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DEPARTMENT OF FISH AND WILDLIFE
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April 4, 2025

Stephanie Neal
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SUBJECT: NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE NORTH COUNTY MULTIPLE SPECIES CONSERVATION PLAN, SCH NO. 2025030227, SAN DIEGO COUNTY, CA

Dear Stephanie Neal:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the County of San Diego (County) for the North County Multiple Species Conservation Plan (North County Plan, Plan, Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹. CDFW has been working with the County on the development of the North County Plan for many years and this is a critical milestone for this Plan. CDFW's comments provided herein are based on those planning efforts, information provided in the NOP, and our knowledge of issuance criteria under the Natural Community Conservation Planning (NCCP) Act (Fish and Game Code § 2800), as amended.

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 & Game 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

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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sustainable populations of those species (Fish & Game 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 projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW also acts as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381) over those aspects of proposed projects that come under the purview of CDFW's lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 et seq.), the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.) and the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 et seq.). Additionally, CDFW administers the Natural Community Conservation Planning (NCCP) Program, a California regional habitat conservation planning program. As the Project is a proposed NCCP Plan, CDFW will act as a Responsible Agency for eventual issuance of an NCCP Permit.

The NCCP Act (as amended) gives CDFW the discretion to enter into planning agreements (§2810 (a)). The purpose of the planning agreement is to set the stage for NCCP planning by outlining components of a Plan required by the NCCP Act, establishing the roles and responsibilities of the various parties, and initiating the process in a way that will set a clear path and reinforce the partnership for the effort. The NCCP Act requires that the planning agreement be developed "*...in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan.*" The County of San Diego participates in the NCCP program by implementing the Fully Signed Third Restated and Amended Planning Agreement (Planning Agreement; March 2021) for the draft North County Plan.

PROJECT DESCRIPTION SUMMARY

Proponent: County of San Diego, Planning & Development Services, Sustainability Planning Division

Objective: The North County Plan would establish a long-term, regional habitat conservation program focusing on balancing high biological diversity and urban growth within northern San Diego County. As a joint Habitat Conservation Plan (HCP) and NCCP, the North County Plan will provide the basis for the County to receive a federal and state incidental take permit to "cover" specific animal and plant species. This would allow the incidental take permit to be extended to future development projects (including public projects and activities, and private projects and activities subject to the County's land use authority) that comply with the North County Plan, so these projects do not have to secure their own separate incidental take permit(s) from CDFW. This Plan would provide a framework for both mitigation and conservation to ensure long-term viability of habitat for the Covered Species by assembling, managing, and monitoring a North County Plan Preserve System across a range of elevations to allow species and habitats to shift spatially in response to climate change and that is large enough to support sustainable populations and allow for genetic exchange between populations of the Covered Species.

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Location: The North County Plan area is proposed to encompass the northwestern unincorporated areas of San Diego County, totaling 699,411 acres. Segments of the Plan Area are separated by land in incorporated cities and are not subject to this Plan. The northern border of the Plan Area follows the County's boundary with Orange and Riverside counties. The western border of the Plan Area follows the boundary of unincorporated areas and the cities of Fallbrook, Oceanside, Vista, Carlsbad, Encinitas, Escondido, and San Diego. There are also County-owned and County managed lands within the incorporated cities within the Multiple Habitat Conservation Program Plan Area in the western portions of the Plan Area. The southern border of the Plan Area mostly follows the boundary of the County's Subregional Multiple Species Conservation Program (MSCP) South County Subarea Plan (SAP) and the San Diego River watershed boundary. The eastern boundary is along the mountain-desert divide and follows parcel and ownership boundaries in that area.

Biological Setting: Landscapes within the proposed Plan range from lagoons at sea level, valleys, and foothills, to rugged peaks over 6,000 feet in elevation within the Palomar and Cuyamaca Mountains. Hilly and rugged terrain characterizes much of the area. Chaparral is the predominant plant community; coastal sage scrub also occurs extensively throughout the Plan Area. The proposed Plan Area will include the San Juan, Santa Margarita, Temecula Creek, San Luis Rey, San Dieguito, Peñasquitos, San Diego, and Carlsbad watersheds. Major rivers flowing through the Plan Area include Santa Margarita, San Diego, San Dieguito, and San Luis Rey Rivers. One coastal lagoon, San Elijo Lagoon, located at the mouth of Escondido Creek, is in the Plan Area.

This Plan proposes incidental take coverage for 40 species which includes 31 animals and nine plant species. Of the total 40 Covered Species included in this Plan, 11 are State listed as endangered or threatened under CESA, 17 are federally listed under the Endangered Species Act (ESA) or the Bald and Golden Eagle Protection Act (BGEPA), three are proposed to be listed as endangered or threatened under CESA and three under ESA, four are State fully protected species, and five have potential to be listed under CESA/ESA.

There are several HCP/NCCPs, adopted or in progress, within the San Diego County region and adjacent Riverside and Orange County that will border the proposed North County Plan. The North County Plan would be independent of these existing plans and will have separate Implementing Agreements and requirements within the County's Biological Mitigation Ordinance. However, connectivity between conserved lands within the County's MSCP SAP and the North County Plan is particularly important where these areas abut. In addition, Covered and non-Covered Species in the respective Plan Areas are highly dependent on each other to support sustainable populations of species.

Project History: Efforts to establish the North County Plan have been ongoing since the mid-2000s; two previous draft Plans were prepared in 2008 and 2017. Since work on the North County Plan was reinitiated in March 2021, the following tasks and work items have been completed by the County and their consultant team [ICF Incorporated (ICF)]: adjustments to the Plan Area, development of draft Preserve Design Map, update to the

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Conserved Species List, research of Preserve assembly methods, collection of independent science advisory input from various subject matter experts, and multiple stakeholder meetings. In addition, the previous 2017 draft of the North County Plan was reorganized and reformatted based on ICF's input and review as recommended in the Options Assessment (December 2019).

CDFW staff have provided multiple rounds of preliminary comments on Chapters 1,2 and 5, as well as comments on conceptual draft chapters and supporting appendices; however, there are still outstanding comments to be addressed by ICF and information to be updated due to the change of scope for the North County Plan. CDFW and the United States Fish and Wildlife Service (USFWS) are currently reviewing and providing edits to the Conservation Strategies with ICF and the County. The draft Biological Goals, Objectives, and Conservation Actions Appendix, sections of the Conservation Standards, and the Avoidance and Minimization Measures section are currently available to the public for review on the County's website.

COMMENTS AND RECOMMENDATIONS

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

General Comments

NCCP Requirements: Consistent with HCP and NCCP guidance and regulations, USFWS and CDFW have been actively collaborating with the County to develop a draft North County Plan. In addition, per the NCCP Act, an NCCP must identify and provide for the regional or area-wide protection and management of natural wildlife diversity while allowing for compatible and appropriate development and growth (Fish and Game Code § 2820, subd. (a)(3) and § 2805, subd. (h)). An NCCP is intended to provide comprehensive management and conservation of multiple species, including but not limited to, species listed under the CESA or ESA. The NCCP Act was substantially revised in 2002 by Senate Bill 107,² which codified a number of CDFW 's administrative standards and practices for NCCP development and implementation and added new requirements.

Per the NOP, the DEIR would evaluate the potential direct, indirect, and cumulative impacts that could result from the implementation of Covered Activities on Covered Species and natural communities. The proposed Preserve for the North County Plan will need to provide sufficient habitats for the proposed Covered Species in a configuration that would support them in perpetuity. Preserve lands must be perpetually conserved with the recordation of a conservation easement or equivalent legal instrument approved by CDFW, and Preserve lands and Covered Species are required to be appropriately managed and monitored in perpetuity. As

² Statutes 2002, chapter 4, sections 1 and 2, page 81 (S.B. 107). Minor changes were subsequently enacted as part of S.B. 2052 (Stats. 2002, ch. 133, §§ 1 and 2, p. 568).

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described in the County's March 10th, 2025, letter to CDFW and USFWS, the County is proposing the use of restrictive covenants for County-owned Preserve land, and a conservation easement is proposed to be recorded to the County for private development mitigation. The County will be responsible for ensuring that adequate funding is available and that appropriate processes are in place to ensure that the management and monitoring requirements under the North County Plan are met. The DEIR should identify all Covered Activities and compatible uses under the proposed North County Plan and indicate how the identified Covered Activities will avoid, minimize, and mitigate the effects to Covered Species.

Specific Comments

The following topics should be addressed during the planning and development of the North County Plan.

- 1. Planning Agreement:** The Planning Agreement for both the draft North and East County Plans expired in January 2025. A new Planning Agreement is in preparation, which will expire 5 years after approval. The County, CDFW, and USFWS are collaboratively revising the Planning Agreement to include updates to the Resource Management Plan process and Preserve Design sections, and CDFW is currently awaiting further revisions from the County. The County has acknowledged that Habitat Loss Permits cannot be issued while the Planning Agreement has lapsed. As the Planning Agreement outlines interim project processing procedures to ensure the goals and objectives of the Plan are not precluded and adheres to the Southern California Coastal Sage Scrub NCCP Conservation and Process Guidelines (CSS NCCP Guidelines), CDFW strongly recommends prompt finalization of the Planning Agreement.
- 2. Preserve Design:** Since the last planning effort in 2017, new housing and zoning legislation has been established, such as the Density Bonus Law (DBL; California Government Code, Section 65915), Housing Accountability Act (HAA; CGC, Section 65589.5), and Housing Crisis Act of 2019 (HCA; SB 330), which has led to a decrease in the amount of acreage anticipated to be developed under the North County Plan. As the anticipated areas of development and build out have been reduced in the latest iteration of the planning effort, the resulting NC Plan Preserve is estimated to be a fraction of the Priority Conservation Areas (PCA). The amount of Plan area to be designed as PCA has decreased by an estimated 13 percent from the 2017 draft to the current working Draft; however, the PCA has yet to be finalized. CDFW has concerns about how to guide conservation and preserve design within areas identified as PCA to sufficiently conserve sustainable populations of the proposed covered species and retain meaningful connectivity for those covered species.

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Currently, there is an insufficient number of acres of coastal sage scrub habitat to be conserved to mitigate the anticipated impacts from development and habitat clearing for exempt activities under the Plan, such as agricultural clearing and single-family home construction. In addition, the Plan proposes a series of wildlife movement linkages and corridors to connect the Preserve; however, it is to be determined how these linkages will be established within areas where little to no development is anticipated. Thoughtful considerations are necessary to ensure the conservation strategy will appropriately guide conservation within the PCA and future coordination should explore ways to address the shortfall of conservation, particularly for coastal sage scrub habitat, that would have been driven by the loss of development pressure. CDFW looks forward to collaborating with the County and USFWS to ensure the establishment of a functional Preserve design for the North County Plan.

- 3. Vernal Pool Conservation Strategy:** CDFW has provided comments on the proposed Vernal Pool Conservation Strategy for the proposed North County Plan. Several key details of the proposed strategy have yet to be resolved such as the mitigation strategy and in-lieu fee structure. Furthermore, CDFW advises that acquisition of new vernal pool areas is critical to ensure impacts to vernal pools and vernal pool species are adequately mitigated, conserved, and managed.
- 4. Mitigation Site Protection Mechanisms:** Based on previous discussions and the County's March 10, 2025, letter to CDFW and USFWS, additional discussion is necessary to determine the mutually acceptable legal land protection instrument to be used for areas designated to be conserved in perpetuity. The March 2025 letter states that the County is amenable to requiring a conservation easement to be recorded to the County for private development mitigation and will seek input from stakeholders before moving forward with incorporating this concept into the draft Plan. CDFW continues to assert that a Conservation Easement, as defined in California Civil Code 815 *et seq.* is the appropriate land protection easement instrument to adequately protect Preserve lands in perpetuity. CDFW acknowledges that the County is proposing the use of restrictive covenants for County-owned Preserve land, and we look forward to collaborating on the appropriate content and format of those covenants.
- 5. Timeline:** In previous planning meetings, the County has expressed the goal for Plan adoption and permit issuance as early 2026. CDFW has opined that this timeline is unrealistic for CDFW to adequately review the Plan pursuant to our responsibilities under the NCCP Act. As mentioned above, CDFW has reviewed and provided comments on Chapters 1, 2, and 5 of the draft North County Plan thus far. The remaining chapters and associated appendices have yet to be reviewed, such as: the Implementing Agreement, Biological Mitigation Ordinances, and Framework Resource

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Management Plan. CDFW is committed to working with the County to complete the North County Plan, and requests that the County's proposed timeline and schedule be revised to show the required amount of time to adequately review the full draft Plan by multiple agency staff, including management staff and Office of General Counsel reviews. Additionally, we can provide the County with the tasks and durations that we must undertake to prepare our findings and finalize the NCCP permit to properly build out the County's timeline and schedule.

General Comments

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).

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](#)³ provides directions 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](#)⁴.

The County 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 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.)

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


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

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CONCLUSION

CDFW appreciates the opportunity to comment on the NOP for the DEIR and looks forward to continuing to collaborate with the County and their consultants on the preparation of a draft North County Plan that addresses CDFW's NCCP permit issuance criteria. Questions regarding this letter or further coordination should be directed to Katrina Rehrer, Senior Environmental Scientist, at (310) 387-9260 or Katrina.Rehrer@wildlife.ca.gov.

Sincerely,

Signed by:

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Glen M. Lubcke
Environmental Program Manager
South Coast Region

cc: California Department of Fish and Wildlife
Glen Lubcke
Melanie Burlaza, NCCP supervisor

Office of Planning and Research
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REFERENCES

- California Department of Fish and Game. (2011). *CNDDDB Data Use Guidelines*. Retrieved from <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=27285&inline>
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