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January 29, 2025

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SUBJECT: NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE EL CÁPITAN, REFUGIO, AND GAVIOTA GENERAL PLAN UPDATE PROJECT, SCH NO. 2024120035, SANTA BARBARA COUNTY, CA

Dear James Newland:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) from California Department of Parks and Recreation (State Parks) for the El Cápitan, Refugio, and Gaviota (ECRG) General Plan Update (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 (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: State Parks

Objective: The objective of the Project is to implement a consolidated General Plan for Gaviota State Park, Refugio State Beach, and El Capitán State Beach to supersede its 1979 predecessor. The General Plan Update includes long-term management and establishing goals for the future of ECRG. The Project will address trail management, park access safety, utility systems, camping infrastructure, wildfire vulnerability, erosion and flooding, and drainage systems. More specifically, one of the objectives of the Project is to address erosion along Gaviota Creek, which has been impacting natural and recreational resources.

Location: ECRG is in unincorporated Santa Barbara County, approximately 5 to 20 miles west of Goleta, and 5 to 15 miles south of Solvang and Buellton.

Gaviota State Park is 2,712 acres and surrounds U.S. 101. Gaviota Creek runs through the Park and ultimately drains into the Pacific Ocean in the south. Gaviota Creek has multiple tributaries including Hot Springs Creek and partially includes Las Canovas Creek to the east. Kashtayit State Marine Conservation Area is directly adjacent to Gaviota State Park. Gaviota Beach Road runs north to south and intersects with U.S. 101. Additionally, Hollister Ranch Road runs east to west and intersects with Gaviota Beach Road.

Refugio State Beach is 938 acres and is south of U.S. 101. Refugio Creek runs north to south and ultimately drains in the Pacific Ocean. Majority of the acreage, 750 acres, consists of an underwater park which is managed and leased by State Parks. Refugio Beach Road and Refugio State Beach Road occur parallel to U.S 101.

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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El Capitán State Beach is 2,648 acres but over 2,500 acres are located north of the U.S. 101. Los Padres National forest borders the area in the north. El Capitán Creek runs north to south and ultimately drains into the Pacific Ocean. Calle Real lies parallel to U.S 101 in the north; El Capitán State Beach Road occurs south of U.S 101.

Biological Setting: ECRG are primarily surrounded by open space. There are State Parks facilities such as maintenance yards, lifeguard headquarters, restrooms, and visitor centers south of U.S. 101. The vegetation communities within Gaviota State Park include grasslands, oak woodland, chaparral, coastal sage scrub, riparian areas, freshwater aquatic habitats, freshwater marshes, coastal strand and salt marshes, and marine habitats. Refugio State Park consists of coastal sage scrub, marine habitats and riparian areas. Lastly, El Capitán State Beach includes coastal woodlands, riparian areas, marine habitats, and scrub.

State Parks has not yet prepared an Initial Study, and biological surveys were not provided. Species that are of potential concern include but are not limited to: southern California steelhead (*Oncorhynchus mykiss irideus pop. 10*; Endangered Species Act (ESA)-listed endangered; CESA candidate endangered), tidewater goby (*Eucyclogobius newberryi*; ESA-listed endangered; California Species of Special Concern (SSC)), monarch butterfly – California overwintering population (monarch; *Danaus plexippus plexippus*; ESA proposed threatened), Crotch's bumble bee (*Bombus crotchii*; CESA candidate endangered), California red-legged frog (*Rana draytonii*; ESA-listed threatened; SSC), southwestern pond turtle (*Actinemys pallida*; ESA proposed threatened; SSC), Northern California legless lizard (*Anniella pulchra*; SSC), two-striped gartersnake (*Thamnophis hammondi*; SSC), Davidson's saltscale (*Atriplex serenana var. davidsonii*; California Rare Plant Rank (CRPR) 1B.2), Refugio manzanita (*Arctostaphylos refugioensis*; CRPR 1B.2), La Purisima manzanita (*Arctostaphylos purissima*; CRPR 1B.1), and nesting birds and raptors. No compensatory mitigation was proposed in the NOP for this Project.

Project History: In October 2024, CDFW attended a Regulatory Agency Meeting hosted by State Parks to discuss the Project, the goal of which was to introduce the Project to the Regulatory Agencies in preparation of the release of the NOP. The meeting discussed the Project area, concerns that the Project proposes to address, and special status species that are of potential concern to be impacted by Project activities.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist State Parks 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) Crotch's Bumble Bee. Crotch's bumble bee is a generalist bee species that can utilize a variety of habitats included in the Project area, such as open grasslands,

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shrublands, and semi-urban settings for nesting and foraging opportunities. According to the California Natural Diversity Database (CNDDB), Crotch's bumble bee has been observed within the Project area (CDFW 2024a). Additionally, the Project area falls within the current range for Crotch's bumble bee based on CDFW's [Crotch's Bumble Bee Range Dataset](#) (CDFW 2024b). Focused surveys should be conducted to determine Crotch's bumble bee presence/absence within the Project area. 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 EIR, CDFW recommends State Parks 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](#) (CDFW 2023). Focused surveys should also be conducted throughout the suitable habitat within the 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 EIR for complete public disclosure and review.

The EIR should also provide a discussion of habitat suitability for Crotch's bumble bee. Additionally, the EIR 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 EIR 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.

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. 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

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should be of sufficient detail and resolution to satisfy the requirements of a CESA ITP.

To ensure CDFW will be able to use the State Parks' CEQA document for the issuance of an ITP, the EIR 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.

- 2) Endangered Species Act Listed Fish Species. According to CNDDDB, there have been multiple observations of tidewater goby within the Project Area. Additionally, southern California steelhead was mentioned in the Regulatory Agency Meeting to occur within Gaviota State Park. The impacts to these fish species are unclear from the NOP. Tidewater gobies spend all of their life stages in lagoons, estuaries, and river mouths (USFWS 2005). Southern California steelhead are anadromous fish that will spawn within a creek, migrate downstream for smoltification, migrate to the ocean, and return to its spawning grounds as a mature adult (NMFS 2012). Project activities may result in temporary or permanent habitat modification, direct injury, reduced capacity, and population decline.

The EIR should analyze and discuss the Project's potential impact on fish species population, habitat, substrate, and passage. The EIR should also analyze the Project's effect on the hydrology and hydraulics (velocity, depth, and temperature) of potentially impacted creeks within the Project area and how those effects may impact special status fish species. The Project activities should be conditioned to fully avoid all impacts to tidewater goby and southern California steelhead. No work should occur during the winter rainy season, which typically occurs between December 1 through March 31 (NMFS 2012). Additionally, no work should occur during peak breeding activities for tidewater goby, April 1 through June 31, and during November 1 through June 15 when periods of high flow and steelhead smolt are likely to be in the area during periods of receding flows.

Tidewater goby and southern California steelhead are protected under the ESA and meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines CEQA§ 15065). In addition, southern California steelhead are designated as a candidate species under CESA and afforded full protection. CEQA provides protection not only for ESA-listed and CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. Take of SSC could require a mandatory finding of significance by the State Parks (CEQA Guidelines, § 15065). Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW or United States Fish and Wildlife Service (USFWS). Take under the federal 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

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interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS, in order to comply with ESA, is advised well in advance of any Project-related ground-disturbing activities where impacts to special status fish will occur.

- 3) California Red-Legged Frog. California red-legged frog had many observations through CNDDDB within the Project area. Project activities may result in death or injury of adults, juveniles, eggs, or hatchlings. Moreover, buildout of the Project may eliminate foraging, breeding, or nesting habitat and refugia. In preparation of the EIR, CDFW recommends State Parks thoroughly discuss the potential. CDFW recommends State Parks retain a qualified biologist to conduct focused surveys for California red-legged frog. The focused surveys should be conducted prior to the preparation of the Project's environmental document. A qualified biologist should survey California red-legged frog adhering to survey methods described in [Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog](#) (CDFW 2005). Surveys may begin anytime during January and should be completed by the end of September. Multiple survey visits conducted throughout the survey-year (January through September) increase the likelihood of detecting the various life stages of the California red-legged frog. State Parks should also incorporate suitable mitigation measures to offset the impacts on sensitive amphibian species and their habitats.
- 4) Monarch. There have been many observations of monarchs within ECRG through CNDDDB observations. Additionally, sections of the Project area fall within monarch Areas of Conservation Emphasis (ACE), which displays the Project area having potential monarch overwintering habitat (CDFW 2024c). As the Project area likely provides suitable habitat for monarchs, Project activities such as tree trimming and vegetation removal may directly impact monarch butterfly overwintering habitat. Additionally, noise from construction activities may disturb overwintering roosts. The EIR should evaluate the Project's potential direct, indirect, and cumulative impacts on monarchs and overwintering habitat during the construction and operational phase of the Project.

CDFW recommends State Parks retain a qualified biologist to assess the Project area for monarchs and overwintering habitat. The qualified biologist should survey eucalyptus and other trees within the Project area that are suitable for overwintering monarchs. The qualified biologist should conduct multiple surveys for overwintering monarchs where potential overwintering habitat has been identified. Monitoring should be done as frequently as possible during the overwintering season (typically September 15 through March 11) to capture changing distributions throughout the season and in response to storm events. Findings should be incorporated in the EIR for public review.

Given the Project may possibly have impacts to monarchs, the EIR should include measures to first avoid and minimize impacts on monarchs and overwintering

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habitat. If the Project would result in loss of overwintering habitat, CDFW recommends State Parks provide compensatory mitigation so that there is no net loss of overwintering habitat. Mitigation for monarchs should be developed in consultation with the USFWS and CDFW. CDFW recommends State Parks also consult the following resources to develop appropriate measures to mitigate the Project's potential impacts to monarchs:

- [Western Monarch Butterfly Conservation Plan](#) (WAFWA 2019);
- [Overwintering Site Management and Protection](#) (Western Monarch Count 2022);
- [Protecting California's Butterfly Groves](#) (Xerces Society 2017);
- [Managing Monarch Habitat in the West](#) (Xerces Society 2024a);
- [Pollinator-Friendly Native Plant Lists](#) (Xerces Society 2024b); and,
- CDFW's [Monarch Butterfly](#) webpage (CDFW 2024d).

Given the proposed threatened listing under the ESA, we also recommend State Parks scope the impacts to this species and possible mitigation options with the USFWS.

- 5) Lake and Streambed Alteration. Gaviota Creeks runs through Gaviota State Park, and it is unclear if there will be impacts to the creek. 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 proponent 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 State Parks assess whether notification is appropriate. A Notification package for a LSAA may be obtained by accessing CDFW's [Lake and Streambed Alteration Program website](#)³.
- 6) Species of Special Concern. A review of CNDDDB indicates observations of southwestern pond turtle, northern California legless lizard, and two-striped gartersnake within the Project area. The Project area provides suitable habitat for a variety of SSC. Project activities may result in death or injury of adults, juveniles, eggs, or hatchlings. Moreover, the Project may eliminate foraging, breeding, or nesting habitat and refugia for these species. In preparation of the EIR, CDFW recommends that State Parks thoroughly discuss the potential for impacts to SSC and include mitigation measures that provide compensatory mitigation for Project impacts on SSC.

³ <http://www.wildlife.ca.gov/Conservation/LSA>

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- 7) Rare Plants. According to CNDDDB, Davidson's saltscale, Refugio manzanita, La Purisima manzanita, and more rare plants were observed within ECRG or within two miles of the Project area. ECRG contains multiple different vegetation communities that provide suitable habitats for rare plants. Potential Project activities, such as landscaping, vegetation removal, and the implementation of staging areas, may have impacts to plant species with a CRPR 1 and 2 and should be analyzed in the EIR as they meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). CDFW recommends State Parks provide full disclosure of the Project's impact on rare plants and their associated seedbank. CDFW also recommends State Parks incorporate measures in the EIR that avoid, minimize, and mitigate potential impacts on rare plants and supporting habitat. State Parks should also retain a qualified biologist with the appropriate handling permits to conduct a rare plant survey throughout the Project area to confirm presence/absence of rare plants. Surveys should adhere to CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Findings of the rare plant survey should be disclosed in the EIR.
- 8) Nesting Birds and Raptors. The vegetation and trees within the Project area provides suitable habitat for nesting birds and raptors. Implementation of potential Project activities, such as tree removal, during bird breeding and nesting season may result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. CDFW recommends State Parks provide a discussion of the Project's impact on nesting birds and raptors. Additionally, State Parks should incorporate measures in the EIR to fully avoid impacts on nesting birds.

To avoid impacts to nesting birds, CDFW recommends that clearing of vegetation occur outside of the peak avian breeding season, which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting 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 shall be established between the construction activities and the nest so that nesting activities are not interrupted. For the given Project area, CDFW generally recommends a 100-foot buffer from common avian species, 300 feet for listed or highly sensitive, and 500 feet for raptors. The buffer should be delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the Project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

The California Fish and Game Code (Sections 3503, 3503.5, and 3513), prohibits take of all birds and their active nests, including raptors and other migratory

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nongame birds as listed under the Federal Migratory Bird Treaty Act of 1918 (Code of Federal Regulations, Title 50, § 10.13). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any nesting bird.

- 9) Recreational Trails. The Project proposes trail management in ECRG. Incorporating trails would increase human foot traffic resulting in increased noise levels in sensitive areas, increased trash or pet waste, introduce unnatural food sources via trash and trash receptacles, along with other indirect impacts. The EIR should provide a discussion pertaining to the direct and indirect impacts the trails would have on biological resources and special-status species. The location of the trail system, description of trail materials (i.e., paved asphalt, gravel, etc.), and level of access to the trails should be discussed in the EIR. The EIR should also contain a mitigation measure that calls for the creation of a Recreational Trails Plan. The Plan should include, but is not limited to, installation of appropriate signage, trash receptacles, allowable and prohibited trail uses, and best management practices. CDFW requests the opportunity to review the Recreational Trails Plan and provide feedback to State Parks prior to the adoption of the EIR.
- 10) Wildlife Friendly Fencing. Fencing could obstruct wildlife movement and result in wildlife injury or mortality due to impalement and entanglement (e.g., chain link fencing). If the Project includes temporary and/or permanent fencing, prior to preparation of the EIR, CDFW recommends State Parks provide wildlife friendly fencing designs. Fencing designs should be disclosed and evaluated in the EIR for potential impacts on biological resources and wildlife movement. The EIR should discuss how fencing proposed for the Project would minimize impacts on biological resources, specifically wildlife movement. CDFW supports the use of wildlife-friendly fencing. Wildlife-friendly fencing should be used and strategically placed in areas of high biological resource value to protect biological resources, habitat, and wildlife movement. CDFW recommends [A Landowner's Guide to Wildlife Friendly Fences](#) for information wildlife-friendly fences (MFWP 2012).

General Comments

- 1) Disclosure. The EIR 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 EIR.

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- 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 State Parks select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends State Parks 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 EIR 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 State Parks 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 EIR should include the following information.

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- 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 EIR 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](#)⁴.
- 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](#)⁵. 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](#)⁶, 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](#)⁷ (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-

⁴ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>

⁵ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

⁶ <https://vegetation.cnps.org/>

⁷ <https://wildlife.ca.gov/Data/CNDDDB>

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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](#)⁸ 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 EIR should provide a thorough discussion of direct and indirect impacts expected to affect biological resources with specific measures to offset such impacts. The EIR 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

⁸ <https://wildlife.ca.gov/conservation/survey-protocols>

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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 EIR.
 - 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 EIR.
- 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 EIR 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)). State Parks' conclusions regarding the significance of the Project's cumulative impact should be justified and supported by evidence to make those conclusions. Specifically, if State Parks concludes that the Project would not result in cumulative impacts on biological resources, State Parks, "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) 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,

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§§ 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 EIR 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 EIR should include a discussion of the effects of proposed mitigation measures (CEQA Guidelines, § 15126.4(a)(1)). In that regard, the EIR 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.
- 7) Compensatory Mitigation. The EIR 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 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.
- 8) Long-term Management of Mitigation Lands. For proposed mitigation lands, the EIR 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.
- 9) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location and

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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.

- 10) 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 relocate 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](#)⁹.
- 11) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the [Fish and Game Commission's \(Commission\) policies](#)¹⁰. Through its Wetlands Resources policy, the Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California" (California Fish and Game Commission, 2005). 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."
 - 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

⁹ <https://wildlife.ca.gov/Licensing/Scientific-Collecting>

¹⁰ <https://fgc.ca.gov/About/Policies/Miscellaneous>

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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 EIR 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).

- 12) Use of Native Plants and Trees. CDFW recommends State Parks 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 EIR 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](#)¹¹ 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. 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.

¹¹ <https://www.cal-ipc.org/plants/inventory/>

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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 CNDDDB. The [CNDDDB website](#)¹² 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](#)¹³.

State Parks should ensure data collected for the preparation of the EIR 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 State Parks in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Joleena De La Fe¹⁴, Environmental Scientist.

Sincerely,

DocuSigned by:

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Victoria Tang
Environmental Program Manager
South Coast Region

¹² <https://wildlife.ca.gov/Data/CNDDDB>

¹³ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

¹⁴ Phone: (858) 354-3527; Email: Joleena.delafe@wildlife.ca.gov

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ATTACHMENTS

EL CÁPITAN STATE BEACH, REFUGIO STATE BEACH, AND GAVIOTA STATE PARK BOUNDARIES



cc: California Department of Fish and Wildlife
Victoria Tang (CDFW EPM)
Jennifer Turner (CEQA Supervisor)
Joleena De La Fe (CEQA staff)

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

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