

To:
[] Office of Planning and Research
For U.S. Mail:
P.O. Box 3044

Sacramento, CA 95812-3044

Street Address:
1400 Tenth Street
Sacramento, CA 95814

From:
California Department of Fish and Wildlife (CDFW)
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
Contact: Kelly Schmoker-Stanphill
Phone: 626-335-9092

Lead Agency (if different than CDFW)
City of Los Angeles
Department of City Planning
6262 Van Nuys Blvd., Room 351
Van Nuys, CA 91401
Contact: Ms. Milena Zasadzien
Phone: 213-978-1271

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JUN 25 2019

DFG
Office of the General Counsel

SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code § 21108
State Clearinghouse Number: 2015021057

Project Title: Andora Subdivision Project (Incidental Take Permit No. 2081-2018-063-05 (ITP))

Project Location (include county): The Andora Subdivision Project is located at 9503 Andora Place in the Chatsworth Community within the City of Los Angeles, Los Angeles County

Project Description: As approved by City, the Project involves the construction of 33 single-family dwelling units and associated infrastructure on 28 acres of undeveloped land and conservation of an open space lot encompassing 61 acres. Project activities within the 28 acre Construction Site include clearing and grubbing all vegetation; extending Andora Avenue with the construction of "A" street; adding a secondary emergency access route; constructing 33 homes and related infrastructure, including grading front, side, and back yards, associated utilities, and stormwater conveyance structures; clearing vegetation for fuel modification purposes; maintaining existing designated horse trails within the 28 acres; and constructing a new segment of horse trail and watering station within the 28 acres. The Project will result in impacts to 1.07 acres of Santa Susana tarplant (Dienandra minthornii) habitat; the Project will permanently remove 1.07 acres of Santa Susana tarplant habitat. The project is expected to result in incidental take of Santa Susana tarplant, which is designated as a State Rare species under the Native Plant Protection Act. The ITP referenced above as issued by CDFW authorizes incidental take of species listed under California Endangered Species Act (CESA) that may occur as a result of Project implementation.

This is to advise that CDFW, acting as [] the lead agency / [X] a responsible agency] approved the above-described project on 06/20/2019 and made the following determinations regarding the above described project:

- 1. The project [] will / [X] will not] have a significant effect on the environment (This determination is limited to effects within CDFW's permitting jurisdiction as a responsible agency).
2. [X] An environmental impact report / [] A negative declaration] was prepared by the lead agency for the original project.
3. Additional mitigation measures [X] were / [] were not] made a condition of CDFW's approval of the project.
4. A mitigation reporting or monitoring plan [X] was / [] was not] adopted by CDFW for this project.
5. A Statement of Overriding Considerations [] was / [X] was not] adopted by CDFW for this project.
6. Findings [X] were / [] were not] made by CDFW pursuant to Public Resources Code § 21081(a).
7. Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4 (check one):

- [] Payment is submitted with this notice.
[X] A copy of a receipt showing prior payment was submitted to CDFW.

[X] Responsible Agency statement: The EIR prepared by the lead agency for the Project is available to the general public at the office location listed above for the lead agency. CDFW's administrative record of proceedings related to the incidental take permit is available to the public for review at CDFW's regional office.

Signature: [Handwritten Signature] Date: 06/20/2019
Ed Pert, Regional Manager Governor's Office of Planning & Research

Date Received for filing at OPR: JUL 08 2019

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2018-063-05**

RECEIVED

JUN 25 2019

**Andora Properties, I, LLC; Daniel Bernstein
Andora Subdivision Project**

Office of the ^{DFG} General Counsel

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*). CDFW is a responsible agency under CEQA with respect to the Andora Subdivision Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*). (See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a).)¹ CDFW makes these findings under CEQA as part of its discretionary decision to authorize Andora Properties, I, LLC; Daniel Bernstein (Permittee) to incidentally take Santa Susana tarplant (*Dienandra minthornii*) (hereafter, Covered Species) during implementation of the Project. (See generally Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4.) The Santa Susana tarplant is designated as rare by the California Fish and Game Commission. (Fish & G. Code, §§ 1904, 1908; Cal. Code Regs., tit. 14, § 670.2.)).

CDFW is a responsible agency under CEQA with respect to the Project because of prior environmental review and approval of the Project by the lead agency City of Los Angeles (City). (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367.) the City analyzed the environmental impacts associated with implementation of the Project in an Environmental Impact Report (EIR) for the Andora Subdivision Project (SCH No.: 2015021057), and approved the Project on February 23, 2017. In so doing, the City imposed various mitigation measures for impacts to the Covered Species as conditions of Project approval and concluded that Project-related impacts to the Covered Species could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less than significant.

As approved by City, the Project involves the construction of 33 single-family dwelling units and associated infrastructure on 28 acres of undeveloped land and conservation of an open space lot encompassing 61 acres. Project activities within the 28 acre Construction Site include clearing and grubbing all vegetation; extending Andora Avenue with the construction of "A" street; adding a secondary emergency access route; constructing 33 homes and related infrastructure, including grading front, side, and back

¹ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

yards, associated utilities, and stormwater conveyance structures; clearing vegetation for fuel modification purposes; maintaining existing designated horse trails within the 28 acres; and constructing a new segment of horse trail and watering station within the 28 acres. The Project site is within the range of the Covered Species and is known to support individuals of the species. Development of the Project site will result in the permanent loss of 1.07 acres of habitat for the Covered Species and take of the Covered Species as defined by Fish and Game Code is expected. (Fish & G. Code, § 86.) These impacts fall within CDFW's permitting jurisdiction under CESA. (*Id.*, §§ 2080, 2081, subd. (b).)

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the Project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the Project as set forth in the City's EIR, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because CDFW's exercise of discretion is limited to issuance of an Incidental Take Permit (ITP) for the Project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under CESA. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 935-941.) Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the EIR fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.)

CDFW's more limited obligations as a responsible agency affect the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each public agency that approves a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a); see also Pub. Resources Code, § 21068 (significant effect on the environment defined); CEQA Guidelines, § 15382.) Because the EIR certified by the City for the Project identifies potentially significant impacts on the Covered Species, CDFW adopts the findings set forth below to fulfill its obligations as a responsible agency under CEQA. (CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund. V. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

FINDINGS:

CDFW has considered the EIR adopted by the City as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by the City, along with the mitigation measures and Conditions of Approval set forth in

CDFW's ITP for the Project, will ensure that all Project-related impacts on the Covered Species are mitigated to below a level of significance under CEQA.

CDFW finds that issuance of the ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the conditions of Project approval adopted by the lead agency, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of the ITP, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's ITP for the Project will avoid to the extent feasible and mitigate to below a level of significance all Project-related impacts on the Covered Species:

- A. To ensure compliance with the Conditions of Approval of this ITP, the Designated Botanist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- B. Before starting Covered Activities within the Construction Site, Permittee shall clearly delineate the boundaries of the Construction Site with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- C. The Permittee will acquire and permanently preserve 61 acres of land containing 7.4 acres of Covered Species occupied habitat, approved by CDFW and provide for the maintenance and management of the habitat in perpetuity.
- D. Compliance monitoring will be reported monthly and annual reports will be sent to CDFW by January 31 of each year.
- E. Non-compliance will be reported to CDFW within 24 hours during the construction phase.
- F. Prior to construction and consistent with the approved Fuel Modification Plan (Figures 4 and 5 of the ITP), Permittee shall install a fence and signs clearly delineating the approved fuel modification line below the Covered Species habitat on Lots 2, 3, 4, 5, and 6.
- G. Prior to construction, Permittee shall submit to CDFW a detailed Cleared Land Weed Control and Restoration Plan (CLWCRP). The CLWCRP shall include measures to ensure graded or cleared earth within the Construction Site does not establish weeds that would become a source of degradation for the adjacent 61-acre conservation parcel.

- H. Permittee will prepare and submit a final mitigation report within 45 days following completion of the Project to notify CDFW of the success and effectiveness of required mitigation measures.

CDFW finds that the Mitigation Monitoring and Reporting Program in Attachment 1 of CDFW's ITP for the Project will ensure compliance with mitigation measures by requiring the Permittee to monitor and report progress in implementing those measures for review by CDFW staff.

The Mitigation Monitoring and Reporting Program is adopted.

The Project is approved.

DATE: 06/20/2019

By: Richard M Burg
for Ed Pert, Regional Manager
South Coast Region
DEPARTMENT OF FISH AND WILDLIFE

Governor's Office of Planning & Research

JUL 08 2019

STATE CLEARINGHOUSE