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DEPARTMENT OF FISH AND WILDLIFE
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August 20, 2024

Joelle Guerra
City of Walnut
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jguerra@ci.walnut.ca.us

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE BROOKSIDE PROJECT, SCH NO. 2022110184, LOS ANGELES COUNTY, CA

Dear Joelle Guerra:

The California Department of Fish and Wildlife (CDFW) reviewed Draft Environmental Impact Report (DEIR) from the City of Walnut (City) for the Brookside Project (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 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

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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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: Spring Meadows Homes, LLC

Objective: The Project is a Tentative Tract Map (TTM) for the development of 27 single-family detached homes. The Project proposes a total of 12.2 acres of open space within the Project site. Approximately 9.5 acres of that open space would be within lots owned by individual homeowners and maintained by the Project’s Homeowners Association (HOA). Another 2.7 acres of open space would be owned and maintained by the HOA and/or Los Angeles County Flood Control District.

Location: The Project site consists of 25.84 acres and is located within the City of Walnut at 800 Meadow Pass Road. The Project is comprised of Assessor’s Parcel Numbers 8709-093-001, 002, and 003. On site topography consists of gradual slopes and flat areas elevated above Lemon Creek, which runs northeast to southwest.

Biological Setting: The Project site is on land previously occupied by the Brookside Equestrian Center, which is no longer operating. Presently, there are unused facilities remaining on site from discontinued equestrian activities. These facilities consist of two stables, one of which has a second story residential additional that is unoccupied, covered stalls, two fenced corrals, maintenance storage shed, three feed sheds within fenced areas, one outdoor arena, one covered open-air arena, and one gazebo. Non-native grasslands and ornamental vegetation dominate most of the Project site, with some riparian woodland within Lemon creek.

According to the Biological Technical Report (BTR) the following surveys were conducted at the Project site:

- General biological survey in September 2022
- Bat habitat assessment and three focused surveys in July 2022
- Burrowing owl habitat assessment and four focused surveys from April to June 2022
- California gnatcatcher habitat assessment in March 2023
- Eight least Bell’s vireo focused surveys from April to July 2022
- Southwestern pond turtle habitat assessment and four focused surveys from July to August 2022

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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- Five Crotch's bumble bee surveys from March to August 2023

Observed species from the surveys include but are not limited to California black walnut (*Juglans californica*; California Species of Special Concern (SSC)), Cooper's hawk (*Accipiter cooperii*; SSC), yellow warbler (*Setophaga petechia*; SSC), Vaux's swift (*Chaetura vauxi*; SSC), Lawrence's goldfinch (*Spinus lawrencei*; United States Fish and Wildlife Service (USFWS) designated Bird of Conservation Concern), least Bell's Vireo (Endangered Species Act (ESA) – Endangered, California Endangered Species Act (CESA) – Endangered), hoary bat (*Lasiurus cinereus*; SSC), and Crotch's bumble bee (*Bombus crotchii*; CESA Candidate). Per the BTR, additional species with moderate or high potential to occur include but are not limited to: Monarch butterfly (*Danaus Plexippus*; ESA Candidate), pallid bat (*Antrozous pallidus*; SSC), western mastiff bat (*Eumops perotis californicus*; SSC), and western yellow bat (*Lasiurus xanthinus*; SSC). The DEIR includes measures regarding nesting birds, bats, Crotch's bumble bee, monarch butterfly, burrowing owl, southwestern pond turtle, jurisdictional waters, and trees.

Project History: CDFW reviewed the Notice of Preparation (NOP) of the DEIR from the City for this Project and provided comments on December 9, 2022.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Walnut in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the document.

COMMENT # 1: Least Bell's Vireo

Issue: The Project could impact least bell's vireo, a CESA-listed and federal ESA-listed species.

Specific impact: The proposed Project may impact least Bell's vireo by operating equipment, human disturbance, and grading activities within the Project area. The DEIR does not adequately address impacts to least Bell's vireo.

Why impact would occur: During the focused surveys in 2022, one least Bell's vireo was observed within the Project site. The DEIR states that the individual was a migrant, and that the potential for least Bell's vireo to occupy the site is low. The DEIR also states that with the incorporation of Mitigation Measure BIO-1 regarding nesting season, potential temporary construction impacts to least Bell's vireo would be less than significant. CDFW disagrees with the DEIR, as least Bell's vireo has been documented nesting in degraded riparian areas and even non-riparian areas³ (Kus and Miner 1989).

³ https://www.fs.usda.gov/psw/publications/documents/psw_gtr110/psw_gtr110_f_kus.pdf

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Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from construction activities, generators, and heavy equipment may disrupt vireo mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009), and songbird abundance and density was significantly reduced in areas with high levels of noise (Bayne et al. 2008). Additionally, noise exceeding 70 dB(A) may affect feather and body growth of young birds (Kleist et al. 2018). Despite the recent observation of least Bell's vireo within the Project site, the DEIR does not include avoidance and minimization measures for least Bell's vireo, such as updated protocol level surveys or compensatory mitigation for known least Bell's vireo occurrences. Without updated protocol level surveys, the Project may result in missed detection of the species and adverse impacts. Adverse impacts that may occur to least Bell's vireo include but are not limited to direct injury, direct mortality by heavy machinery, or entrapment.

Evidence impact would be significant: There are only a few populations and breeding pairs of least Bell's vireo remaining in Los Angeles County. Project construction and activities resulting in loss of breeding pairs or nestlings or habitat supporting least Bell's vireo may result in the Project potentially causing a wildlife population to drop below self-sustaining levels; threatening to eliminate an animal community; or substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). Accordingly, unless the City provides alternatives or mitigation measures that would substantially lessen or avoid impacts, impacts on least Bell's vireo may require a mandatory finding of significance (CEQA Guidelines, § 15065).

CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. Inadequate avoidance, minimization, and mitigation measures for impacts on the least Bell's vireo will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a wildlife species identified as special status by CDFW and USFWS.

As to CESA, take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

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Mitigation Measure #1: Least Bell's Vireo Surveys - The Project proponent shall retain a qualified biologist to conduct updated protocol level surveys for least Bell's vireo. The qualified biologist shall conduct surveys according to the United States Fish and Wildlife Service's [Least Bell's Vireo Survey Guidelines](#)⁴ (USFWS 2001). Per protocol, all potential least Bell's vireo habitat shall be surveyed at least eight times during the period from April 10 through July 31. CDFW and USFWS shall be notified of survey findings, including negative findings, within 45 calendar days following the completion of protocol-level surveys.

Mitigation Measure #2: Incidental Take Permit - The Project proponent shall consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.

COMMENT # 2: Crotch's Bumble Bee

Issue: The Project may impact suitable habitat for Crotch's bumble bee.

Specific impact: The Project may result in temporal or permanent loss of suitable nesting and foraging habitat for Crotch's bumble bee. Project ground-disturbing activities may cause death or injury of adults, eggs, and larva; burrow collapse; nest abandonment; and reduced nest success.

Why impact would occur: During the focused surveys in 2022, one Crotch's bumble bee was observed foraging within the Project site. The DEIR states that with the implementation of Mitigation Measure BIO-3, impacts would be less than significant. CDFW disagrees with the DEIR, as pre-construction surveys and avoidance buffers will help avoid individuals, but the Project will still impact habitat utilized by the species. Crotch's bumble bee primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under-brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2018). Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Ground disturbance and vegetation removal associated with Project implementation during the breeding season could result in the incidental loss of breeding success or otherwise lead to nest abandonment in areas adjacent to the Project site. Without sufficient avoidance, minimization, or mitigation measures, the residence development and trail restoration activities may result in undisclosed and unmitigated temporal or permanent loss of colonies, and suitable nesting and foraging habitat.

⁴ <https://www.fws.gov/sites/default/files/documents/survey-protocol-for-least-bells-vireo.pdf>

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Evidence impact would be significant: The California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. The Project may substantially reduce and adversely modify habitat as well as reduce and potentially impair the viability of populations of Crotch's bumble bee. The Project may also reduce the number and range of the species without taking into account the likelihood that special status species on adjacent and nearby natural lands may rely upon the habitat that occurs on the proposed Project site. Crotch's bumble bee is listed as an invertebrate of conservation priority under the [California Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#)⁵ (CDFW 2017).

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #3: Crotch's Bumble Bee Surveys - The Project proponent shall retain a qualified biologist with the appropriate handling permits to conduct updated focused surveys. Focused surveys shall follow CDFW's [Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species](#)⁶ (CDFW 2023). Focused surveys shall also be conducted throughout the entire Project site and during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project ground-disturbing activities.

Mitigation Measure #4: Incidental Take Permit – The Project proponent shall coordinate with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization to the City prior to implementing Project ground-disturbing activities and vegetation removal.

COMMENT # 3: Impacts to Bat Species

Issue: The Project may impact several bat species, including western mastiff bat, western yellow bat, and pallid bat.

Specific impact: The BTR states that there is potential for these species to occur within the Project area. The western mastiff bat, western yellow bat, and pallid bat are all designated California Species of Special Concern. Project activities include ground disturbing activities that may disturb areas that provide foraging habitat and therefore have the potential for the direct loss of bats. Indirect impacts to bats and roosts could

⁵ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157415&inline>

⁶ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

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result from increased noise disturbances, human activity, dust, vegetation clearing, ground-disturbing activities (e.g., staging, mobilizing, and grading), and vibrations caused by heavy equipment.

Why impact would occur: The removal of vegetation may potentially result in the loss or disturbance of foraging and roosting habitat for bats. Construction activities will temporarily increase the disturbance levels as well as human activity in the Project area. The DEIR states that with the implementation of Mitigation Measure BIO-2 for bat protection, impacts would be less than significant. CDFW disagrees with the DEIR, as a single pre-construction survey is not sufficient to properly assess impacts to bats in the Project site. Without updated focused surveys, Project activities may result in missed detection of bats and adverse impacts. Adverse impacts that may occur to bats include but are not limited to direct injury, direct mortality by heavy machinery, or entrapment. Additionally, without sufficient avoidance, minimization, or mitigation measures, Project activities may result in undisclosed and unmitigated temporal or permanent loss of bats, and suitable nesting and foraging habitat.

Evidence impact would be significant: Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment, (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Several bat species are considered SSC and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Unless the City provides alternatives or mitigation measures that would substantially lessen or avoid impacts, take of California Species of Special Concern could require a mandatory finding of significance by the City (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #5: Bat Surveys - Prior to construction activities, CDFW recommends a qualified bat specialist conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. CDFW recommends the use of acoustic recognition technology to maximize detection of bat species to minimize impacts to sensitive bat species. A discussion of survey results, including negative findings shall be provided to the City and CDFW. Depending on the survey results, a qualified bat specialist shall discuss potentially significant effects of the Project on bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125). Surveys, reporting, and preparation of robust mitigation measures by a qualified bat specialist shall be completed and submitted to the City and CDFW prior to any Project-related ground-disturbing activities or vegetation removal at or near locations of habitat for bats.

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Mitigation Measure #6: If maternity roosts are found, to the extent feasible, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are yet ready to fly out of the roost (March 1 to September 30).

COMMENT # 4: Impacts to Lemon Creek

Issue: The Project will permanently impact streams.

Specific impact: The DEIR states the Project will permanently impact streams.

Why impact would occur: Grading, excavation, and construction to conduct Project activities will permanently and temporarily impact streams. These activities may also cause deposition or debris and refuse in the area that may end up in the drainages. Project implementation may directly affect water quality downstream. Lastly, these actions may also result in changes to the stream, altering hydrologic and geomorphic processes that may impact plant and wildlife species. CDFW appreciates the implementation of Mitigation Measures BIO-7 and BIO-8 to obtain permits and mitigate impacts to Waters of the State, but recommends the DEIR include discussion of Fish and Game Code 1602.

Evidence impact would be significant: Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or
- Deposit or dispose of material into any river, stream, or lake.

The Project may adversely affect the existing hydrology pattern of the Project site. This may occur through the alteration of flows in the stream, which absent specific mitigation, could result in substantial erosion or siltation on or off site of the Project. In addition, associated riparian plant communities are present downstream of the Project site. Accordingly, the Project may substantially adversely affect the existing stream pattern and geomorphologic processes of the Project site through the alteration of drainages on site. Direct filling of drainages would impact sensitive vegetation communities and wildlife habitat downstream.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #7: The Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification

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and other information, CDFW determines whether a Lake and Streambed Alteration (LSA) Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW's [Lake and Streambed Alteration Program](#)⁷ webpage for information about LSA Notification and online submittal through the [Environmental Permit Information Management System \(EPIMS\) Permitting Portal](#)⁸.

Mitigation Measure #8: Best Management Practices (BMP) shall be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent shall prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within stream areas. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site shall be free of nonnative plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.

Recommendation #1: CDFW recommends the LSA Notification include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity within and downstream of the Project site. The hydrology report should also include an analysis to determine if Project activities will impact the current hydrologic regime or change the velocity of flows on site and downstream. CDFW also requests a hydrological evaluation of any potential scour or erosion at the project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the Project activities may change the hydrology on site.

Recommendation #2: CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

To compensate for any on- and off-site impacts to wetlands or riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.

⁷ <https://wildlife.ca.gov/Conservation/LSA>

⁸ <https://epims.wildlife.ca.gov/index.do>

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COMMENT # 5: Compensatory Mitigation

Issue: The Project proponent does not propose appropriate compensatory mitigation to offset Project impacts on biological resources.

Specific impact: Project development would result in permanent grading, compacting, and altering of 25 acres, which will result in a direct loss of habitat for wildlife and plant species. In addition, trail development and use of hillside trails following build out may result in degradation of natural habitat and encroachment on rare plant populations and breeding and/or foraging habitat for wildlife.

Why impact would occur: The Project proposes to have 12.2 acres preserved for open space. This average includes lemon creek and surrounding slopes. The DEIR states that 9.5 acres of the preserved open space would be privately owned and maintained by the HOA. The privately owned open space would be deed restricted to prohibit any use or development of the private property other than for the public trail and passive open space purposes. Additionally, another 2.7 acres of open space would be provided that would be maintained and owned by the HOA and/or Los Angeles County Flood Control District. These 2.7 acres also would be deed restricted to prohibit any development other than for flood control/basin, landscaping, and maintenance purposes.

CDFW disagrees that preserving 12.2 acres of the 25-acre Project site is sufficient to mitigate impacts. This proposal results in a net loss of habitat that is known to be occupied by special status species such as least Bell's vireo and Crotch's bumble bee. There are only a few populations and breeding pairs of least Bell's vireo remaining in Los Angeles County. Project construction and activities resulting in loss of breeding pairs or nestlings or habitat supporting least Bell's vireo may result in the Project potentially causing a wildlife population to drop below self-sustaining levels; threatening to eliminate an animal community; or substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). Given that the current compensatory mitigation proposal will result in a net loss of suitable habitat for least Bell's vireo and Crotch's bumble bee, the DEIR may require a mandatory finding of significance (CEQA Guidelines, § 15065).

Secondly, CDFW disagrees that the HOA can effectively manage and maintain conserved open space in perpetuity, for the benefit of biological resources. The primary objective of an HOA is to manage and serve their residential community, not to meet mitigation obligations from the construction of the development. Over time, as HOA management changes and guidance documents are revised, it has been CDFW's experience that documentation of on-site mitigation gets lost and remains unimplemented. Often these areas are subject to unanticipated fuel modifications, landscaping, or grading for stormwater control.

Lastly, CDFW disagrees that a deed restriction is the appropriate land protection instrument to preserve open space areas in perpetuity.. Deed restrictions are easily

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dissolved and do not have monitoring oversight. To ensure that impacts to biological resources are mitigated to below significant, it is essential that the land intended to offset Project impacts is protected at the highest level, which includes a conservation easement, and managed in perpetuity by land managers and endowment. Without managing the land appropriately, habitat degradation and human encroachment would ensue on the open space resulting in impacts that are not mitigated to a level less than significant.

In further support of recording a conservation easement, deed restrictions may not be acceptable land protection instruments for the purpose of acquiring a CESA Incidental Take Permit (ITP). To meet CESA's Fully Mitigated Standard, any compensatory mitigation associated with an ITP must be protected in perpetuity, which can be accomplished under a biological conservation easement, with an accompanying endowment for its monitoring and maintenance

Evidence impact would be significant: Mitigation is mandated under CEQA whenever a Project may result in a significant impact to the environment. CEQA Guidelines §15370(e) states that mitigation includes compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements. The open space is not proposed to be protected by a conservation easement or managed in perpetuity by a land manager. Without appropriate management of open space by a qualified organization, Project impacts on special-status species continue to be considered significant and unmitigated.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #9: Conservation Easement - The Project proponent shall protect the open space in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Government Code § 65967(c). Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall be provided for long-term monitoring and management of mitigation lands.

Mitigation Measure #10: There shall be no net loss of suitable habitat for least Bell's vireo and Crotch's bumble bee. CDFW recommends that the City offset impacts on habitat for least Bell's vireo and Crotch's bumble bee at no less than 1:1 so there is no net loss of suitable habitat.

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ADDITIONAL COMMENTS

Coordination. As outlined in Mitigation Measure #7, the Project proponent shall submit an LSA notification for impacts to streams within the Project area. The Project proponent may also need to obtain an ITP for impacts to Crotch's bumble bee and least Bell's vireo. CDFW welcomes coordination with the City and Project proponent prior to certification of the DEIR to lessen significant impacts to the maximum extent feasible.

Injured or Dead Wildlife. If any special status wildlife species are found, harmed during relocation, or a dead or injured animal is found, work in the immediate area shall stop immediately, the designated biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW and the City within 3 calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

Mitigation and Monitoring Reporting Plan. CDFW recommends the Project's environmental document include mitigation measures recommended in this letter. CDFW has provided comments via a mitigation monitoring and reporting plan to assist in the development of feasible, specific, detailed (i.e., responsible party, timing, specific actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Lead Agency is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

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 (CNDDB). The [CNDDB website](https://wildlife.ca.gov/Data/CNDDB)⁹ 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](https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit)¹⁰.

⁹ <https://wildlife.ca.gov/Data/CNDDB>

¹⁰ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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The City of Walnut 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 environmental document 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 environmental document filing 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 DEIR to assist City of Walnut in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that the City of Walnut has to our comments and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073(e)).

Questions regarding this letter or further coordination should be directed to Andrew Aitken¹¹, Environmental Scientist.

Sincerely,

DocuSigned by:

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Victoria Tang
Environmental Program Manager
South Coast Region

ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

ec: California Department of Fish and Wildlife
Victoria Tang, Environmental Program Manager
Steve Gibson, CESA Senior Environmental Scientist (Supervisory)
Andrew Aitken, Environmental Scientist

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

¹¹ Phone: 562-525-9688; Email: Andrew.Aitken@wildlife.ca.gov

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REFERENCES

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ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Mitigation Measure	Timing	Responsible Party
Mitigation Measure #1: Least Bell's Vireo Surveys - The Project proponent shall retain a qualified biologist to conduct updated protocol level surveys for least Bell's vireo. The qualified biologist shall conduct surveys according to the United States Fish and Wildlife Service's Least Bell's Vireo Survey Guidelines ¹² (USFWS 2001). Per protocol, all potential least Bell's vireo habitat shall be surveyed at least eight times during the period from April 10 through July 31. CDFW and USFWS shall be notified of survey findings, including negative findings, within 45 calendar days following the completion of protocol-level surveys.	Prior to ☐ Project ☐ activities	Project Proponent
Mitigation Measure #2: Incidental Take Permit - The Project proponent shall consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.	Prior to ☐ Project ☐ activities	Project Proponent

¹² <https://www.fws.gov/sites/default/files/documents/survey-protocol-for-least-bells-vireo.pdf>

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Mitigation Measure	Timing	Responsible Party
Mitigation Measure #3: Crotch's Bumble Bee Surveys - The Project proponent shall retain a qualified biologist with the appropriate handling permits to conduct updated focused surveys. Focused surveys shall follow CDFW's Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species ¹³ (CDFW 2023). Focused surveys shall also be conducted throughout the entire Project site and during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project ground-disturbing activities.	Prior to □ Project □ activities	Project Proponent
Mitigation Measure #4: Incidental Take Permit – The Project proponent shall coordinate with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization to the City prior to implementing Project ground-disturbing activities and vegetation removal.	Prior to □ Project □ activities	Project Proponent
Mitigation Measure #5: Bat Surveys - Prior to construction activities, CDFW recommends a qualified bat specialist conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. CDFW recommends	Prior to □ Project □ activities	Project Proponent

¹³ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

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Mitigation Measure	Timing	Responsible Party
the use of acoustic recognition technology to maximize detection of bat species to minimize impacts to sensitive bat species. A discussion of survey results, including negative findings shall be provided to the City and CDFW. Depending on the survey results, a qualified bat specialist shall discuss potentially significant effects of the Project on bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125). Surveys, reporting, and preparation of robust mitigation measures by a qualified bat specialist shall be completed and submitted to the City and CDFW prior to any Project-related ground-disturbing activities or vegetation removal at or near locations of habitat for bats.		
Mitigation Measure #6: If maternity roosts are found, to the extent feasible, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are yet ready to fly out of the roost (March 1 to September 30).	Prior to □ Project □ activities	Project Proponent
Mitigation Measure #7: The Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration (LSA) Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW’s Lake and Streambed Alteration Program ¹⁴ webpage for information about LSA Notification	Prior to □ Project □ activities	Project Proponent

¹⁴ <https://wildlife.ca.gov/Conservation/LSA>

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Mitigation Measure	Timing	Responsible Party
and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal ¹⁵ .		
Mitigation Measure #8: Best Management Practices (BMP) shall be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent shall prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within stream areas. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site shall be free of nonnative plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.		
Mitigation Measure #9: Conservation Easement - The Project proponent shall protect the open space in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Government Code § 65967(c). Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment	Prior to ☐ Project ☐ activities	Project Proponent

¹⁵ <https://epims.wildlife.ca.gov/index.do>

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Mitigation Measure	Timing	Responsible Party
shall be provided for long-term monitoring and management of mitigation lands.		
Mitigation Measure #10: There shall be no net loss of suitable habitat for least Bell's vireo and Crotch's bumble bee. CDFW recommends that the City offset impacts on habitat for least Bell's vireo and Crotch's bumble bee at no less than 1:1 so there is no net loss of suitable habitat.	During Project ☐ Implementation	Project Proponent
Mitigation Measure #11: Injured or Dead Wildlife - If any special status wildlife species are found, harmed during relocation, or a dead or injured animal is found, work in the immediate area shall stop immediately, the designated biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW and the City within 3 calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.	During Project ☐ Implementation	Project Proponent
Recommendation #1: CDFW recommends the LSA Notification include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity within and downstream of the Project site. The hydrology report should also include an analysis to determine if Project activities will impact the current hydrologic regime or change the velocity of flows on site and	Prior to ☐ Project ☐ activities	Project Proponent

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Mitigation Measure	Timing	Responsible Party
downstream. CDFW also requests a hydrological evaluation of any potential scour or erosion at the project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the Project activities may change the hydrology on site.		
Recommendation #2: CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. To compensate for any on- and off-site impacts to wetlands or riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.	Prior to □ adoption of □ the DEIR	Lead Agency