



State of California – Natural Resources Agency

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Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

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**Subject: Tajiguas Landfill Capacity Increase Project, Notice of Preparation,
SCH No. 2023030563; Santa Barbara County**

Dear Joddi Leipner:

The California Department of Fish and Wildlife (CDFW) has reviewed the County of Santa Barbara Public Works Department (County; Lead Agency) Notice of Preparation (NOP) for a Draft Environmental Impact Report (DEIR) for the Tajiguas Landfill Capacity Increase 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public 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 (Public 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 & Game 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 & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game 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 increase capacity of the Tajiguas Landfill to allow waste disposal to continue through December 2038, assuming a 1 percent annual growth rate of incoming material. An approximately 14.25-acre lined area located in the inland area of the landfill property would be excavated for trash placement, allowing for the disposal of an additional 6.1 million cubic yards of trash. As part of the increased capacity, a stability toe berm (toe berm) will be installed along the top of bank of the existing lined and unlined Pila Creek channel west of the existing and proposed landfill.

This capacity increase would impact the existing north stormwater sedimentation basin, so the north stormwater sedimentation basin will be reconfigured, and a second basin may potentially be added to meet the demand of the existing and proposed increased capacity. The second basin would have a similar design to the existing basin, with an option to be either a concrete lined basin or an earthen basin and would have a manually operated skimmer system. The skimmer system would discharge into Pila Creek after sediment is allowed to settle out of suspension.

The landfill is currently permitted to receive waste Monday through Tuesday 7:00 am to 5:00 pm and Wednesday through Saturday 7:00 am to 4:00 pm. An additional project element being considered is modifying waste receipt hours at the landfill scale house from the current hours, to 6:00 am to 4:00 pm Monday through Saturday to improve operational efficiency. In addition, a proposed change from a maximum daily tonnage limit of 1,500 tons/day to a work week maximum of 9,000 tons/week is proposed.

The NOP states the DEIR for the capacity increase would tier, as appropriate, off of the prior environmental documents. A subsequent EIR will be used to support the acquisition of revised permits from Responsible Agencies such as Environmental Health as the Local Enforcement Agency and CalRecycle (Solid Waste Facility Permit), Regional Water Quality Control Board (Waste Discharge Requirements and 401 Water Quality Certification), Air Pollution Control District (Authority to Construct and Permit to Operate) and resource agency permits (from California Department of Fish and Wildlife and Army Corps of Engineers) for work in the concrete channel of Pila Creek. A Subsequent EIR will be prepared to evaluate the changes in environmental impacts that might result from the proposed project.

Location: The proposed Project is located at 14470 Calle Real, Goleta, approximately 26 miles west of the city of Santa Barbara. The Landfill is located in a canyon called Canada de la Pila. Immediately south of the landfill site are U.S. Highway 101, the Union Pacific Railroad tracks, and the Pacific Ocean. Access to the site is via a paved road that intersects U.S. Highway 101 and is gate controlled. The Tajiguas Landfill is located on land owned by the County of Santa Barbara encompassing three Assessor Parcel Numbers (APN) 081-150-042, 081-150-019 and 081-150-026.

Comments and Recommendations

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

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COMMENTS AND RECOMMENDATIONS

Specific Comments

1) Fire and Burned Vegetation. The NOP distinguishes between vegetation that has previously been burned by the Alisal fire and unburned vegetation. The value of a vegetation community does not change after it has burned in a wildfire. Fire cycles and recovery are a natural part of all Coastal California plant communities. The seeds on many native plant species only germinate after being exposed to fire/smoke, and many native plant species have adaptations to allow resprouting post fire. The DEIR should classify all open space areas using the Manual of California Vegetation alliance/association classifications present even if vegetation is still in the early seral stages of post-fire recovery. Botanists can use aerial photos and surveys of the adjacent areas to determine the correct alliance even if vegetation has been recently burned and vegetation has not had time to recover. CDFW does not generally support hydroseeding natural areas post fire, as the literature largely suggests that this suppresses the recovery of the native seed bank. Discounting the value of areas the Landfill hydroseeded post-fire is not warranted since the native seed bank would still be in the soil, and can lie dormant for many years to allow for eventual recovery.

2) Sensitive Habitats and Open Space. The Project directly abuts open space. Sensitive-vegetation/plant communities and habitats may be present within the Project and offer nesting, breeding, and foraging habitat for species. Development abutting the Open Space could impact natural communities and habitats by exacerbating edge effects.

- a. Analysis and Disclosure. CDFW recommends the DEIR disclose and discuss the Project's direct and indirect impacts on sensitive habitats/open space within and adjacent to the Project area. Disclosure should include but not be limited to:
 1. Direct impacts that could result in loss of sensitive habitats/open space due to development, grading, and fuel modifications.
 2. Indirect impacts that could result in habitat loss due to edge effects and introduction of non-native/invasive plants.
 3. The DEIR should disclose the acreage of sensitive habitats and open space that would be impacted/lost as a result of both direct and indirect impacts from the proposed Project.
- b. Avoidance. CDFW recommends the Project avoid developing and encroaching onto sensitive habitats/open space. Encroachment onto sensitive habitats/open space creates an abrupt transition between two different land uses. Encroachment onto sensitive habitats/open space could affect environmental and biological conditions and increase the magnitude of edge effects on biological resources. CDFW recommends the DEIR provide alternatives to the Project that would not result in the development of areas within close proximity of sensitive habitat or open space. CDFW also recommends the DEIR provide alternatives that would not encroach onto sensitive habitats/open space. Pursuant to CEQA Guidelines section 15126.6, a DEIR "shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives."

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- c. Mitigation. If avoidance is not feasible, CDFW recommends the DEIR provide measures to mitigate impacts to sensitive habitats/open space. There should be no net loss of sensitive habitats/open space. CDFW recommends the DEIR provide a measure where any future development facilitated by the Project establishes unobstructed vegetated buffers and setbacks. The DEIR should provide standards for an effective buffer and setback; however, the buffer and setback distance should be increased at a project-level as needed. The DEIR should provide justifications for the effectiveness of all proposed mitigation measures. The DEIR should provide sufficient information and disclosure to facilitate meaningful public review, analysis, and comment on the adequacy of proposed mitigation measures to offset Project-related impacts on sensitive habitats/open space. CDFW recommends the DEIR provide measures where any future development facilitated by the Project mitigates (avoids first if feasible) for project-level impacts on sensitive habitats/open space not previously identified in the DEIR.

3) California Red-Legged frog and Southwestern Pond Turtle. Project activities and development will occur within and next to habitat utilized by Endangered Species Act (ESA-) listed and Species of Special Concern (SSC) California red-legged frog (*Rana draytoni*) and the southwestern pond turtle (*Actinemys pallida*) (CDFW 2023a). Project activities occurring during the breeding season could result in the incidental loss of eggs/juveniles and Project activities during the winter could result in mortality of animals in upland refugia such as burrows or under leaf litter. Development surrounding occupied habitat may result in permanent impacts through alteration, fragmentation, and/or loss of suitable breeding, overwintering, and foraging habitat. The preservation of sensitive natural communities which they have been documented to utilize is of conservational importance.

- a. Protection Status. Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. CEQA provides protection not only for State and federally listed species, but for any species including, but not limited to SSC, which can be shown to meet the criteria for State listing. SSC's meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC's could require a mandatory finding of significance (CEQA Guidelines, § 15065).
- b. Survey and Analysis. CDFW recommends the DEIR disclose and discuss the Project's potential impacts on California red-legged frog and southwestern pond turtle and their habitat. The DEIR should have a discussion regarding how the project avoids and mitigates impacts to these animals and associated habitat.
- c. Avoidance. CDFW recommends the DEIR provide measures where Project activities and development avoid encroachment or fragmentation of California red-legged frog and southwestern pond turtle habitat and critical habitat. Ground disturbance and vegetation clearing should avoid the species inactive season to ensure buried, overwintering animals area not killed unknowingly.
- d. Mitigation. If avoidance is not feasible the Applicant should protect or create habitat suitable for California red-legged frog and southwestern pond turtle. Replacement

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habitat should be protected in perpetuity. CDFW recommends the DEIR be conditioned to provide replacement habitat to ensure no net loss of all occupied habitat both aquatic and upland. The DEIR should discuss why mitigation measures proposed would be adequate to avoid or offset impacts to California red-legged frog and southwestern pond turtle and associated habitat. If presence is confirmed the Applicant should consult with the U.S. Forest Service (USFWS) and CDFW before ground disturbing activities.

4) Crotch's Bumblebee (*Bombus crotchii*). Project implementation may cause direct mortality to Crotch's bumblebee or injury of adults, eggs, and larva, burrow collapse, nest abandonment, and reduced nest success. Suitable Crotch's bumblebee habitat is far ranging as they are generalist foragers and can utilize many different plant and vegetation communities and forage up to 10 kilometers daily. Suitable habitat includes areas of grasslands, coastal sage scrub, and arid desert landscape that contain requisite habitat elements, such as small mammal burrows.

- a. Protection Status. A petition to list the Crotch's bumble bee as an endangered species under CESA is currently pending before the California Fish and Game Commission (Commission) (Cal. Reg. Notice Register 2018, No. 45-Z, pp. 1986–1987 [November 9, 2018]). The Commission designated the Crotch's bumble bee as a candidate species under CESA in June 2019 (Cal. Reg. Notice Register 2019, No. 26-Z, pp. 954–955 [June 28, 2019]). The Commission's decision to designate the Crotch's bumble bee as a candidate species is the subject of a pending legal challenge (Almond Alliance of California v. Fish and Game Commission [2022] 79 Cal. App. 5th 337, pet. for review pending, S275412). On September 30th, 2022, candidacy was reinstated for the four bumble bee species petitioned for listing—franklin's, Crotch's, western, and suckle cuckoo.
- b. Survey and Analysis. The DEIR should analyze and discuss potential impact to Crotch's bumble bee and their habitat. The Applicant should condition the DEIR to perform project-level surveys in areas of impact with suitable habitat for Crotch's bumblebee. Surveys should be performed by a qualified entomologist familiar with the species behavior and life history to determine the presence/absence of Crotch's bumble bee. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between late April through mid-October, and should include a minimum of 4 survey days with a 3-week space between surveys. CDFW can provide specific bumble bee survey recommendations for maximum detection.

Lack of CNDDDB sightings for Crotch's bumble bee near the Project site should not be taken as a lack of Crotch's bumble bee in the area as CNDDDB is a positive-sighting database and Crotch's bumble bee has not been actively searched for in many areas.

- c. Avoidance. If Crotch's bumblebee is present CDFW recommends the Project include measures to fully avoid impacts to Crotch's bumblebee and habitat. The Project should avoid areas of grasslands, coastal sage scrub, and desert communities where features such as abandoned mammal burrows are present.
- d. Mitigation. If avoidance is not feasible and Crotch's bumblebee is present, the DEIR should be conditioned to mitigate for impacts to Crotch's bumblebee. If impacts are unavoidable the Applicant should consult CDFW to see if a CESA Incidental Take Permit (ITP) is required. Compensatory mitigation should also be provided to offset loss

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of habitat and vegetation communities associated with Crotch's bumblebee.

- 5) Rare Plants. The Project contains Open Space where rare and endangered plants may be present, including areas recently burned.
- a. Protection Status. 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) under CESA. As to CEQA, potential impacts on rare plants should be analyzed, disclosed, and mitigated in the Project's DEIR. CDFW considers adverse impacts to a species protected by CESA and ESA to be significant without mitigation under CEQA.
 - b. Survey and Analysis. CDFW recommends the Applicant retain a qualified botanist to perform focused botanical surveys for rare plants. Surveys should identify all individual rare and protected plants and populations, as well as the plant communities supporting those rare plants which may be impacted. Surveys should be conducted within the Project site and in all areas subject to ground-disturbing activities (e.g., staging, mobilization, vegetation clearing). Surveys should be performed at the times of the year when plants will be both evident and identifiable. Botanical surveys should be spaced out throughout the growing season (CDFW 2018b).
 - c. Disclosure. The DEIR should fully disclose any impacts related to rare plants. At minimum the Applicant should disclose where impacts would occur; number of individual plants impacted, population size and density, and acres of habitat/plant communities impacted.
 - d. Avoidance. If rare plants are present and anticipated to be impacted, CDFW recommends the DEIR provide measures to fully avoid impacts on rare plants and their habitat.
 - e. Mitigation. If take or adverse impacts to rare plants cannot be avoided, the DEIR should provide measures to mitigate for those impacts. Appropriate mitigation may include obtaining appropriate take authorization under CESA prior to implementing the Project (pursuant to Fish & Game Code, § 2080 et seq.). Appropriate authorization may include an ITP or Consistency Determination, among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Additionally, CDFW recommends the Applicant provide compensatory mitigation for loss of rare plants and habitat.
- 6) Reptiles of SSC. Project activities related to ground disturbance such as grading, staging, and grubbing, may result in reptile habitat destruction, and death or injury of adults, juveniles, eggs, or hatchlings. Moreover, the Project may remove essential foraging and breeding habitat for the species.
- a. Surveys. CDFW recommends qualified biologists familiar with the reptile species behavior and life history conduct focused surveys to determine the presence/absence of SSC prior to vegetation removal and/or grading. Surveys should be conducted during active season when the reptile species is most likely to be detected.
 - b. Mitigation. To further avoid direct mortality, CDFW recommends that a qualified

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biological monitor be on site during ground and habitat disturbing activities to move out of harm's way special status species that would be injured or killed by grubbing or Project-related grading activities. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss (see General Comment #7).

- c. Scientific Collections Permit. 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 & Game 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). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2022c). Pursuant to the California Code of Regulations, title 14, section 650, the 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.

7) Special Status Bird Species. Project activities that occur during the breeding season may result in incidental loss of fertile eggs, or nestlings, or nest abandonment in trees and shrubs directly adjacent to the Project. The Project could also lead to the loss of foraging habitat for sensitive bird species.

- a. Protection Status. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the MBTA).
- b. Avoidance. CDFW recommends that measures be taken, primarily, to avoid Project impacts to nesting birds. The DEIR should be conditioned with measures to avoid impacts on special status birds. Proposed Project activities including (but not limited to) staging and disturbances to native and nonnative vegetation, structures, and substrates should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs.
- c. Mitigation. If avoidance of the avian breeding season is not feasible, CDFW recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working on-site, should be instructed on the sensitivity of the area. 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.

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8) Lake and Streambed Alteration (LSA) Agreement. The Project area appears to span several drainages including Canada de la Pila which discharge directly into the Pacific Ocean. The Project could impact streams throughout the construction of the Project.

- a. Stream Delineation and Assessment. A preliminary delineation of the streams and their associated riparian habitats should be included in the environmental document. Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.
- b. Avoidance and Setbacks. In Project areas which may support ephemeral or episodic streams, herbaceous vegetation, woody vegetation, and woodlands also serve to protect the integrity of these resources and help maintain natural sedimentation processes. Therefore, CDFW recommends effective setbacks be established to maintain appropriately sized vegetated buffer areas adjoining ephemeral drainages. The environmental document should provide a justification for the effectiveness of the chosen distance for the setback.
- c. Lake and Streambed Alteration Program. As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream or use material from a streambed. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to Fish and Game Code Section 1600 *et seq.* CDFW's issuance of a LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the environmental document of the local jurisdiction (Lead Agency) for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the environmental document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. Please visit CDFW's Lake and Streambed Alteration Program webpage for information about LSA Notification (CDFW 2022d).
- d. Hydrologic Evaluation. Project-related changes in upstream and downstream drainage patterns, runoff, and sedimentation should be included and evaluated in the environmental document.

9) Weeds and Landscaping. Habitat loss and invasive plants are a leading cause of native biodiversity loss. CDFW is concerned that the clearing of habitat around open space will result in impacts to adjacent open space by allowing non-native weed plants to become established during the active soil grading and movement processes. Weeds can become established in a matter of days. CDFW requests weekly monitoring during the period of time from the point the land is cleared of any vegetation to the point in time at which the post-Project revegetation plan commences. This weekly inspection should include all roads, stockpiles, parking areas, and any other area that is used/part of the Project activities.

CDFW recommends a long-term weed management plan be developed for the entire Project Area to ensure weeds don't become established in the Project area and become a problem in

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the future. The long-term plan would start immediately during construction and continue until after the landfill closure and any revegetation effort has been completed. This plan would be implemented until the revegetation effort has met all its success criteria and has been deemed successful. The long-term comprehensive weed management plan should be cooperatively implemented by all responsible parties to keep weeds from reestablishing in the Project area in perpetuity. The long-term comprehensive weed management plan should be funded and implemented by the County. The Project Area should be periodically monitored via mapping for new introductions and expansions of targeted non-native weeds to reduce the potential for long-term impacts to adjacent open space.

CDFW recommends that the DEIR stipulate that no invasive plant material be used. Furthermore, we recommend using native, locally appropriate plant species for landscaping on the Project site. A list of invasive/exotic plants that should be avoided as well as suggestions for suitable landscape plants can be found at <https://www.cal-ipc.org/solutions/prevention/landscaping/>.

General Comments

1) Disclosure. The DEIR should provide an adequate, complete, and detailed disclosure about the effect which a proposed Project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, §15151). Adequate disclosure is necessary so CDFW may provide comments on the appropriateness of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).

2) Biological Baseline Assessment. CDFW recommends providing a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area, with emphasis upon identifying endangered, threatened, sensitive, regionally, and locally unique species and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. The PEIR should include the following information:

- a. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The PEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities (CDFW 2022b) from Project-related impacts. Project implementation may result in impacts to rare or endangered plants or plant communities that have been recorded adjacent to the Project vicinity;
- b. A complete floristic assessment 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 thorough, recent, floristic-based assessment of special status plants and natural communities;
- c. Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the Project site and within the neighboring vicinity. The Manual of California Vegetation (MCV), second edition, should also be used to inform this mapping and assessment (CNPS 2023). Adjoining habitat areas should be included

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in this assessment where site activities could lead to direct or indirect impacts off-site. Habitat mapping at the alliance level will help establish baseline vegetation conditions;

- d. A complete, recent, assessment of the biological resources associated with each habitat type on-site and within adjacent areas that could also be affected by the Project. CDFW's CNDDDB in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat. CDFW recommends that CNDDDB Field Survey Forms (CDFW 2022e) be completed and submitted to CNDDDB to document survey results;
- e. A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on-site and within the area of potential effect, including California SSC and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050 and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project 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 USFWS; and,
- f. A recent, wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to two years as long as there was not a prevailing drought during the time of the botanical survey. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame, or in phases.

3) Data. CEQA requires that information developed in environmental impact reports be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and natural communities detected by completing and submitting CNDDDB Field Survey Forms (CDFW 2021). The applicant should ensure data collected for the preparation of the DEIR be properly submitted, with all data fields applicable filled out. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred.

4) Biological Direct, Indirect, and Cumulative Impacts. 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 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 Natural Community Conservation Plan (NCCP, Fish & Game Code, § 2800 et. seq.). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR;

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- b. A discussion of both short-term and long-term effects to species population distribution and concentration and alterations of the ecosystem supporting the species impacted [CEQA Guidelines, § 15126.2(a)];
- c. A discussion of adverse impacts due to increased noise, sound, vibrations, and human activity during Project activities and daily operations;
- d. An analysis of impacts from land use designations and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR; and,
- e. A discussion of Project-related changes on drainage patterns 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 discussion should also address the proximity of 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 Project impacts should be included; and,
- f. A cumulative effects analysis, 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. If the applicant determines that the Project would not have a cumulative impact, the DEIR should indicate why the cumulative impact is not significant. The Applicant's conclusion should be supported by facts and analyses [CEQA Guidelines, § 15130(a)(2)].

5) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental impact report shall describe feasible measures which could mitigate for impacts below a significant level under CEQA.

- a. Level of Detail. Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, §§ 15126.4, 15041). A public agency shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures (Pub. Resources Code, § 21081.6). CDFW recommends that the City prepare mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). Adequate disclosure is necessary so CDFW may provide comments on the adequacy and feasibility of proposed mitigation measures.

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- b. Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the Project as proposed, the environmental document should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the environmental document should provide an adequate, complete, and detailed disclosure about a project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

6) CESA. 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 plant species that results from the Project is prohibited, except as authorized by state law (Fish & Game Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project or any Project-related activity during the life 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. Appropriate authorization from CDFW may include an 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 a Project and mitigation measures may be required in order 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 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.

7) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of moving an individual from a project site and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant or animal species. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants and animals and their habitats.

8) Compensatory Mitigation. An environmental document should include mitigation measures for adverse Project related direct or indirect 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 must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.

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9) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, an environmental document should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.

10) Project Description and Alternatives. To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the DEIR:

- a. A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas; and,
- b. A range of feasible alternatives to Project component location and design features to ensure that alternatives to the proposed Project are fully considered and evaluated. Potential impacts to wildlife movement areas should also be evaluated, avoided, or mitigated consistent with applicable requirements of the City's General Plan.

Conclusion

We appreciate the opportunity to comment on the Project to assist the County in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the County 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 Kelly Schmoker, Senior Environmental Scientist, at Kelly.Schmoker@wildlife.ca.gov or (626) 848-8382.

Sincerely,

DocuSigned by:

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