

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2015-045-02**

**Cameron Hills 41-20, LLC
Cameron Hills Project**

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 Cameron Hills Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*) and the Native Plant Protection Act (NPPA) (Fish & G. Code, § 1900 *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 MCP Properties, LLC (Permittee) to incidentally take Layne's ragwort (*Packera layneae*) (hereafter, Covered Species) during implementation of the Project. (See generally Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4.) Layne's ragwort is designated as a rare species under NPPA. (Cal. Code Regs., tit. 14, § 670.2, subd. (c)(4)(G)).

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, El Dorado County (County). (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367.) The County analyzed the environmental impacts associated with implementation of the Project in a Mitigated Negative Declaration (MND) (SCH No. 2009012007) and approved the Project on September 30, 2009. In so doing, the County 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 the County, the Project involves the development of approximately 20.13 acres of undeveloped land into a 41-lot residential subdivision, including roads, utilities, a storm drain system including an approximately 0.26-acre stormwater detention basin, and approximately 5.74 acres of Open Space. 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 approximately 13.96 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

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

CEQA Findings
Cameron Hills Project
2081-2015-045-02

authority under CESA and NPPA (*Id.*, §§ 2080, 2081, subd. (b).) (see also Cal. Code Regs., tit. 14, § 786.9).

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 County's prior analysis, 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 MND 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.)

FINDINGS:

CDFW has considered the MND adopted by the County as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by the County, 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:

CEQA Findings
Cameron Hills Project
2081-2015-045-02

- A. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting, and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- B. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and identification of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to NPPA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. The presentation shall also include information about the plant pathogen *Phytophthora* and how to prevent its spread. The Designated Biologist shall ensure that the workers are aware of the areas to be avoided and can recognize the flagging and/or other markers used to delineate the Project area and the Covered Species. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.
- C. The Permittee will transfer ownership of the approximately 20.022 acres of Habitat Management lands, commonly known as the Jayhawk property, to the federal Bureau of Land Management for both the permanent protection and management. Additionally, the Permittee will fund start-up, interim and long-term management costs for the Jayhawk property, fund storage of the Covered Species seed, and provide funding to restore a minimum of 10 acres within the Pine Hill Preserve.
- D. Compliance monitoring will be reported quarterly, 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.

CEQA Findings
Cameron Hills Project
2081-2015-045-02

- F. Prior to starting construction, Permittee will collect or ensure the collection of seed from Covered Species on the Project site. Half the collected seed will be used for a restoration project on a minimum of 10 acres within the Pine Hill Preserve, and the other half will be stored in the Rancho Santa Ana Botanic Garden for a period of twelve years.
- G. Permittee will prepare and submit a final mitigation report within 45 days following completion of all mitigation measures to notify CDFW of the success and effectiveness of required mitigation measures.

CDFW finds that the Mitigation Monitoring and Reporting Program in Attachment 4 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: 9/8/2022

DocuSigned by:

By: A2A0A9C574C3445...
Kevin Thomas, Regional Manager
NORTH CENTRAL REGION
DEPARTMENT OF FISH AND WILDLIFE