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GAVIN NEWSOM, Governor
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July 31, 2024

Luke Serna
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Southern Service Center
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SUBJECT: INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE BOWTIE PARK DEVELOPMENT PROJECT, SCH NO. 2024061129, LOS ANGELES COUNTY, CA

Dear Luke Serna:

The California Department of Fish and Wildlife (CDFW) reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) from the California Department of Parks and Recreation (DPR) for the Bowtie Park Development Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Fish & G. Code, § 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

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

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projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law² of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: DPR

Objective: The Project proposes the redevelopment of a 14.8-acre parcel into a publicly accessible urban greenspace. The greenspace would include habitat restoration and enhancement, wildlife viewing opportunities, trails, shaded picnic areas, programming (i.e., historical, cultural, environmental), and unstructured play areas. Project implementation would require soil remediation to address previous site contamination associated with the former site use as a railroad maintenance facility.

Location: The Project would occupy 14.8 acres within the former Southern Pacific Railroad Yard known as Taylor Yard. The Project is located at 2780 West Casitas Avenue on Assessor's Parcel Number 5442-002-914 in the City of Los Angeles. The Project site is bound by California State Route 2 to the northwest, the Union Pacific Railroad to the north and east, and the Los Angeles River to the south and west.

Timeframe: It is anticipated that construction activities would commence in late 2025 and would take approximately 24 months to complete.

Biological Setting: The Project site is in a highly urbanized area surrounded by industrial, commercial, and residential uses. It is a long, narrow parcel situated between active railroad tracks and the Los Angeles River.

The Biological Resources Technical Report (Bio Report; Stantec 2023) indicates vegetation communities and land cover types occurring on the Project site, and subject to permanent impact, include fountain grass swards (8.56 acres), ornamental non-native trees (0.39 acre), California buckwheat scrub (0.35 acre), deerweed – silver lupine – yerba santa scrub (0.02 acre) and disturbed/developed land (4.74 acre). The adjacent

² "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

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Los Angeles River corridor contains open water and Gooding's willow – red willow riparian woodland and forest. No special status plants were observed on site.

Wildlife present or potentially present on the Project site include least Bell's vireo (*Vireo bellii pusillus*; Endangered Species Act (ESA) and CESA-listed endangered) and Crotch's bumble bee (*Bombus crotchii*; CESA candidate), as well as common reptile, bird, and mammal species.

The Los Angeles River provides habitat for non-native game fish, urban-adapted native and non-native frogs and toads, a wide variety of birds such as mallard duck (*Anas platyrhynchos*), great egret (*Ardea alba*), great blue heron (*Ardea herodias*), Canada goose (*Branta canadensis*), American coot (*Fulica americana*), black-necked stilt (*Himantopus mexicanus*), hooded merganser (*Lophodytes cucullatus*), belted kingfisher (*Megaceryle alcyon*), double-crested cormorant (*Nannopterum auritum*), and osprey (*Pandion haliaetus*). The IS/MND contains specific measures to reduce impacts to nesting birds, least Bell's vireo, Crotch's bumble bee, and general wildlife.

Project History: The Project site within the Taylor Yard rail yard complex was a freight classification yard for the Southern Pacific Railroad from 1925 to 1973. The 247-acre Taylor Yard rail yard complex was historically divided into ten parcels, some of which were further subdivided for sale purposes. Two of those parcels, Parcel D and Parcel G-1, were purchased by DPR for Rio de Los Angeles State Park. The 40-acre Parcel D, acquired in 2001, is located between an active rail line and San Fernando Road. The approximately 18-acre Parcel G-1, acquired in 2003, is located between the Los Angeles River and an industrial development. The 14.8-acre site for this Project is located within Parcel G-1.

Rio de Los Angeles State Park was historically used for industrial purposes. The Project site is covered with a layer of fill material to a depth of approximately 7 feet. All of the land has been graded and developed multiple times over the years (California State Parks 2005). In accordance with CEQA 15072(g)(5), the Project site has been designated as a hazardous waste property enumerated under Section 65962.5 of the Government Code due to its historic operation as a locomotive maintenance facility.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist DPR in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the document.

COMMENT # 1: Project Description

Issue: The Project description lacks the detail necessary for CDFW to fully evaluate the effects of the Project on fish and wildlife resources and provide a full range of meaningful comments.

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Specific impact: The Project intends to redevelop the site through improvements consisting of a native plant garden, vista points, an event space for larger crowds, multi-use trails, open meadow areas, picnic locations, welcoming kiosk with restrooms, park entry and internal access road, parking spaces, and an internal maintenance road as the proposed park improvements. Project construction and ongoing utilization and maintenance of the park may adversely impact wildlife through loss of suitable habitat, encroachment, injury or mortality, ongoing edge effects (i.e., noise, artificial night lighting), or attraction of nuisance wildlife to trash receptacles, that can occur with a park adjacent to natural habitat.

Why impact would occur: The proposed Project would construct a park adjacent to the Los Angeles River, a natural habitat area and regional wildlife movement corridor. As mentioned in the Bio Report, the Los Angeles River is an important wildlife corridor, used by fish, amphibians, mammals, waterfowl, songbirds, raptors, and invertebrates. Short-term construction and ongoing use and maintenance of the park can result in indirect impacts that reduce habitat value.

The MND does not provide a discussion pertaining to the design of park improvements, construction methods, grading specifics, or landscape plan. Additionally, Figure 3 of the IS/MND shows a ranger house, maintenance building, and garage toward the eastern end of the Project site. No mention is made of these facilities in the IS/MND, nor are they evaluated in the Rio de Los Angeles State Park General Plan & Final EIR (California State Parks 2005).

Landscape and turf maintenance practices can involve the use of chemicals that, if they were to enter the river corridor, would be deleterious to native plants and wildlife. The use of rodenticides can cause secondary mortality to predators that eat the target animal. Introducing or increasing human-produced noise has the potential to influence wildlife's spatial distribution, abundance, predator avoidance behavior, foraging efficiency, vocal frequency, amplitude, or timing, physiology, and reproductive success. Artificial night lighting can affect plants and wildlife through attraction and disorientation, loss of connectivity, interference with pollination and foraging, and disruption of circadian rhythms and lunar and seasonal cycles.

Without a thorough understanding of the proposed construction activities, facility designs, and ongoing utilization and maintenance of the park, it is not possible to evaluate the potential of the Project to affect adjacent resources in the Los Angeles River or to determine the avoidance, minimization, and compensatory measures that would be necessary to reduce impacts to less than significant.

Evidence impact would be significant: CEQA requires a lead agency to consider all phases of project planning, implementation, and operation in the initial study of a project (CEQA Guidelines § 15063). In evaluating the significance of the effects of a project, direct physical changes to the environment which may be caused by the project (CEQA Guidelines § 15064) must be considered.

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Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #1

CDFW recommends DPR amend the IS/MND to include a Project description of sufficient depth and scope so that we can analyze the Project and provide meaningful feedback. The IS/MND should include construction details such as proposed cut and fill volumes of grading, final grades, locations of picnic areas and associated trash receptacles, lighting design, landscape plan and plant palette, and location and type of fencing. The IS/MND should include a discussion of the proposed uses of the park and any potential noise impacts to adjacent natural areas caused by large groups or amplified sound. The IS/MND should include a discussion of the maintenance requirements of the park, in particular lawn care and vegetation management. The IS/MND should include an updated impacts analysis and, if necessary, additional avoidance and minimization measures. In particular, the IS/MND should clarify that measures related to nesting birds (e.g., Standard Project Requirement BIO-1) apply to ongoing maintenance activities, in addition to construction.

COMMENT # 2: Least Bell's Vireo

Issue: The mitigation measures specific to least Bell's vireo (vireo) may be improved to reduce Project impacts to a level less than significant.

Specific impact: Project activities occurring during the vireo breeding season of March 15 through September 15 could adversely affect breeding behavior of vireo. Elevated noise and ground disturbance could result in vireo abandoning nesting territory.

Why impact would occur: Although the site does not contain pristine habitat conditions, mulefat and willows readily recruit on bare moist soils, which can result in ideal vegetation for vireo nesting during the appropriate season. In addition, vireo have occupied upland shrubs and trees adjacent to waterbodies for nesting (Kus and Miner 1989). If vegetative conditions change on the Project site before construction occurs, vireo could nest within the Project footprint. Moreover, the stretch of the Los Angeles River immediately adjacent to the Project site contains characteristic vireo habitat and is known to support nesting vireo. Nearly the entire Project site is within 500 feet of the Los Angeles River, so there is high potential for vireo to nest within 500 feet of Project activities.

Project Specific Requirement (PSR) BIO-2, as it is currently written, requires focused, protocol-level surveys for vireo of the Project site and adjoining areas within 500 feet of the Project site where habitat exists. These surveys are currently being conducted (pers. comment Aly Velloze). BIO-2 requires coordination with the U.S. Fish and Wildlife Service (USFWS) and CDFW (collectively, Wildlife Agencies) if vireo are detected during these surveys.

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If vireo are not detected, BIO-2 relies on pre-construction nesting surveys and daily construction monitoring, which is appropriate, but then requires suspension of work while USFWS and CDFW are consulted once vireo are detected. Construction delays caused by work stoppages due to vireo arrival can extend the Project into additional breeding seasons, leading to increased risk of disturbance to vireo.

Evidence impact would be significant: Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). In addition, take under the ESA is more broadly defined than take under 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.

CDFW considers impacts to CESA-listed species to be significant, under CEQA. Accordingly, the Project may have a substantial adverse 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 the CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW recommends DPR amend the IS/MND to replace the current PSR BIO-2 with the following:

Mitigation Measure #1: Take Authorization

DPR shall coordinate with CDFW to obtain CESA take authorization for vireo. Appropriate take authorization may include a Restoration Management Permit, which could also cover take of Crotch's bumble bee (see Comment 3, below), Incidental Take Permit, or a Consistency Determination in certain circumstances, among other options. Coordination with CDFW shall begin as soon as possible to discuss the appropriate take authorization for the Project. Take authorization shall be obtained prior to Project initiation.

Mitigation Measure #2: Coordination with Wildlife Agencies

Prior to Project initiation, DPR shall coordinate with the Wildlife Agencies to develop an Avoidance Plan that includes conservation measures required to ensure vireo are not adversely affected by Project activities. Such measures may include, but not be limited to, pre-construction nest surveys and no-work buffers, screening materials to separate the Project site from adjacent vireo habitat, and noise reduction/attenuation techniques to reduce Project-related noise to a maximum hourly average of 60 A-weighted decibels (dBA) or existing ambient levels, whichever is greater, at the edge of vireo habitat.

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Avoidance measures requiring installation (sound walls, for example) shall be in place prior to March 15 and shall remain operational until September 15, of each year.

Mitigation Measure #3: Vegetation Removal

Vegetation removal shall occur outside the vireo breeding season of March 15 through September 15.

COMMENT # 3: Crotch's Bumble Bee

Issue: The Project will impact habitat for, and has the potential to result in take of, Crotch's bumble bee. The measures in the IS/MND regarding Crotch's bumble bee can be improved to provide more effective and efficient protection.

Specific impact: Project activities involving ground and vegetation disturbance could result in potential significant impacts, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young, and/or queens, and direct mortality. Construction delays caused by work stoppages due to Crotch's bumble bee presence can extend the Project into additional breeding seasons, leading to increased risk of disturbance to Crotch's bumble bee.

Why impact would occur: Crotch's bumble bee is known to forage on the Project site. Crotch's bumble bee inhabits open grassland and scrub habitats. They are generalist foragers and can be found throughout most of southwestern California in areas that have suitable nesting habitat and floral resources.

Bumble bees live in colonies composed of a queen, workers, and, near the end of the season, reproductive members of the colony. Colonies are annual, with new nests initiated by solitary queens in the spring. Crotch's bumble bees primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under-brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2018). New queens produced at the end of the annual colony cycle mate before entering diapause, which is a form of hibernation. Overwintering sites utilized by these solitary mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams, et al. 2014).

The highest detection probability is during the Colony Active Period of April through August, but Crotch's bumble bee could be on the Project site at any time of year.

Project Specific Requirement (PSR) BIO-3, as it is currently written, requires focused surveys for Crotch's bumble bee and coordination with CDFW if Crotch's bumble bee are detected during the surveys. BIO-3 also requires pre-construction surveys if construction activities overlap with the flight period. If Crotch's bumble bee is observed, BIO-3 requires cessation of work until coordination with CDFW has occurred. While

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CDFW appreciates coordination, if Project activities may result in incidental take, an Incidental Take Permit may be needed.

Evidence impact would be significant: Recently, the California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. 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).

CDFW considers impacts to species that are candidates for CESA listing to be significant, under CEQA. Accordingly, the Project may have a substantial adverse 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 the CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s)

In addition to PSR BIO-3, CDFW recommends DPR include the following Mitigation Measure in the IS/MND:

Mitigation Measure #4: Take Authorization for Crotch's Bumble Bee

DPR shall coordinate with CDFW to obtain CESA take authorization for Crotch's bumble bee. Appropriate take authorization may include a Restoration Management Permit, which could also cover least Bell's vireo (see Comment 2, above), or Incidental Take Permit, among other options. Appropriate take authorization shall be obtained prior to Project initiation.

Recommendation #2

As very little is known about nesting or overwintering sites of Crotch's bumble bee, if nest or overwintering sites are discovered or can be documented, CDFW recommends DPR contact CDFW at wildlifemgt@wildlife.ca.gov, as well as the CDFW staff contact listed at the end of this letter.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species detected by

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completing and submitting [CNDDDB Online Field Survey Form](#)³. The types of information reported to CNDDDB can be found at [CNDDDB – Plants and Animals](#)⁴. The Project proponent should ensure that data was 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 proponent should provide CDFW with confirmation of data submittal.

FILING FEES


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

CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist DPR in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that DPR has to our comments and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073(e)).

Questions regarding this letter or further coordination should be directed to Kelly Fisher⁵, Environmental Scientist.

Sincerely,

DocuSigned by:

5991E19EF8094C3...

Victoria Tang
Environmental Program Manager
South Coast Region

³ <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

⁴ <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>

⁵ Phone: 858-354-5083; email: Kelly.Fisher@wildlife.ca.gov

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ATTACHMENTS

Attachment A: Draft Mitigation Monitoring and Reporting Program

EC: California Department of Fish and Wildlife
Steve Gibson, Senior Environmental Scientist (Supervisory)
Victoria Tang, Environmental Program Manager
Jennifer Turner, Senior Environmental Scientist (Supervisory)

Office of Planning and Research
State.Clearinghouse@opr.ca.gov

REFERENCES

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ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #1: Take Authorization</p> <p>DPR shall coordinate with CDFW to obtain CESA take authorization for vireo. Appropriate take authorization may include a Restoration Management Permit, which could also cover take of Crotch’s bumble bee (see Comment 3, below), Incidental Take Permit, or a Consistency Determination in certain circumstances, among other options. Appropriate take authorization shall be obtained prior to Project initiation.</p>	<p>Prior to Project Initiation</p>	<p>DPR</p>
<p>Mitigation Measure #2: Coordination with Wildlife Agencies</p> <p>Prior to Project initiation, DPR shall coordinate with the Wildlife Agencies to develop an Avoidance Plan that includes conservation measures required to ensure vireo are not adversely affected by Project activities. Such measures may include, but not be limited to, pre-construction nest surveys and no-work buffers, screening materials to separate the Project site from adjacent vireo habitat, and noise reduction/attenuation techniques to reduce Project-related noise to a maximum hourly average of 60 A-weighted decibels (dBA) or existing ambient levels, whichever is greater, at the edge of vireo habitat.</p> <p>Avoidance measures requiring installation (sound walls, for example) shall be in place prior to March 15 and shall remain operational until September 15, of each year.</p>	<p>Prior to Project Initiation</p>	<p>DPR</p>

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Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #3: Vegetation Removal Vegetation removal shall occur outside the vireo breeding season of March 15 through September 15.</p>	<p>During Project Construction and Operation</p>	<p>DPR</p>
<p>Mitigation Measure #4: Take Authorization for Crotch’s Bumble Bee DPR shall coordinate with CDFW to obtain CESA take authorization for Crotch’s bumble bee. Appropriate take authorization may include a Restoration Management Permit, which could also cover least Bell’s vireo (see Comment 2, above), or Incidental Take Permit, among other options. Appropriate take authorization shall be obtained prior to Project initiation.</p>	<p>Prior to Project Initiation</p>	<p>DPR</p>
<p>Recommendation #1 CDFW recommends DPR amend the IS/MND to include a Project description of sufficient depth and scope so that we can analyze the Project and provide meaningful feedback.</p>	<p>Prior to adoption of CEQA document</p>	<p>DPR</p>
<p>Recommendation #2 As very little is known about nesting or overwintering sites of Crotch’s bumble bee, if nest or overwintering sites are discovered or can be documented, CDFW recommends DPR contact CDFW at wildlifemgt@wildlife.ca.gov, as well as the CDFW staff contact listed at the end of this letter.</p>	<p>Prior to adoption of CEQA document</p>	<p>DPR</p>