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 DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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November 6, 2020

Governor's Office of Planning & Research

Nov 06 2020

STATE CLEARINGHOUSE

Dr. Jan Green Rebstock
 City of Los Angeles
 Public Works, Bureau of Engineering
 Environmental Management Group
 1149 S. Broadway, 6th Floor
 Los Angeles, CA 90015
Jan.Green.Rebstock@lacity.org

**Subject: Citywide Cat Program, Final Environmental Impact Report,
 SCH #2013101008, City of Los Angeles, Los Angeles County**

Dear Ms. Rebstock:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Final Environmental Impact Report (FEIR) for the Citywide Cat Program (Project). CDFW has also reviewed the Responses to Comments received for the draft environmental impact report (EIR).

CDFW submitted comments for the Project on October 28, 2019 and recommended measures to mitigate the Project's potential impacts on wildlife in Environmentally Sensitive Areas (ESAs); nesting birds; and sensitive vegetation communities. CDFW appreciates that the City of Los Angeles (City) reviewed and considered our comments and recommendations. Additionally, CDFW appreciates and recognizes the considerable amount of effort that has gone into the FEIR and Responses to Comments.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife (biological) resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 (Id., § 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 state fish and wildlife resources.

CDFW is also submitting comments 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, including 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 law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate

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authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project consists of:

- 1) Directly engaging in spaying and neutering, or providing funds to subsidize the spaying and neutering, of any cat in the City to prevent them from having litters of kittens, regardless of the cat's status as either owned pet, stray, or feral. This includes spay and neuter of free-roaming cats that may be returned by their caretakers or a rescue organization to where they were found, relocated to a working cat program, or adopted;
- 2) Changing the Los Angeles Administrative Code from "pet sterilization" to "animal sterilization" to allow feral cats or stray cats to receive funding;
- 3) Implementing a Trap-Neuter-Release (TNR) program;
- 4) Releasing spayed/neutered cats to free-roaming status, changing the permitted number of cats per-house from three to five, and requiring houses with more than three cats to keep them inside;
- 5) Publishing Program guidelines; and,
- 6) Creating a City Working Cat Program to remove cats from the streets.

Location: The Project involves implementing a TNR program that would be implemented throughout the City, comprising over 465 square-miles.

Comments and Recommendations

Comment: Potential Impacts to ESAs

Issue: Page 2-10 in the Responses to Comments states, "in the Draft EIR, guidelines for implementation of the proposed Project initially recommended a 1-mile buffer area around identified Environmentally Sensitive Areas (ESAs) in the City as places where free-roaming cats should not be released or fed." In the FEIR, the City removed the 1-mile buffer guideline and allows cats to be released into ESAs. CDFW is concerned that the City's revisions to *Section 2.5.2 Program Implementation Guidelines* would reduce or eliminate protection of biological resources within ESAs.

Specific impact: Trapping or feeding cats adjacent to ESAs may lure cats closer to sensitive areas and directly or indirectly impact wildlife.

Why impacts would occur: Free-roaming cats could be lured to an ESA by traps and feeding. As CDFW previously commented, cats lured to or released near ESAs could kill or injure birds and eggs; displace wildlife due to increased cat activity; and transmit diseases to wildlife. Harassment by cats during the bird-breeding season could result in the incidental loss of breeding success or otherwise lead to nest abandonment. Ground-nesting birds, such as burrowing owl, are particularly susceptible to being killed by cats.

Evidence impacts would be significant: Page 2-11 of the Response to Comments states, "the City has determined, based on the thresholds of significance established in the City of Los Angeles CEQA Thresholds Guide and other substantial evidence, that the proposed Project would not result in significant impacts on the environment [...] Therefore, no mitigation is

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warranted” (Program Implementation Guidelines proposed in place of mitigation measures). The City’s conclusion of no significant impacts was based on the Project implementing a 1-mile buffer around ESAs. A 1-mile buffer could have reduced potential impacts because the Project would have restricted cat release and feeding within and near ESAs. With the Project’s proposed changes, no buffer around ESAs would result in cats being fed, released, and trapped where there are sensitive biological resources. Without any protection for ESAs, the Project related impacts on biological resources could be significant.

Recommended potentially feasible mitigation measure(s): CDFW strongly recommends the City restore guidelines to restrict cat trapping, feeding, and release within and adjacent to ESAs. CDFW would appreciate the City’s consideration of the following recommendations to exclude or limit Project-related activities from ESAs:

Recommendation #1 – Maps of ESAs: The City has prepared a map of ESAs. CDFW recommends that the City’s final map of ESAs be inclusive of the following areas within the City’s boundary: (1) ESAs shown in purple on page 3-54 of the FEIR revised *Figure 4.2-2a City of Los Angeles Environmentally Sensitive Areas*; (2) Sensitive biological resources areas listed on page 3-51 and 3-52 of the FEIR under *Changes to Section 4.2.2.1*; and, (3) Important Bird Areas identified by Bird Life International and Audubon Society. Additionally, CDFW’s [California Natural Diversity Database](#) in Sacramento should be contacted to obtain current information on CDFW Owned and Operated Lands and Conservation Easements; State Park Refuges; State Parks; and Conservation Easements. These areas should be included in a final ESA map if not already included.

- a) CDFW recommends that the City coordinate with local stakeholders and agencies to develop a final and comprehensive map of ESAs. CDFW recommends the City provide a draft map for review and commenting.
- b) CDFW concurs with the City that maps of ESAs should be provided for reference in the City shelters and on the Los Angeles Animal Services (LAAS) website for downloading and printing. ESAs in certain areas such as Rancho Palos Verdes/San Pedro are difficult to visualize in one large map. Therefore, CDFW recommends the City provide maps at a smaller spatial scales and finer resolutions that could be specific to each community, district, or service area.
- c) The City should also host maps and spatial data online on an open data source webservice such as the City’s [GeoHub](#). This should allow the community to determine where ESAs are located using an interactive and user-friendly web interface.
- d) Maps and GIS data sources should be promoted during public education and outreach campaign for the Project.
- e) CDFW recommends the City update ESA maps over the 30-year Project as needed. Land within the City could become an ESA over the Project’s lifetime.

Recommendation #2 – ESA Guidelines and Buffers:

- a) The City should not release, feed, or trap within any ESAs. CDFW recommends modifications to Program Implementation Guidelines pertaining to ESAs to include the underlined language; develop guidance for the language in [brackets]; and remove the

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language with strikethrough:

- “No trappings of cats should occur within an ESA [unless the trapping is approved by the landowner as part of land or natural resource management activities and implemented by staff responsible for preserving natural resources within that ESA]. If a free roaming cat is trapped in near an ESA, it is recommended that the cat shall be enrolled in a WCP, based on availability, or adopted through a rescue group if possible. If these options are not available, [LAAS shall be contact for further instruction before a cat is returned to the area near the ESA]. Cats should shall not be released into be returned to the ESA under any circumstances.”
 - “If trapping in or near an ESA, traps shall avoid undisturbed areas and vegetation vegetated areas; traps should be placed on paved or developed areas.”
- b) CDFW recommends the City implement a buffer around ESAs. One buffer distance could be applied to all ESAs. Alternatively, buffers distances could be specific and modified to each ESA. Buffers should balance consistency with the Project’s objectives while minimizing impacts to biological resources within ESAs. The City should not release, feed, or trap within an associated buffer area where a buffer area may be in effect. Buffers should be feasible, sensible, and enforceable. CDFW recommends coordinating with local stakeholders and agencies develop reduced ESA-specific buffers.
- c) CDFW recommends the City develop guidance for individuals that could conduct trappings in ESAs possibly under specific circumstances (e.g., natural resource management). Guidance should be intended to restrict and discourage potentially unauthorized and unlawful trappings and activities in ESAs under the Project. CDFW recommends trappings in ESAs be conducted, approved, and overseen by individuals knowledgeable of sensitive biological resources within the ESA. Trappings conducted by individuals unfamiliar with sensitive biological resources within ESAs could lead to indirect impacts such as trampling of sensitive plants and disturbance of refugia, burrows, and nest sites for wildlife.
- d) CDFW recommends the City develop guidance that would require coordination with LAAS before a cat trapped near an ESA is potentially released back to that location.

Recommendation #3 – Tracking: CDFW recommends the City set aside funding to develop and implement a robust tracking program for any cats potentially released near ESAs. Tracking may help document cat activity and dispersal near ESAs. This data could help the City refine Program Implementation Guidelines as they relate to ESAs over the Project’s lifetime. The data may also provide value information to inform additional TNR programs in southern California and throughout the State.

Recommendation #4 – Adaptive Management: CDFW recommends that the City commit to adaptive management over the next 30 years. Data and information generated by the Project (e.g., cat tracking) should be used to revise, update, and adapt Program Implementation Guidelines such that the Project maintains consistency with Project’s objectives while minimizing impacts to biological resources within ESAs.

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Filing Fees

Fees are payable upon filing of the Notice of Determination by the City and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

We appreciate and value your time to review CDFW's comments on the FEIR. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding CDFW's comments on the FEIR or have additional questions or comments related to the Project, please feel free to contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist) at Ruby.Kwan-Davis@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Erinn Wilson
Environmental Program Manager I

Ec: CDFW

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