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November 22, 2024

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SUBJECT: NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE WESTRIDGE HILLS PROJECT, SCH NO. 2024101106, ORANGE COUNTY, CA

Dear Susan Kim:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of La Habra (City) for the Westridge Hills 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.

Susan Kim
City of La Habra
November 22, 2024
Page 2 of 16

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 (NPPA; 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: Lennar Homes of California, LLC

Objective: The Project would develop 150.8 acres to construct 534 residential dwelling units, along with associated infrastructure, a community center, private roads, landscaped slope areas, native habitat conservation, detention basins, and open space. The Project would include demolition of the existing clubhouse and associated facilities.

The Project would directly impact 9.84 acres within Deed Restricted Areas, including 5.65 acres of coastal sage scrub, 1.73 acres of riparian habitat, 0.09 acres of freshwater marsh, and 1.15 acres of open water.

Outside of the Deed Restricted Areas, the Project would directly impact 1.88 acres of coastal sage scrub, 1.33 acres of riparian habitat, 0.30 acres of freshwater marsh, and 1.10 acres of open water.

Location: The Project is located at 1400 South La Habra Hills Drive (Assessor's Parcel Number 019-481-04), the site of the Westridge Golf Club. The site is east of Beach Boulevard, west of Idaho Street, and South of Imperial Highway, in the City of La Habra, County of Orange.

Biological Setting: The 150.8-acre Project site is currently occupied by the Westridge Golf Club. Approximately 130 acres of the site consist of fairways, tees, and greens, driving range, clubhouse, non-native ornamental vegetation, and parking areas. Native vegetation includes 11.62 acres of coastal sage scrub, 2.83 acres of riparian woodland, 1.70 acres of riparian scrub, and 0.36 acres of emergent marsh. The site also contains three open water ponds.

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."

Susan Kim
City of La Habra
November 22, 2024
Page 3 of 16

The western end of the golf course contains coastal sage scrub that has been shown to support coastal California gnatcatcher (*Poliioptila californica californica*; Endangered Species Act (ESA)-listed threatened, California Species of Special Concern (SSC)). It is in proximity to coastal sage scrub on the West Coyote Hills site to the south.

West Coyote Hills is undeveloped and supports a regionally important population of coastal California gnatcatcher. West Coyote Hills also serves as a refugia for migratory birds and small mammals, in an area that is otherwise largely urbanized. Despite having an approved Vesting Tentative Map for residential development, parcels within West Coyote Hills have been purchased for open space preservation, and Chevron has left open the possibility that more “neighborhoods” in West Coyote Hills may be purchased for preservation and enhancement of native habitats.

Numerous surveys have been conducted on the Project site, including general biological surveys, vegetation mapping, special-status plant surveys, special status bat surveys, and focused surveys for coastal California gnatcatcher, least Bell’s vireo (*Vireo bellii pusillus*; ESA-listed endangered, CESA-listed endangered), Crotch’s bumble bee (*Bombus crotchii*; CESA candidate), and western pond turtle (*Actinemys marmorata*; ESA-proposed, SSC). These surveys confirmed the presence of coastal California gnatcatcher, least Bell’s vireo, and Crotch’s bumble bee. No special status plants, special status bats, or western pond turtles were detected.

A Biological Technical Report, dated July 2024, Habitat Mitigation and Monitoring Plan (HMMP), dated August 2024, and a Draft Request for Approved Jurisdictional Determination (AJD) were prepared for the Project by Glen Lukos Associates, Inc.

The Biological Technical Report proposes mitigation at a 3:1 mitigation-to-impact ratio for impacts to coastal sage scrub, riparian, and wetland habitats. Mitigation options for coastal sage scrub impacts include establishment of 17.69 acres of coastal sage scrub onsite, preservation of 4.05 acres of coastal sage scrub onsite, off-site establishment or re-establishment of coastal sage scrub, and purchase of credits in an approved mitigation bank. For riparian and wetland impacts, proposed mitigation options include preservation and enhancement of riparian habitat on site, purchase of mitigation bank or in-lieu-fee credits, establishment or re-establishment off site, or preservation and enhancement of riparian habitat off site.

Project History: The Project site was once part of the 915-acre West Coyote Hills oil field, operated primarily by the Chevron Corporation.

In 2003, the Westridge Golf Club, along with the residential development to its south, was constructed as part of the La Habra Hills Specific Plan, adopted by the City in 1992. Authorizations issued for the project by the U.S. Army Corps of Engineers (ACOE)³,

³ Nationwide Permit 95-00061-BH issued April 27, 1995

Susan Kim
City of La Habra
November 22, 2024
Page 4 of 16

USFWS⁴, and CDFW⁵ required compensatory mitigation for loss of stream, riparian, and coastal sage scrub habitats, including creation of ponds, wetland and riparian habitat, and coastal sage scrub. This mitigation included 14 polygons of habitat within the golf course footprint, ranging in size from 0.023 to 1.998 acres and totaling 11.43 acres. The Deed Restriction recorded on November 25, 2009, in favor of the State of California, describes and depicts the mitigation sites. It indicates the mitigation is made up of 2.27 acres of coastal sage scrub (Parcels A-1 and A-2), 3.52 acres of southern willow scrub (Parcels A-4, A-8, and A-9), 1.4 acres of mulefat scrub (Parcel A-10), 2.0 acres of oak woodland (Parcel A-5), 0.52 acres of freshwater marsh (Parcel B-1 through B-5), and 1.72 acres of open water (Pond 1 and Pond 2). Referred to collectively as the “Conservation Area”, these parcels were intended to provide mitigation in perpetuity. Activities expressly prohibited by the Deed Restriction include, among others, development for residential or recreational purposes and the erecting of any building. With the exception of portions of A-4, the Project would permanently remove the Conservation Area.

In 2015, the Rancho La Habra Specific Plan Project (SCH No. 2015111045) was proposed for this site. CDFW provided the City with comment letters on the Notice of Preparation (December 16, 2015), the Draft Environmental Impact Report (May 11, 2018), and the Recirculated Draft Environmental Impact Report (January 6, 2020). The City ultimately decided against adopting the FEIR.

COMMENTS AND RECOMMENDATIONS

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

Specific Comments

- 1) Compensatory Mitigation. The Biological Technical Report suggests a mitigation-to-impact ratio of 3:1 for loss of coastal sage scrub, wetland, and riparian habitats. It proposes a combination of establishment, enhancement, and preservation of coastal sage scrub in areas of the property outside of the development footprint, unspecified off-site establishment or re-establishment of coastal sage scrub habitat suitable for coastal California gnatcatchers, and/or the purchase of credits at a mitigation bank. The Biological Technical Report concludes that this will reduce Project impacts to coastal sage scrub habitat, coastal California gnatcatcher, and Crotch’s bumble bee to a level of less than significant. CDFW disagrees with this conclusion.

For example, the HMMP proposes 1.44 acres of riparian habitat preservation and enhancement between Golf Course Holes 8 and 9, which is the location of Parcel

⁴ Biological Opinion 1-6-95-P-17 issued April 12, 1995

⁵ Streambed Alteration Agreement No. 5-465-94 issued May 30, 1995

Susan Kim
City of La Habra
November 22, 2024
Page 5 of 16

A-4 mitigation. Given that this habitat should have already been preserved by the Deed Restriction as part of prior mitigation obligations, this site is not suitable as compensatory mitigation for impacts for the Project. For impacts within the Deed Restricted Area, mitigation for the impacts to existing habitat should be calculated separately from mitigation for the reduction in conservation value of the Deed Restriction itself. That is, the appropriate mitigation ratio for impacts to each type of habitat should be determined, and then a multiplier should be applied to that resulting number.

Additionally, the NOP does not address in-perpetuity preservation of mitigation lands. The EIR should include requirements for mitigation lands to be preserved and managed in perpetuity. A wildlife conservation easement should be recorded on mitigation lands to protect fish and wildlife resources in perpetuity. Mitigation lands should be perpetually managed, maintained, and monitored by a designated land manager. Funding for perpetual management, maintenance, and monitoring of the site should be provided through the establishment of an endowment.

The EIR should discuss all factors that were considered to determine that mitigation at the proposed ratios would adequately offset habitat loss, and provide a biological justification for the compensatory mitigation proposed. The discussion and analysis should include factors such as: temporal loss caused by the delay between Project impacts and full replacement of functions at the mitigation site, a comparison of the functional loss at the impact site versus the expected functional gain at the mitigation site, the location of the mitigation site relative to the Project site, whether the proposed mitigation is out-of-kind compared to the impacted habitat, whether the proposed mitigation would impact high value existing habitat to convert it to the desired mitigation habitat, and the risk and uncertainty inherent in habitat mitigation.

Without adequate replacement of biological functions and values through compensatory mitigation, and protection of those lands in perpetuity, the Project would continue to have a significant impact on special-status fish and wildlife, and sensitive habitats.

- 2) Deed Restriction. Consistent with our prior communications and letters, CDFW opposes the dissolution of the Deed Restriction. We expect that, if the Deed Restriction is dissolved, that the Applicant will provide appropriate, functionally equivalent replacement mitigation. The Deed Restriction was recorded on the property to provide in-perpetuity compensatory mitigation to satisfy permit requirements from CDFW, USFWS, and ACOE. The replacement mitigation should be identified, approved by CDFW, and acquired prior to termination of the current Deed Restriction. We recommend the City coordinate with CDFW to determine suitable replacement mitigation prior to circulating the DEIR. Analysis of the replacement mitigation should not be deferred to a later point in time. Without a thorough and specific evaluation of the mitigation, the City will be unable to make

Susan Kim
City of La Habra
November 22, 2024
Page 6 of 16

the determination that the Project's effects have been reduced to a less than significant level.

- 3) Crotch's Bumble Bee. Crotch's bumble bees were detected on the Project site during Project surveys in 2024. Focused surveys should be conducted to determine Crotch's bumble bee presence/absence within the Project site. Without a focused survey, Project activities could result in permanent loss of floral resources and nesting sites, nest abandonment, and/or direct injury or mortality of Crotch's bumble bee. In preparation of the DEIR, CDFW recommends the City retain a qualified biologist with the appropriate handling permits to conduct focused surveys. Focused surveys should follow CDFW's [Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species](#) (California Department of Fish and Wildlife, 2023). Focused surveys should also be conducted throughout the entire Project area during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. Findings from the focused survey should be included in the DEIR for complete public disclosure and review.

The DEIR should also provide a discussion of habitat suitability for Crotch's bumble bee. Additionally, the DEIR should provide a discussion of the Project's potential direct and indirect impacts on Crotch's bumble bee. If the Project would impact Crotch's bumble bee, the DEIR should provide measures to minimize, and/or mitigate potential impacts to Crotch's bumble bee as well as habitat supporting the species. Coordination with CDFW is recommended and may include obtaining appropriate take authorization under CESA.

Appropriate authorization from CDFW may include an Incidental Take Permit (ITP), among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements of a CESA ITP.

General Comments

- 1) Disclosure. The DEIR should provide an adequate, complete, and detailed disclosure about the effects which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, § 15151). Such disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).
- 2) Project Description and Alternatives. To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DEIR.

Susan Kim
City of La Habra
November 22, 2024
Page 7 of 16

- a. A complete discussion of the purpose and need for, and description of the proposed Project.
 - b. A range of feasible alternatives to the Project location to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends the City select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends the City consider establishing appropriate setbacks from sensitive and special status biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.
 - c. Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DEIR shall include sufficient information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).
 - d. Where the Project may impact aquatic and riparian resources, CDFW recommends the City select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level, which may cause the watercourse to alter its course of flow.
- 3) Biological Baseline Assessment. An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened, rare, and sensitive species; regionally and locally unique species; and sensitive habitats. An impact analysis will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW also considers impacts to Species of Special Concern (SSC) a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The DEIR should include the following information.

Susan Kim
City of La Habra
November 22, 2024
Page 8 of 16

- 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 DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation Classification and Mapping Program - Natural Communities webpage](#)⁶.
- b. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#)⁷. Botanical field surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the Project. Adjoining properties should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually, this is during flowering or fruiting. Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project site. This usually involves multiple visits to the Project site (e.g., in early, mid, and late season) to capture the floristic diversity at a level necessary to determine if special status plants are present.
- c. Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the Project site and within adjacent areas. The [Manual of California Vegetation](#)⁸, second edition, (Sawyer, Keeler-Wolf, & Evens, 2009) should also be used to inform this mapping and assessment. Adjoining habitat areas should be included in this assessment where the Project's construction and activities could lead to direct or indirect impacts offsite.
- d. A complete and recent assessment of the biological resources associated with each habitat type in the Project site and within adjacent areas. A full literature review includes but is not limited to CDFW's [California Natural Diversity Database](#)⁹ (CNDDDB). The CNDDDB should be accessed to obtain current information on any previously reported sensitive species and habitat. An assessment should include a minimum nine-quadrangle search of the CNDDDB to determine a list of species potentially present in the Project site. A nine-

⁶ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>

⁷ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

⁸ <https://vegetation.cnps.org/>

⁹ <https://wildlife.ca.gov/Data/CNDDDB>

Susan Kim
City of La Habra
November 22, 2024
Page 9 of 16

quadrangle search should be provided in the Project's CEQA document for adequate disclosure of the Project's potential impact on biological resources.

- e. A complete, recent, assessment of endangered, rare, or threatened species and other sensitive species within the Project site and adjacent areas, including 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 site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See [CDFW's Survey and Monitoring Protocols and Guidelines](#)¹⁰ for established survey protocol. Acceptable species-specific survey procedures may be developed in consultation with CDFW and U.S. Fish and Wildlife Service.
 - f. A recent wildlife and rare plant survey. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review (CEQA Guidelines, § 15003(i)). 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 three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if Project implementation build out could occur over a protracted time frame or in phases.
- 4) Direct and Indirect Impacts on Biological Resources. The DEIR should provide a thorough discussion of direct and indirect impacts expected to affect biological resources with specific measures to offset such impacts. The DEIR should address the following.
- a. A discussion of potential impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures. A discussion regarding Project-related indirect impacts on biological resources. These include 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 (Fish & G. Code, § 2800 et. seq.)).
 - b. A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the

¹⁰ <https://wildlife.ca.gov/conservation/survey-protocols>

Susan Kim
City of La Habra
November 22, 2024
Page 10 of 16

ecosystem supporting those species impacted (CEQA Guidelines, § 15126.2(a)).

- c. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should be fully analyzed and discussed in the DEIR.
 - d. A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion should also address the potential water extraction activities and the potential resulting impacts on habitat supported by the groundwater. Measures to mitigate such impacts should be included.
 - e. An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation 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.
- 5) Cumulative Impact. Cumulative impacts on biological resources can result from collectively significant projects which are individually insignificant. The Project, when considered collectively with prior, concurrent, and probable future projects, may have a significant cumulative effect on biological resources. The Project may have the potential to substantially reduce the number or restrict the range of endangered, rare, or threatened species. Species that may be impacted by the Project include, but are not limited to, the biological resources described in this letter.

Accordingly, CDFW recommends the DEIR evaluate the Project's potential cumulative impacts on biological resources. The Project may have a "significant effect on the environment" if the possible effects of the Project are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (Pub. Resources Code, § 21083(b)). The City's conclusions regarding the significance of the Project's cumulative impact should be justified and supported by evidence to make those conclusions. Specifically, if the City concludes that the Project would not result in cumulative impacts on biological resources, the City, "shall identify facts and analysis supporting the Lead Agency's conclusion that the cumulative impact is less than significant" (CEQA Guidelines section § 15130(a)(2)).

- 6) Nesting Birds. To avoid impacts to nesting birds, CDFW recommends that clearing of vegetation occur outside of the peak avian breeding season, which general runs from February 1 through September 15 (as early as January 1 for some raptors). If

Susan Kim
City of La Habra
November 22, 2024
Page 11 of 16

Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting breeding bird surveys should conduct a nesting bird survey within three days prior to work in the area. If an active nest is identified, a buffer should be established between the construction activities and the nest so that nesting activities are not interrupted. CDFW generally recommends a 100-foot buffer from common avian species, and buffers ranging up to 2 miles for listed or highly sensitive species. The buffer should be delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction should occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the Project. Reductions or expansions 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.

- 7) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures (CEQA Guidelines, §§ 15002(a)(3), 15021). Pursuant to CEQA Guidelines section 15126.4, an environmental document shall describe feasible measures which could mitigate impacts below a significant level under CEQA. Mitigation measures must be feasible, effective, implementable, 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).
- a. The DEIR should provide mitigation measures that are specific and detailed (i.e., responsible party, timing, specific actions, location) in order for a mitigation measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).
 - b. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the proposed Project, the DEIR should include a discussion of the effects of proposed mitigation measures (CEQA Guidelines, § 15126.4(a)(1)). In that regard, the DEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.
- 8) Compensatory Mitigation. The DEIR should include compensatory mitigation measures for the Project's significant impacts (direct and/or through habitat modification) to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization 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 inadequate to mitigate the loss of biological

Susan Kim
City of La Habra
November 22, 2024
Page 12 of 16

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 and financial assurance and dedicated to a qualified entity for long-term management and monitoring.

- 9) Long-term Management of Mitigation Lands. For proposed mitigation lands, the DEIR should include measures to protect the targeted habitat values in perpetuity. The mitigation should offset Project-induced qualitative and quantitative losses of biological resources. 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 endowment should be set aside to provide for long-term management of mitigation lands.
- 10) CESA. CDFW considers adverse impacts to a species protected by CESA to be significant. Take of any endangered, threatened, candidate species, or NPPA-listed plant species that results from the Project is prohibited, except as authorized by state law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project or any Project-related activity 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 Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options (Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)). Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit.

To ensure CDFW will be able to use the City's CEQA document for the issuance of an ITP, the DEIR should address all Project impacts to CESA-listed species and specify a mitigation, monitoring, and reporting program that will meet the requirements of an ITP.

- 11) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location 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 endangered, rare, or threatened plants and animals. These efforts are experimental, and the outcome is 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 plants and animals and their habitats.

Susan Kim
City of La Habra
November 22, 2024
Page 13 of 16

- 12) Scientific Collecting Permit. A Scientific Collecting Permit would be necessary if there is a plan to capture and relocate wildlife. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. 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). 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). For more information, please see CDFW's [Scientific Collecting Permit webpage](#)¹¹.
- 13) Lake and Streambed Alteration. CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW recommends that the City assess whether notification is appropriate. A Notification package for a LSAA may be obtained by accessing CDFW's [Lake and Streambed Alteration Program website](#)¹².
- 14) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the [Fish and Game Commission's \(Commission\) policies](#)¹³. Through its Wetlands Resources policy, the Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California. Further, it is the policy of the Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."

¹¹ <https://wildlife.ca.gov/Licensing/Scientific-Collecting>

¹² <http://www.wildlife.ca.gov/Conservation/LSA>

¹³ <https://fgc.ca.gov/About/Policies/Miscellaneous>

Susan Kim
City of La Habra
November 22, 2024
Page 14 of 16

- a. The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, a project should include mitigation measures to assure a “no net loss” of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions benefiting local and transient wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DEIR and these measures should compensate for the loss of function and value.
 - b. The Fish and Game Commission’s Water policy guides CDFW on the quantity and quality of the waters of this State that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).
- 15) Use of Native Plants and Trees. CDFW recommends the City require the Project Applicant to provide a native plant palette for the Project. The Project’s landscaping plan should be disclosed and evaluated in the DEIR for potential impacts on biological resources such as natural communities adjacent to the Project site (e.g., introducing non-native, invasive species). CDFW supports the use of native plants for the Project especially considering the Project’s location adjacent to protected open space and natural areas. CDFW strongly recommends avoiding non-native, invasive species for landscaping and restoration, particularly any species listed as ‘Moderate’ or ‘High’ by the [California Invasive Plant Council](https://www.cal-ipc.org/plants/inventory/)¹⁴ CDFW supports the use of native species found in naturally occurring plant communities within or adjacent to the Project site. In addition, CDFW supports planting species of trees, such as oaks (*Quercus* genus), and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds.

¹⁴ <https://www.cal-ipc.org/plants/inventory/>

Susan Kim
City of La Habra
November 22, 2024
Page 15 of 16

CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The [CNDDDB website](#)¹⁵ provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)¹⁶.

The City should ensure data collected for the preparation of the DEIR is properly submitted.

FILING FEES

The Project, as proposed, would 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 Lead Agency 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 & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City in identifying and mitigating Project impacts on biological resources.

¹⁵ <https://wildlife.ca.gov/Data/CNDDDB>

¹⁶ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

Susan Kim
City of La Habra
November 22, 2024
Page 16 of 16

Questions regarding this letter or further coordination should be directed to Kelly Fisher¹⁷, Environmental Scientist.

Sincerely,

DocuSigned by:

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Victoria Tang
Environmental Program Manager
South Coast Region

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REFERENCES

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