection measures shall include, as appropriate, installation of sound walls or visual barriers, and temporarily rescheduling of Project activities in the area until the nest is no longer active. The sound walls and visual barriers may consist of constructing temporary walls with k-rail, plywood, weed-free straw waddle, and screens, ~~or even the strategic placement of construction equipment/vehicles.~~ Coordination with CDFW will be necessary to determine any further course of action to avoid impacts to nesting raptors ~~including removal of an identified raptor nest and/or installation of exclusionary devices or netting to prevent re-use of an existing raptor nest.~~ Nest monitoring shall be conducted as

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necessary to document effectiveness of avoidance buffers and determine when buffers may be removed. Work in the buffer area can resume once the nest is deemed no longer active by the monitoring biologist.

Comment #2: Impacts on Sensitive Natural Communities

Issue: The mitigation measures proposed in the MND may not be sufficient to mitigate the Project's impacts to sensitive natural communities.

Specific impacts: Project activities such as tree removal, minimal grading, and trimming of oak tree branches will result in impacts to Gooding's willow–red willow riparian woodland and forest and coast live oak woodland.

Why impacts would occur: According to Table 3 of the BTR, the proposed Project will impact a total of 1.80 acres. Of the 1.80 acres, 0.73 acres consist of coast live oak woodland and 0.21 acres consist of Gooding's willow–red willow riparian woodland and forest. The MND acknowledges that Gooding's willow–red willow riparian woodland and forest is considered a sensitive native plant community. The MND proposes that Mitigation Measure BIO-3: Restoration Plan would reduce the Project's impacts to a level less than significant. Mitigation Measure BIO-3 proposes to mitigate "...at a 1:1 ratio for impacted riparian habitat/sensitive natural communities, habitat..." Although this mitigation ratio may meet the minimum requirements per the City's tree ordinance, it is unclear how they are sufficient to offset Project impacts. The MND does not disclose a justification as to why the proposed mitigation ratio is sufficient to reduce the Project's impacts to a level below significance. Sensitive plant communities play a vital role in the biodiversity and biological integrity of the Project site. Project activities involving removal of these plant communities will contribute to permanent and temporal loss of habitat for wildlife species that rely on these native plant communities. In addition, there may be a longer re-establishment period for sensitive natural communities and higher risk of failure especially during periods of drought, which results in prolonged temporal loss of habitat. CDFW is concerned that the mitigation proposed does not adequately offset the Project's impacts to these valued biological resources.

Furthermore, the BTR states that coast live oak woodland is not considered a sensitive plant community. Although coast live oak woodland has a state rarity rank of S4 on an alliance level, there are some associations that are considered sensitive with a state rarity rank of S3. Moreover, due to continuous loss and regional significance of this native plant community, CDFW does consider coast live oak woodland to be a sensitive plant community. Oak woodlands serve several important ecological functions such as protecting soils from erosion and land sliding; regulating water flow in watersheds; and maintaining water quality in streams and rivers. Oak woodlands also have higher levels of biodiversity than any other terrestrial ecosystem in California (Block et al. 1990). Oak trees provide nesting and perching habitat for approximately 170 species of birds (Griffin and Muick 1990). For these reasons, CDFW recommends that impacts on oak woodlands be mitigated. Moreover, oak trees and woodlands are protected by the Oak Woodlands Conservation Act (pursuant under Fish and Game Code sections 1360- 1372) and Public Resources Code section 21083.4 due to the historic and on-going loss of these resources.

Evidence impacts would be significant: Natural communities with state rarity ranks of S1-S3 are considered sensitive natural communities. Gooding's willow–red willow riparian woodland

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and forest has a state rarity rank of S3. Moreover, coast live oak woodland is protected by the Oak Woodlands Conservation Act. Impacts to sensitive plant communities should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate or lack of avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #4: The Project should offset the impacts to coast live oak woodland and Gooding's willow–red willow riparian woodland and forest by no less than a 2:1 ratio of the total acreage lost. The number of replacement trees and acres should be higher if the Project impacts large oak trees; impacts a woodland supporting rare, sensitive, or special status plants and wildlife; impacts a woodland adjacent to a watercourse; or impacts a woodland with a State Rarity ranking of S1, S2, or S3, or additional ranking of 0.1 or 0.2.

Mitigation Measure #5: CDFW recommends the City revise Mitigation Measure BIO-3: Restoration Plan by incorporating the underlined language and removing the language that has strikethrough:

A restoration plan for the project shall be prepared prior to the start of construction. A combination of onsite habitat restoration, enhancement, and exotic plant removal shall be implemented by City of La Cañada Flintridge. Impacted riparian habitat and sensitive natural communities, and habitat shall be replaced at a minimum 2:1 ratio. Listed plant species, listed wildlife species, and jurisdictional waters that will be impacted by the Project shall be replaced at a sufficient mitigation ratio acceptable to CDFW. at a 1:1 ratio for impacted riparian habitat/ sensitive natural communities, habitat, and jurisdictional waters. Habitat restoration and / enhancement shall include use of willow cuttings and exotic plant species removal. Nonnative, weedy habitats within the basin shall be targeted whenever possible as mitigation sites. Planting design, identification of onsite restoration areas, and native plant species and appropriate ratios for the project area will be addressed prior to the initiation of construction activities. The Restoration Plan will include a maintenance, monitoring, and reporting component for a 120-day Plant Establishment Period (PEP) and for five (5) years following the end of the 120-day PEP.

Comment #3: Impacts on Monarch Butterfly

Issue: The Project may impact monarch butterfly (*Danaus plexippus*) and monarch butterfly overwintering habitat.

Specific impacts: Project activities may result in direct impact to monarch butterflies through vegetation removal and tree trimming. Additionally, permanent or temporary impacts to overwintering habitat could result in local population decline or local extirpation of monarch butterflies.

Why impacts would occur: According to [iNaturalist](#), there are approximately 86 observations throughout the City (iNaturalist 2023a). Additionally, there are several [monarch butterfly observations](#) within the Hahamongna Watershed Park, which is located in close proximity to the

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Project site (iNaturalist 2023b). Within the Project site there are eucalyptus trees that could provide potential habitat for overwintering monarch butterfly. Specifically, 0.22 acres of Eucalyptus-tree of heaven-black locust groves (*Eucalyptus* spp. – *Ailanthus altissima* – *Robinia pseudoacacia* woodland semi-natural alliance) is located within the Project impact area. Removing trees during the overwintering period could have direct impacts on monarch butterflies, potentially resulting in injury or mortality; reduced health and vigor; and reduced success during spring and summer migration to breeding sites. The MND and BTR does not discuss or analyze the Project's potential impacts on monarch butterflies or potential overwintering habitat within the Project site.

Evidence impacts would be significant: Monarch numbers have dropped by 99 percent from an estimated four million butterflies just twenty years ago (CDFW 2023a). Given the precipitous decline of monarch butterflies, the monarch butterfly is currently slated to be listed in 2024 under the Endangered Species Act (CDFW 2023b). The monarch butterfly is included on CDFW's [Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#) list and identified as a Species of Greatest Conservation Need in California's [State Wildlife Action Plan](#) (CDFW 2017; CDFW 2015). Additionally, Fish and Game Code section 1002 prohibits the take or possession of wildlife for scientific research, education, or propagation purposes without a valid Scientific Collection Permit issued by CDFW. This applies to handling monarchs, removing them from the wild, or otherwise taking them for scientific or propagation purposes, including captive rearing. Fish and Game Code section 1021 directs CDFW to take feasible actions to conserve monarch butterflies and the habitats they depend upon for successful migration. Lastly, Fish and Game Code section 1374 directs the Monarch Butterfly and Pollinator Rescue Program, administered by the Wildlife Conservation Board, to recover and sustain populations of monarch butterflies.

The monarch butterfly meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Impacts on the monarch butterfly may require a mandatory finding of significance because the Project would have the potential to threaten to eliminate a plant or animal community and/or substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, §15065). The reduction in the number of monarch butterflies, either directly or indirectly through habitat loss, would constitute a significant impact absent appropriate mitigation. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW and/or U.S. Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #6: The City should require a qualified biologist to survey for monarch presence and overwintering habitat throughout the project site. A qualified biologist should survey any eucalyptus groves and other trees within the Project site that are suitable for overwintering monarchs. A qualified biologist should conduct multiple surveys for overwintering monarchs where potential overwintering habitat has been identified. Monitoring should be done as frequently as possible during the overwintering season (typically September 15 through March 11) to capture changing distributions through the season and in response to storm events.

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Mitigation Measure #7: If the Project site supports overwintering habitat, the City should prepare a long-term Monarch Butterfly Overwintering Habitat Management Plan in consultation with a qualified biologist. At a minimum, the Monarch Butterfly Overwintering Habitat Management Plan should include:

- **Protect:** Trees should not be removed in overwintering groves unless a tree poses a safety risk. The critical root zone (CRZ) of trees that are not targeted for removal should be protected. Impacts to a tree's CRZ could result in injury or mortality of the tree causing additional loss of trees and canopy. Shrubs should not be removed in overwintering groves. Shrubs should be maintained to provide a buffer to preserve the microclimate conditions of the overwinter habitat.
- **Manage:** Management activities, such as tree trimming, should be conducted in groves from March 15 through September 15 outside of the estimated timeframe when monarchs are likely present in the southern California coast.
- **Enhance:** Enhance native, insecticide-free nectar sources by planting fall/winter blooming forbs or shrubs within overwintering groves.
- **Restore:** Any trees removed as part of the project should be replaced with trees at no less than 2:1. Native insecticide-free trees should be planted such as Monterey pine (*Pinus radiata*), Monterey cypress (*Cupressus macrocarpa*), Coast redwood (*Sequoia sempervirens*), coast live oak (*Quercus agrifolia*), Douglas fir (*Pseudotsuga menziesii*), Torrey pine (*Pinus torreyana*), western sycamore (*Platanus racemosa*), bishop pine (*Pinus radiata*) and others, as appropriate for location.
- **Pesticides:** Use of pesticides should be avoided, particularly when monarchs may be present. If pesticides are used, applications should be conducted from March 15 through September 15, when possible. Herbicide should not be applied on blooming flowers. Herbicide should be applied during young plant phases, when plants are more responsive to treatment, and when monarchs and other pollinators are less likely to be on the plants. Whenever possible, targeted application herbicide methods should be used, large-scale broadcast applications should be avoided, and precautions should be taken to limit off-site movement of herbicides (e.g., drift from wind and discharge from surface water flows). Neonicotinoids or other systemic insecticides, including coated seeds, should not be used any time of the year in monarch habitat due to their ecosystem persistence, systemic nature, and toxicity. Soil fumigants should not be used. Non-chemical weed control techniques should be used when possible.
- **Tropical milkweed and pathogens:** Non-native tropical milkweed should not be planted in order to minimize the spread of the pathogen *Ophryocystis elektroscirrha* (OE), and to encourage natural monarch migration. OE can build up on tropical milkweed because these plants are evergreen, and they do not die back in the winter. OE can be debilitating and/or lethal to monarchs. If possible, tropical milkweed should be removed and replaced with native, insecticide-free nectar plants suitable for the location.

Additional Recommendations

Mountain Lion (*Puma concolor*). The Project site is comprised of several vegetation communities including California sagebrush scrub (*Artemisia californica* Shrubland Alliance), Goodding's willow–red willow riparian woodland and forest (*Salix gooddingii* - *Salix laevigata* woodland and forest alliance), and coast live oak woodland (*Quercus agrifolia* woodland alliance), which provide suitable habitat for mountain lion. Additionally, the BTR and MND

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acknowledge that there is a high potential for mountain lions to utilize the Project site for local movement. CDFW recommends that the City incorporate the following measure into the MND:

The Project Applicant shall retain a qualified biologist knowledgeable of mountain lion species ecology. The qualified biologist shall survey the areas that may provide habitat for mountain lions to determine presence and/or absence in the Project site. A focused preconstruction survey for mountain lion(s) shall be conducted 48 hours prior to Project implementation that includes site preparation, equipment staging, and mobilization. Surveys shall also be conducted when the species is most likely to be detected, during crepuscular periods at dawn and dusk (Pierce and Bleich 2003). Surveys shall be repeated if construction activities are suspended for five days or more. If a mountain lion is identified, work shall be suspended until the species leaves the site on their own. Work will resume only once it has been determined by a qualified biologist that the mountain lion has left the site.

Sensitive Plant Species. The Project's mitigation measure for sensitive plant surveys may be inadequate to reduce the Project's impact on sensitive plant species that may be within the Project site. CDFW recommends the City revise Mitigation Measure BIO-4: Preconstruction Sensitive Plant Survey by incorporating the underlined language and removing the language that has strikethrough:

~~One focused Plant surveys~~ with focus on detection of three listed species with moderate (Nevin's barberry and smooth tarplant) or low (Braunton's milkvetch) potential to occur shall be completed within the project impact limits (including ingress/egress routes and staging areas) prior to construction and during the appropriate time for identification (April-June). The qualified biologist shall conduct focused surveys adhering to CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#). The survey will also focus on special-status plant species with a high or moderate potential to occur. If listed or special-status plant species are not detected, no further action is necessary. If a listed plant species is determined to occur and avoidance is not an option, an ESA would be established, and the project will be temporarily halted until a Biological Assessment (BA) and Section 7 agency consultation can be completed. If a special-status plant species is found during preconstruction surveys, an ESA shall be established, and the area will be avoided to the maximum extent possible. If avoidance is not an option, impacts will be addressed by the Project's Restoration Plan (BIO 3) (~~BIO-2~~) and mitigation measures will be species specific and may include harvesting of seeds or cuttings for seeding/planting in on-site restoration areas, transplanting of individual trees/plants or topsoil in restoration areas and/or temporarily disturbed areas, and/or replacement at a minimum 2:1 ratio or at a ratio acceptable to CDFW 4:1 ratio.

Bats. The Project's mitigation measure for bats may be inadequate to reduce the Project's impact on bats to less than significant. CDFW recommends the City revise Mitigation Measure BIO-7: Special Status Bats and Bat Maternity Roosts by incorporating the underlined language and removing the language that has strikethrough:

Any trees that provide potential bat roosting habitat within the Project site shall proposed for removal should be surveyed inspected by a qualified bat biologist to determine their potential as the presence of bats and potential daytime and/or nighttime roosting sites and any maternity roosts. During surveys, acoustic recognition technology shall be utilized to maximize detection of bats. A discussion of survey results, including negative findings, shall be provided to the City

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prior to Project activities. To the extent feasible, removal of trees that are determined by the bat biologist to have roosting habitat should be conducted during seasonal periods of bat activity – September 1 to October 15 or when evening temperatures are not below 45 degrees Fahrenheit and rain is not over ½ inch in 24 hours; or between March 1-April 15 with the same parameters. The following measures should be adhered to during tree removal:

- As much as feasible, vegetation and trees within the Project that are not suitable for roosting bats will be removed first to provide a disturbance that might reduce the likelihood of bats using the habitat.
- Two-step tree removal will occur over two *consecutive* days under the supervision of a qualified bat biologist. On Day 1, small branches and small limbs containing no cavity, crevice or exfoliating bark habitat on habitat trees, as identified by a qualified bat biologist are removed first, using chainsaws only (no dozers, backhoes, etc.). The following day (Day 2), the remainder of the tree is to be felled/removed. Trees that are known to be bat roosts shall not be bucked or mulched immediately. A period of at least 24 hours, and preferably 48 hours, shall elapse prior to such operations to allow bats to escape. (The intention of this method is to disturb the tree with noise and vibration and branch removal on Day 1. This should cause any potentially present colonial bat species to abandon the roost tree after they emerge for nighttime foraging. Removing the tree quickly the next consecutive day should avoid re-occupation of the tree by bats.)
- If a maternity roost is located, whether solitary or colonial, that roost will remain undisturbed during maternity roosting season when young bats are present but are not yet ready to fly out of the roost (March 1 to September 30). Work shall be scheduled outside of maternity roosting season between October 1 and February 28. ~~until the next removal period or a qualified biological monitor has determined the roost is no longer active.~~ Trees determined to be maternity roosts shall be left in place until the end of the maternity season. Work shall not occur within 100 feet of or directly under or adjacent to an active roost and work should not occur between 30 minutes before sunset and 30 minutes after sunrise.

Scientific Collecting Permits. The Project may require capture, handling, and relocation of wildlife. Pursuant to the [California Code of Regulations, title 14, section 650](#), the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2023c).

CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650).

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDDB Online Field Survey Form](#)

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(CDFW 2023e). 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 2023f). The City should ensure that the Project applicant has submitted data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project applicant should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the City in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

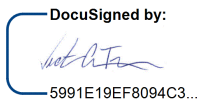
Filing Fees

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

Conclusion

We appreciate the opportunity to comment on the Project to assist the City of La Cañada Flintridge in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of La Cañada Flintridge has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Julisa Portugal, Environmental Scientist, at Julisa.Portugal@wildlife.ca.gov or (562) 330-7563.

Sincerely,

DocuSigned by:

5991E19EF8094C3...

Victoria Tang signing for

Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

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ec: CDFW
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Least Bell's Vireo Focus Surveys	The Project Applicant shall retain a qualified biologist to conduct protocol surveys for least Bell's vireo. The qualified biologist shall conduct surveys according to the United States Fish and Wildlife Service's Least Bell's Vireo Survey Guidelines . Per protocol, all potential least Bell's vireo habitat shall be surveyed at least eight times during the period from April 10 through July 31. CDFW recommends CDFW and USFWS shall be notified of survey findings, including negative findings, within 45 calendar days following the completion of protocol-level surveys.	Prior to the Project-related ground-disturbing activities	City of La Cañada Flintridge/ Project Applicant/ Qualified Biologist
MM-BIO-2- Incidental Take Permit	If take or adverse impacts to least Bell's vireo cannot be avoided, the Project Applicant shall consult with CDFW and obtain appropriate take authorization from CDFW. The Project Applicant shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project Applicant shall provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.	Prior to the Project-related ground-disturbing activities	City of La Cañada Flintridge/ Project Applicant/
MM-BIO-3- BIO-6: Nesting Bird Surveys and Protection Measures	All vegetation and tree removal activities shall be conducted during the bird non-breeding season (between September 16 and January 29 of any given year). Prior to commencement and within three (3) days of trail restoration activities that are scheduled to begin or continue within the bird breeding season (generally February 1- September 15 for most species), a preconstruction nesting bird survey shall be conducted by a qualified biologist for the detection of any special-status species	Prior to and during Project-related ground-disturbing activities and vegetation removal	City of La Cañada Flintridge/ Project Applicant/ Qualified Biologist

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	<p>and active nests (contain eggs, chicks, or young dependent on the nest or immediate nest area) within 300 feet of the construction work area. The surveys shall be conducted by a qualified biologist with experience in conducting nesting bird surveys. The surveys shall continue on a weekly basis throughout the nesting bird season and throughout the duration of construction activities.</p> <p>If an active nest is found, the qualified biologist will develop and implement appropriate protection and avoidance measures for that nest. The qualified biologist shall establish a minimum 300 foot no-work buffers around each active nest identified during the preconstruction and weekly surveys. For raptors, the no-work buffer shall be expanded to 500 feet and 1,000 feet for special status species (e.g., least Bell's vireo). Personnel working on the Project, including all contractors working on site, shall be instructed on the presence of nesting birds, area sensitivity, and adherence to no-disturbance buffers. The qualified biologist may approve adjustments to the buffer size around active nests that are not considered special status species (e.g., least Bell's vireo, CESA-listed). Adjustments to the buffer size may be based on the species' life history, species' sensitivity to disturbances (e.g., noise, vibration, human activity), individual behavior, nest stage (eggs, incubation, nestlings, etc.), location of nest and site conditions, presence of screening vegetation, anticipated project activities, preconstruction (ambient) conditions, and effectiveness of protection measures that may be employed. These protection measures shall include, as appropriate, installation of sound walls or visual barriers, and temporarily rescheduling of Project activities in the area until the nest is no longer active. The sound walls and visual barriers may consist of constructing temporary walls with k-rail, plywood, weed-free straw waddle, and screens. Coordination with CDFW will be necessary to determine any</p>		
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	<p>further course of action to avoid impacts to nesting raptors. Nest monitoring shall be conducted as necessary to document effectiveness of avoidance buffers and determine when buffers may be removed. Work in the buffer area can resume once the nest is deemed no longer active by the monitoring biologist.</p>		
<p>MM-BIO-4 – Sensitive Natural Communities Mitigation</p>	<p>The Project shall offset the impacts to coast live oak woodland and Gooding’s willow–red willow riparian woodland and forest by no less than a 2:1 ratio of the total acreage lost. The number of replacement trees and acres shall be higher if the Project impacts large oak trees; impacts a woodland supporting rare, sensitive, or special status plants and wildlife; impacts a woodland adjacent to a watercourse; or impacts a woodland with a State Rarity ranking of S1, S2, or S3, or additional ranking of 0.1 or 0.2.</p>	<p>Prior to Project-related ground-disturbing activities and vegetation removal</p>	<p>City of La Cañada Flintridge/ Project Applicant</p>
<p>MM-BIO-5 – BIO 3: Restoration Plan</p>	<p>A restoration plan for the project shall be prepared prior to the start of construction. A combination of onsite habitat restoration, enhancement, and exotic plant removal shall be implemented by City of La Cañada Flintridge. Impacted riparian habitat and sensitive natural communities, and habitat shall be replaced at a minimum 2:1 ratio. Listed plant species, listed wildlife species, and jurisdictional waters that will be impacted by the Project shall be replaced at a sufficient mitigation ratio acceptable to CDFW. Habitat restoration and enhancement shall include use of willow cuttings and exotic plant species removal. Nonnative, weedy habitats within the basin shall be targeted whenever possible as mitigation sites. Planting design, identification of onsite restoration areas, and native plant species and appropriate ratios for the project area will be addressed prior to the initiation of construction activities. The Restoration Plan will include a maintenance, monitoring, and reporting component for a 120-day Plant Establishment Period (PEP) and for five (5) years following the end of the 120-day PEP.</p>	<p>Prior to Project-related ground-disturbing activities and vegetation removal</p>	<p>City of La Cañada Flintridge/ Project Applicant</p>

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<p>MM-BIO-6 – Monarch Butterfly Surveys</p>	<p>The City shall require a qualified biologist to survey for monarch presence and overwintering habitat throughout the project site. A qualified biologist shall survey any eucalyptus groves and other trees within the Project site that are suitable for overwintering monarchs. A qualified biologist shall conduct multiple surveys for overwintering monarchs where potential overwintering habitat has been identified. Monitoring shall be done as frequently as possible during the overwintering season (typically September 15 through March 11) to capture changing distributions through the season and in response to storm events.</p>	<p>Prior to Project-related ground-disturbing activities and issuance of City permits</p>	<p>City of La Cañada Flintridge/ Qualified Biologist</p>
<p>MM-BIO-7 – Monarch Butterfly Overwintering Habitat Management Plan</p>	<p>If the Project site supports overwintering habitat, the City shall prepare a long-term Monarch Butterfly Overwintering Habitat Management Plan in consultation with a qualified biologist. At a minimum, the Monarch Butterfly Overwintering Habitat Management Plan shall include:</p> <ul style="list-style-type: none"> • Protect: Trees shall not be removed in overwintering groves unless a tree poses a safety risk. The critical root zone (CRZ) of trees that are not targeted for removal shall be protected. Impacts to a tree’s CRZ could result in injury or mortality of the tree causing additional loss of trees and canopy. Shrubs shall not be removed in overwintering groves. Shrubs shall be maintained to provide a buffer to preserve the microclimate conditions of the overwinter habitat. • Manage: Management activities, such as tree trimming shall be conducted in groves from March 15 through September 15 outside of the estimated timeframe when monarchs are likely present in the southern California coast. • Enhance: Enhance native, insecticide-free nectar sources by planting fall/winter blooming forbs or shrubs within overwintering groves. 	<p>Prior to Project-related ground-disturbing activities and issuance of City permits</p>	<p>City of La Cañada Flintridge/ Qualified Biologist</p>

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	<ul style="list-style-type: none">• Restore: Any trees removed as part of the project shall be replaced with trees at no less than 2:1. Native insecticide-free trees shall be planted such as Monterey pine (<i>Pinus radiata</i>), Monterey cypress (<i>Cupressus macrocarpa</i>), Coast redwood (<i>Sequoia sempervirens</i>), coast live oak (<i>Quercus agrifolia</i>), Douglas fir (<i>Pseudotsuga menziesii</i>), Torrey pine (<i>Pinus torreyana</i>), western sycamore (<i>Platanus racemosa</i>), bishop pine (<i>Pinus radiata</i>) and others, as appropriate for location.• Pesticides: Use of pesticides shall be avoided, particularly when monarchs may be present. If pesticides are used, applications shall be conducted from March 15 through September 15, when possible. Herbicide shall not be applied on blooming flowers. Herbicide shall be applied during young plant phases, when plants are more responsive to treatment, and when monarchs and other pollinators are less likely to be on the plants. Whenever possible, targeted application herbicide methods shall be used, large-scale broadcast applications shall be avoided, and precautions shall be taken to limit off-site movement of herbicides (e.g., drift from wind and discharge from surface water flows). Neonicotinoids or other systemic insecticides, including coated seeds, shall not be used any time of the year in monarch habitat due to their ecosystem persistence, systemic nature, and toxicity. Soil fumigants shall not be used. Non-chemical weed control techniques shall be used when possible.• Tropical milkweed and pathogens: Non-native tropical milkweed shall not be planted in order to minimize the spread of the pathogen <i>Ophryocystis elektroscirrha</i> (OE), and to encourage natural monarch migration. OE can build up on tropical milkweed because these plants		
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	are evergreen, and they do not die back in the winter. OE can be debilitating and/or lethal to monarchs. If possible, tropical milkweed shall be removed and replaced with native, insecticide-free nectar plants suitable for the location.		
MM-BIO-8 Mountain Lion Surveys	The Project Applicant shall retain a qualified biologist knowledgeable of mountain lion species ecology. The qualified biologist shall survey the areas that may provide habitat for mountain lions to determine presence and/or absence in the Project site. A focused preconstruction survey for mountain lion(s) shall be conducted 48 hours prior to Project implementation that includes site preparation, equipment staging, and mobilization. Surveys shall also be conducted when the species is most likely to be detected, during crepuscular periods at dawn and dusk. Surveys shall be repeated if construction activities are suspended for five days or more. If a mountain lion is identified, work shall be suspended until the species leaves the site on their own. Work will resume only once it has been determined by a qualified biologist that the mountain lion has left the site.	Prior to Project-related ground-disturbing activities and issuance of City permits	City of La Cañada Flintridge/ Qualified Biologist
MM-BIO-9 - BIO-4: Preconstruction Sensitive Plant Survey	Plant surveys with focus on detection of three listed species with moderate (Nevin's barberry and smooth tarplant) or low (Braunton's milkvetch) potential to occur shall be completed within the project impact limits (including ingress/egress routes and staging areas) prior to construction and during the appropriate time for identification (April-June). The qualified biologist shall conduct focused surveys adhering to CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. The survey will also focus on special-status plant species with a high or moderate potential to occur. If listed or special-status plant species are not detected, no further action is necessary. If a listed plant species is determined to occur and avoidance is not an option, an ESA would be established, and	Prior to Project-related ground-disturbing activities and issuance of City permits	City of La Cañada Flintridge/ Qualified Biologist

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	<p>the project will be temporarily halted until a Biological Assessment (BA) and Section 7 agency consultation can be completed. If a special-status plant species is found during preconstruction surveys, an ESA shall be established, and the area will be avoided to the maximum extent possible. If avoidance is not an option, impacts will be addressed by the Project's Restoration Plan (BIO 3) and mitigation measures will be species specific and may include harvesting of seeds or cuttings for seeding/planting in on-site restoration areas, transplanting of individual trees/plants or topsoil in restoration areas and/or temporarily disturbed areas, and/or replacement at a minimum 2:1 ratio or at a ratio acceptable to CDFW.</p>		
<p>MM-BIO-10 – BIO-7: Special Status Bats and Bat Maternity Roosts</p>	<p>Any trees that provide potential bat roosting habitat within the Project site shall be surveyed by a qualified bat biologist to determine the presence of bats and potential daytime and/or nighttime roosting sites and any maternity roosts. During surveys, acoustic recognition technology shall be utilized to maximize detection of bats. A discussion of survey results, including negative findings, shall be provided to the City prior to Project activities. To the extent feasible, removal of trees that are determined by the bat biologist to have roosting habitat shall be conducted during seasonal periods of bat activity – September 1 to October 15 or when evening temperatures are not below 45 degrees Fahrenheit and rain is not over ½ inch in 24 hours; or between March 1-April 15 with the same parameters. The following measures shall be adhered to during tree removal:</p> <ul style="list-style-type: none"> • As much as feasible, vegetation and trees within the Project that are not suitable for roosting bats will be removed first to provide a disturbance that might reduce the likelihood of bats using the habitat. • Two-step tree removal will occur over two <i>consecutive</i> days under the supervision of a qualified bat biologist. 	<p>Prior to Project-related ground disturbing activities and during Project implementation</p>	<p>City of La Cañada Flintridge/ Qualified Biologist</p>

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	<p>On Day 1, small branches and small limbs containing no cavity, crevice, or exfoliating bark habitat on habitat trees, as identified by a qualified bat biologist are removed first, using chainsaws only (no dozers, backhoes, etc.). The following day (Day 2), the remainder of the tree is to be felled/removed. Trees that are known to be bat roosts shall not be bucked or mulched immediately. A period of at least 24 hours, and preferably 48 hours, shall elapse prior to such operations to allow bats to escape. (The intention of this method is to disturb the tree with noise and vibration and branch removal on Day 1. This shall cause any potentially present colonial bat species to abandon the roost tree after they emerge for nighttime foraging. Removing the tree quickly the next consecutive day shall avoid re-occupation of the tree by bats.)</p> <ul style="list-style-type: none"> • If a maternity roost is located, whether solitary or colonial, that roost will remain undisturbed during maternity roosting season when young bats are present but are not yet ready to fly out of the roost (March 1 to September 30). Work shall be scheduled outside of maternity roosting season between October 1 and February 28. Trees determined to be maternity roosts shall be left in place until the end of the maternity season. Work shall not occur within 100 feet of or directly under or adjacent to an active roost and work shall not occur between 30 minutes before sunset and 30 minutes after sunrise. 		
<p>REC 1 – ESA Consultation</p>	<p>Take under the 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. CDFW recommends consultation with the USFWS, in order to comply with ESA, well</p>	<p>Prior to Project-related ground disturbing activities and</p>	<p>City of La Cañada Flintridge/ Project Applicant</p>

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	in advance of any ground-disturbing activities and/or vegetation removal that may impact least Bell's vireo.	Project implementation	
REC 2 – Scientific Collecting Permit	<p>The Project may require capture, handling, and relocation of wildlife. Pursuant to the California Code of Regulations, title 14, section 650, the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's Scientific Collection Permits webpage for information.</p> <p>CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates. Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities.</p>	Prior to Project-related ground disturbing activities and Project implementation	Qualified Biologist
REC 3 – Data	Please report any special status species detected by completing and submitting CNDDDB Online Field Survey Form. 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. The City should ensure that the Project Applicant has submitted the data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project Applicant should provide CDFW with confirmation of data submittal.	Prior to finalizing CEQA document	City of La Cañada Flintridge/ Qualified Biologist