



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 22, 2025

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Subject: Notice of Preparation of a Draft Supplemental Program Environmental Impact Report for the San Marcos Creek District Specific Plan Update Project, SCH No. 2025090620, San Diego County, CA

Dear Sean del Solar:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a Draft Supplemental Program Environmental Impact Report (DSPEIR) from the City of San Marcos (City) for the San Marcos Creek District Specific Plan Update 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

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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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 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.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program (Fish and Game Code 2800 et seq.). The City was a participant in the planning of the North County Subregional Multiple Habitat Conservation Program (MHCP) in the late 1990's and early 2000's. The City had prepared a draft Subarea Plan (SAP) under the MHCP, which addressed regional conservation planning across seven incorporated jurisdictions in northern San Diego County (SANDAG 2003). The MHCP identifies critical core areas for the conservation of important sensitive species populations to ensure their persistence, core blocks of habitat large enough to support viable populations of diverse sensitive species, and essential areas for connecting core blocks of habitat. In effect, the MHCP identified critically important biological resources, which if lost to development, would arguably result in significant specific or cumulative impacts within a given jurisdiction and perhaps across the MHCP subregion. Critical areas for conservation in each of the seven jurisdictions were identified as Focused Planning Areas (FPAs). The San Marcos SAP was not finalized, and state and federal permits have not been issued to the City. However, the conservation principles remain extremely relevant for development projects occurring in the San Marcos and should be used as a strong guide in assessing the significance of impacts to biological resources under CEQA.

PROJECT DESCRIPTION SUMMARY

Proponent: City of San Marcos (City)

Objective: Originally adopted in 2007, the San Marcos Creek District Specific Plan (Certified Programmatic EIR; SCH. No. 2006121080; Specific Plan) was created to

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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guide development of a 214-acre area in the City along San Marcos Creek. The City has completed key infrastructure projects within the Specific Plan area including:

- bridge construction over San Marcos Creek at Bent Avenue and Via Vera Cruz;
- flood control improvements, including the construction of earthen levees on both sides of the creek; and,
- creation of habitat conservation areas on the southern side of the creek.

The City is now undergoing a Specific Plan Update (Project) to facilitate a shift away from creation of housing and commercial space to a pedestrian-oriented and mixed-use district. The Project constitutes a policy and regulatory framework by which future development projects will be reviewed and public improvements will be implemented. Buildout of the Project will yield up to 2,273 residential units (75.9 acres), 714,221 ft² of commercial/retail businesses (22.3 acres), 237,909 ft² of roadways and trails, 7,004 parking spaces, and 88.49 acres of open space (incl. private use (6.84 acres), public use (26.19 acres), and creek habitat area (55.47 acres)). An aerial map of proposed land uses was included in the NOP (Attachment A).

In addition, the Project includes possible improvements for addressing flood risk along San Marcos Creek. These improvements would be a joint effort between the City and individual property owners and may include:

- Requiring individual property owners to raise their properties in the floodplain above base flood level to accommodate flood flows on the property or to flow downstream, consistent with local, state, and federal regulations.
- Establishing a conceptual alignment and design for an above-ground, pervious-bottomed channel starting at San Marcos Boulevard and traversing to San Marcos Creek to contain an existing floodway, with the ultimate design, funding, and construction to be accomplished via private and public partnerships.

During a Project scoping meeting with the City on October 8, 2025, the City indicated these improvements are preliminary and no conceptual design plans have been developed; however, the intent of the Project is to provide multiple alternatives to address the flooding issues.

Location: The 217.3-acre Project area is located in central San Marcos, within the City's Creekside District (Attachment B). The Project site is bound by San Marcos Boulevard to the north, Discovery Street to the south and west, and Grand Avenue and State Route (SR) 78 to the east. The site is partially developed, with existing development concentrated in the northern half of the Project area. San Marcos Creek is an east-to-west perennial stream which flows along the southern perimeter of the Project area. Approximately 83.20 acres of open space occur within the southern half of the Project area. The majority of the open space is City owned, while 6.35 acres directly

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adjacent to the SR 78 is conserved as mitigation for Caltrans' SR 78 Hydraulic Capacity Improvements Project (see Attachment C). Surrounding land uses include commercial development to the north and east, and residential homes to the south and west.

Biological Setting: The NOP did not include a biological report or disclose any biological resources present on site. Aerial imagery from CDFW's [California Natural Diversity Database](#)³ (CNDDDB; CDFW 2025) indicates the southern half of Project site remains largely undeveloped and likely supports native vegetation communities such as grasslands, coastal sage scrub, wetlands, and riparian habitats. Additionally, San Marcos Creek serves as an important east-to-west wildlife corridor connecting to Batiquitos Lagoon and supports a variety of species including coyotes, small mammals, birds, herpetofauna, and invertebrates (SANDAG 2003).

Per CNDDDB records, several sensitive species have been documented within one mile of the Project area including:

Plants

- thread-leaved brodiaea (*Brodiaea filifolia*; ESA-listed threatened, CESA-listed endangered)
- Orcutt's brodiaea (*Brodiaea orcutti*; California Rare Plant Rank (CRPR) 1B.1).

Birds

- least Bell's vireo (*Vireo bellii arizonae*; ESA-listed endangered, CESA-listed endangered; vireo)
- yellow warbler (*Setophaga petechia*; California Species of Special Concern (SSC))
- yellow-breasted chat (*Icteria virens*; SSC)

Mammals

- Townsend's big-eared bat (*Corynorhinus townsendii*; SSC).

Floristic resources of Crotch's bumble bee (*Bombus crotchii*; CESA-listed candidate) may also occur on site.

Timeframe: The Project will accommodate for future growth for a 20-year planning horizon.

Project History: In 2012, CDFW issued a Lake and Streambed Alteration Agreement (No. 1600-2007-0494-R5; LSAA) to the City to authorize the following activities:

- Construction of floodway infrastructure (e.g., earthen levees and/or building pads on both sides of the creek);

³ <https://wildlife.ca.gov/Data/BIOS>

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- Construction of shared water quality and hydromodification facilities in the promenade amenity areas;
- Roadway widening along Discovery Street from McMahr Road to Bent Avenue/Craven Road;
- New bridges at Bent Avenue and Via Vera Cruz with rip-rap grade control structures constructed underneath the bridges;
- Embankment widening on northbound San Marcos Boulevard between Discovery Street and Las Posa;
- Widening San Marcos Creek from 150 feet to a minimum of 260 feet from McMahr Road to the Las Posa Creek confluence to maintain surface water elevations in the creek during the 100-year flood event.

In 2017, the LSAA was amended to incorporate design modifications that resulted in updated impact acreages. Specifically, permanent impacts were reduced from 10.65 acres to 10.00 acres (0.65-acre reduction) and temporary impacts increased from 1.77 to 2.01 acres (0.24-acre increase). Consequently, the required wetland mitigation acreage in the LSAA changed from 73.27 acres to 76.65 acres (3.38-acre increase).

The LSAA required compensatory mitigation for permanent impacts to 10.00 acres of jurisdictional streambed, wetlands, and associated habitats. The mitigation was agreed to be achieved through the establishment, restoration, enhancement, and preservation of 76.65 acres consisting of 68.64 acres of alkali marsh wetlands and southern willow scrub riparian habitat, and 8.01 acres of coastal sage scrub/riparian buffer habitat (see Table 1). The designated mitigation area, known as the San Marcos Creek Preserve (Preserve) occurs within the southern half of the Project area (see Attachment C). The Compensatory Wetlands Mitigation and Monitoring Plan (CWWMP; Dudek 2017) and Long-Term Management Plan (LTMP; Dudek 2017) for the Preserve outline several key responsibilities for the City to ensure the protection of the area's biological resources and wildlife corridor in perpetuity. These documents and the LSAA stipulate the City is responsible for funding monitoring and maintenance of the Preserve, identifying a suitable land manager, establishing a non-wasting endowment and/or communities facilities district, and recording a conservation easement over the Preserve.



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Table 1. Summary of Acreages within the Mitigation Area/Preserve

Mitigation Type	Acreage
Wetlands preservation	9.68
Wetlands enhancement	29.99 (17.10-acre net)
Wetlands establishment/creation	26.57
Wetlands restoration	2.40
Upland buffer	8.01
Total	76.65

CDFW met with the City on October 8, 2025, to discuss the Project scope, history, and the status of the mitigation area. The City has not yet confirmed the status of the mitigation obligations and conservation easement recordation.

COMMENTS AND RECOMMENDATIONS

The DSPEIR provides a foundation for second-tier CEQA documents for subsequent Projects and does not analyze the Project-specific impacts of those individual projects. Impacts analyses for individual projects will be performed when a new project is proposed within the Specific Plan Update area. CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Specific Comments

- 1) Cumulative Impacts. Given several development Projects are currently being pursued by the City for which CDFW is acting as a Responsible and Trustee Agency under CEQA, CDFW recommends the DSPEIR includes an analysis and discussion of whether the Project's impacts to biological resources from these or other regional Projects are cumulatively considerable (see Table 1 below). We request the discussion and analysis of cumulative effects specifically address thread-leaved brodiaea and Crotch's bumble bee.

"Cumulatively considerable" means the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (Pub. Resources Code, § 21083(b)). The City's conclusions regarding the significance of the Project's cumulative impacts should be supported by evidence to make those conclusions. Specifically, if the City concludes the Project would not result in cumulative impacts on biological resources, the City shall identify facts and analysis

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supporting the Lead Agency's conclusion that the cumulative impact is less than significant (CEQA Guidelines section § 15130(a)(2)).

Table 2. Example City of San Marcos Projects

State Clearing House (SCH) No.	Project Name
2022050650	Pacific Specific Plan Project
2025060511	Oakcrest Specific Plan
Pre-CEQA Scoping	Pacific and Mission Residential Project (formerly known as Sancerra)

- 2) Project Design. CDFW recommends the DSPEIR include a discussion of Project design and configuration in relation to existing open space areas and their biological resources. The discussion should confirm whether development areas will be consolidated and sited within the least sensitive biological resource areas. CDFW recommends reducing or clustering the development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.
- 3) Project Adjacency to Preserve Lands. As indicated above, the City is responsible for managing 76.65 acres of open space lands/Preserve within the Project area as mitigation for prior infrastructure and flood improvement projects. CDFW recommends the DSPEIR include a thorough discussion of the status of the City's Preserve area (e.g. mitigation obligations such as wetland habitat enhancement and restoration, conservation easement recordation, endowment, land manager). In addition, the DSEIR should include an analysis of direct, indirect, and cumulative impacts to any existing or planned conservation lands within the planning area.
- 4) Future Trails and Recreation Areas. The NOP indicates the Project will increase trails and recreation opportunities along San Marcos Creek. CDFW recommends any future trails and/or recreation areas within the Project area avoid encroachment into any existing conserved lands or habitat areas along San Marcos Creek. Prior to the implementation of these projects within the planning area, CDFW would appreciate the opportunity to evaluate proposed trails and consequent recreational activity to assess whether these amenities are compatible with existing conservation easements and any special status species that occur within suitable or sensitive habitats on site.

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5) Least Bell's Vireo. CNDDDB records indicate vireo has been detected nesting within the Project area along San Marcos Creek as recently as 2020, and it is likely the Project area contains suitable riparian habitat for vireo.

- a. Protection Status. Vireo is an endangered species under CESA and CDFW considers adverse impacts to CESA species to be significant. Take of any endangered, threatened, candidate species, or NPPA-listed plant species that results from the Project is prohibited, except as authorized by state law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9).
- b. Surveys and Disclosure. CDFW recommends the DSPEIR incorporate a mitigation measure to require future Project proponents to retain a qualified biologist familiar with the species to survey the Project site for vireo and suitable habitat following the [Least Bell's Vireo Survey Guidelines](#)⁴ (United States Fish and Wildlife Service (USFWS) 2001). Additionally, the DSPEIR should provide full disclosure of any historic presence/records of vireo and the Project's potential impact on vireo.
- c. Avoidance, Minimization, and Mitigation. If any subsequent Project or Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends future Project proponents seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options (Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)). Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit.

To ensure CDFW will be able to use the City's CEQA document for the issuance of an ITP, the DSPEIR should address all Project impacts to CESA-listed species and specify a mitigation, monitoring, and reporting program that will meet the requirements of an ITP.

6) Crotch's bumble bee. The Project site may contain suitable foraging or nesting habitat for Crotch's bumble bee. Crotch's bumble bee can use a variety of upland land cover types for foraging and often nest underground, sometimes occupying abandoned rodent burrows (Hatfield et al., 2015). If Crotch's bumble bees are using burrows on the Project site for nesting, direct impacts could result from ground-disturbing activities, which could lead to death or injury of adults, eggs, and larva, burrow collapse, nest abandonment, and reduced nest success. Additionally, the

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

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Project may result in temporal or permanent loss of foraging habitat. Any use of pesticides on site also has the potential to directly harm or kill Crotch's bumble bee.

- a. Protection Status. The California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as threatened or endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Crotch's bumble bee is granted full protection under 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). In addition, Crotch's bumble bee has a State ranking of S1/S2. This means Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often five or fewer populations). Crotch's bumble bee is also listed as an invertebrate of conservation priority under the [Terrestrial and Vernal Pool Inverts of Conservation Priority List](#)⁵ (CDFW 2017). Crotch's bumble bee also meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of Crotch's bumble bee could require a mandatory finding of significance by the City (CEQA Guidelines, § 1565).
- b. Surveys and Disclosure. CDFW recommends the DSPEIR incorporate a mitigation measure to require future Project proponents to retain a qualified biologist familiar with the species to survey the Project site for Crotch's bumble bee and suitable habitat. Surveys should be conducted during the flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Surveys should also occur within one year prior to vegetation removal and/or ground disturbance and adhere to the [Survey Considerations for CESA Candidate Bumble Bee Species](#)⁶ (CDFW 2023). Additionally, the DSPEIR should provide full disclosure of any historic records/presence of Crotch's bumble bee and the Project's potential impact on Crotch's bumble bee.
- c. Avoidance, Minimization, and Mitigation. If the site is determined to be occupied by Crotch's bumble bee, the DSPEIR should include measures to avoid impacts on Crotch's bumble bee. If Crotch's bumble bee is present, the qualified biologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, 50-foot no-disturbance buffer zones should be established around nests to reduce the risk of take. Additionally, the DSPEIR should require consultation with CDFW to determine if a CESA Incidental Take Permit (ITP) is required. In addition, the future Project proponents should provide compensatory

⁵ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline>

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

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mitigation for permanent or temporary loss of any floral resource associated with Crotch's bumble bee. Floral resources should be replaced as close to their original location as is feasible.

- 7) Thread-leaved brodiaea. CNDDB records indicate critical habitat for thread-leaved brodiaea occurs 500 feet north of the Project area (CDFW 2025). Given populations of thread-leaved brodiaea have been documented throughout the City and the vegetation cover types within the Project area are not yet disclosed, CDFW recommends the DSPEIR include an analysis of the potential for this species to occur on site.
 - a. Protection Status. Thread-leaved brodiaea is an endangered species under CESA and CDFW considers adverse impacts to CESA species to be significant. Take of any endangered, threatened, candidate species, or NPPA-listed plant species that results from the Project is prohibited, except as authorized by state law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9).
 - b. Surveys and Disclosure. CDFW recommends the DSPEIR incorporate a mitigation measure to require future Project proponents to retain a qualified biologist familiar with the species to survey the Project site for thread-leaved brodiaea and suitable habitat. Additionally, the DSPEIR should provide full disclosure of any historic records/presence of thread-leaved brodiaea and the Project's potential impact on thread-leaved brodiaea.
 - c. Avoidance, Minimization and Mitigation. If any subsequent Project or Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends future Project proponents seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options (Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)). Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit.

To ensure CDFW will be able to use the City's CEQA document for the issuance of an ITP, the DSPEIR should address all Project impacts to CESA-listed species and specify a mitigation, monitoring, and reporting program that will meet the requirements of an ITP.

- 8) Nesting Birds and Raptors. CDFW recommends vegetation clearing occur outside of the avian nesting season, which generally runs from February 1 through September 15 (as early as January 1 for some raptors). If Project construction is necessary during the avian nesting season, a qualified biologist with experience in conducting nesting bird surveys should conduct a nesting bird survey within three

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days prior to work in the area. If an active nest is identified, a buffer shall be established between the construction activities and the nest, so nesting activities are not interrupted. For the given Project site, CDFW generally recommends a 100-foot buffer from common avian species, 300 feet for listed or highly sensitive, and 500 feet for raptors. The buffer should be delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the Project. Reductions in the nest buffer distance may be allowable depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

- 9) Bats. CNDDDB records indicate Townsend's big-eared bat, a California Species of Special Concern (SSC), was historically detected within one mile of the Project area. Additionally, riparian habitat areas associated with San Marcos Creek may contain suitable bat foraging and/or roosting habitat for various special status and common bat species. Future development and redevelopment projects adjacent to the creek may result in impacts to both special status and common bats. Ground disturbing activities, structure or building demolition, and tree removal activities may result in direct and/or indirect impacts to bats. Direct impacts such as injury or mortality may result from removal of trees or structures occupied by roosting bats. Indirect impacts may result from removal of foraging habitat, human disturbance, construction noise, dust, ground disturbing activities, and vibrations caused by heavy equipment. CDFW recommends the DSPEIR include a thorough analysis of the potential for special status bat species to occur within the Project area. In addition, the DSPEIR should include a mitigation measure to require site-specific surveys for bats and suitable habitat, as well as species-specific avoidance, minimization, or mitigation measures to address impacts to bats.
- 10) Rare Plants. Orcutt's brodiaea, a California Rare Plant Rank 1B.1 species, was historically reported on the eastern end of the Project site and has been detected 700 feet north of the Project area in 2012 (CDFW 2025). CDFW recommends the DSPEIR include a mitigation measure to require future Project proponents to conduct biological surveys for rare plants with the Project area and survey results be disclosed in any subsequent CEQA documents. Additionally, we recommend the DSPEIR incorporate measures to ensure direct impacts to rare plants within the disturbance area will be avoided, minimized, and/or mitigated. For example, CDFW recommends a qualified biologist be on site during any vegetation clearing to flag plants for avoidance and establish no-work buffers around plants. If avoidance is infeasible, we recommend future projects mitigate for any loss of rare plants in consultation with the City and CDFW.

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- 11) Lake and Streambed Alteration Notification. The DSPEIR directly discusses activities which will impact the bed, bank, and/or channel of San Marcos Creek. CDFW has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW’s issuance of an LSAA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. To minimize additional requirements by CDFW pursuant to section 1600 et seq. and/or under CEQA, the DSPEIR 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 LSAA. CDFW recommends the Applicant submit a Lake and Streambed Alteration Notification to CDFW. Notifications can be submitted through CDFW’s Environmental Permit Information Management System (EPIMS), which can be found at [Environmental Permit Information Management System \(ca.gov\)](https://epims.ca.gov).
- 12) Artificial Nighttime Lighting. The DSPEIR should discuss any artificial nighttime lighting to be utilized or installed during Project construction and/or operation. CDFW recommends the Project avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. If infeasible, any nighttime lighting should be directed downwards and shielded away from adjacent open space areas; this includes lighting associated with Project activities as well as any permanent lighting in the development footprint.
- 13) Fuel Modification Zones. The City should ensure defensible space is provided and accounted for within proposed development areas and not accounted for as adjacent open space or conservation lands. The DSPEIR should include a thorough discussion of the following elements: (1) if fuel modification zones are being proposed as mitigation to offset impacts associated with the Project; and (2) if conserved open space is also proposed to serve as defensible space. Please note lands proposed to be managed for defensible space purposes will have lower conservation resource value as they require on-going vegetation management.
- 14) Use of Native Plants and Trees. CDFW recommends the DSPEIR require future Project proponents to provide a native plant palette for the Project. CDFW supports the use of native plants for the Project, especially considering the Project’s location adjacent to protected open space and natural areas. CDFW strongly recommends avoiding non-native, invasive species for landscaping and restoration, particularly

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any species listed as 'Moderate', 'High', 'Limited', and 'Watch' by the [California Invasive Plant Council](#)⁷ CDFW supports the use of native species found in naturally occurring plant communities within or adjacent to the Project site. In addition, CDFW supports planting native species of trees, such as oaks (*Quercus* genus), and understory vegetation (e.g., ground cover, vines, subshrubs, and shrubs) to create habitat and provide a food source for birds. CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

General Comments

- 1) Disclosure. The DSPEIR 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).
- 2) Project Description and Alternatives. To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DSPEIR. A complete discussion of the purpose and need for, and description of the proposed Project.
 - a. A range of feasible alternatives to the Project location to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends the City select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends the City consider establishing appropriate setbacks from special status biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.
 - b. Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DSPEIR shall include sufficient

⁷ <https://www.cal-ipc.org/plants/inventory/>

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information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).

- c. Where the Project may impact aquatic and riparian resources, CDFW recommends the City select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level, which may cause the watercourse to alter its course of flow.
- 3) Biological Baseline Assessment. An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened, rare, and sensitive species; regionally and locally unique species; and sensitive habitats. An impact analysis will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW also considers impacts to Species of Special Concern (SSC) a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The DSPEIR should include the following information.
- a. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines, § 15125(c)). The DSPEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation Classification and Mapping Program - Natural Communities webpage](#)⁸.
 - b. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural](#)

⁸ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>

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Communities⁹. Botanical field surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the Project. Adjoining properties should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually, this is during flowering or fruiting. Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project site. This usually involves multiple visits to the Project site (e.g., in early, mid, and late season) to capture the floristic diversity at a level necessary to determine if special status plants are present.

- c. Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the Project site and within adjacent areas. The Manual of California Vegetation¹⁰, second edition, (Sawyer, Keeler-Wolf, & Evens, 2009) should also be used to inform this mapping and assessment. Adjoining habitat areas should be included in this assessment where the Project's construction and activities could lead to direct or indirect impacts off site.
- d. A complete and recent assessment of the biological resources associated with each habitat type in the Project site and within adjacent areas. A full literature review includes but is not limited to CDFW's California Natural Diversity Database¹¹ (CNDDDB). The CNDDDB should be accessed to obtain current information on any previously reported sensitive species and habitat. An assessment should include a minimum nine-quadrangle search of the CNDDDB to determine a list of species potentially present in the Project site. A nine-quadrangle search should be provided in the Project's CEQA document for adequate disclosure of the Project's potential impact on biological resources.
- e. A complete, recent, assessment of endangered, rare, or threatened species and other sensitive species within the Project site and adjacent areas, including SSC and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of

⁹ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

¹⁰ <https://vegetation.cnps.org/>

¹¹ <https://wildlife.ca.gov/Data/CNDDDB>

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day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See [CDFW's Survey and Monitoring Protocols and Guidelines](#)¹² for established survey protocol. Acceptable species-specific survey procedures may be developed in consultation with CDFW and U.S. Fish and Wildlife Service.

- f. A recent wildlife and rare plant survey. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review (CEQA Guidelines, § 15003(i)). CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if Project implementation build out could occur over a protracted time frame or in phases.
- 4) Direct and Indirect Impacts on Biological Resources. The DSPEIR should provide a thorough discussion of direct and indirect impacts expected to affect biological resources with specific measures to offset such impacts. The DSPEIR should address the following.
- a. A discussion of potential impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures. A discussion regarding Project-related indirect impacts on biological resources. These include resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)).
 - b. A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the ecosystem supporting those species impacted (CEQA Guidelines, § 15126.2(a)).
 - c. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should be fully analyzed and discussed in the DSPEIR.
 - d. A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion should also address the potential water extraction activities and the potential

¹² <https://wildlife.ca.gov/conservation/survey-protocols>

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resulting impacts on habitat supported by the groundwater. Measures to mitigate such impacts should be included.

- e. An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DSPEIR.

5) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures (CEQA Guidelines, §§ 15002(a)(3), 15021). Pursuant to CEQA Guidelines section 15126.4, an environmental document shall describe feasible measures which could mitigate impacts below a significant level under CEQA. Mitigation measures must be feasible, effective, implementable, and fully enforceable/imposed by the Lead Agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4).

- a. The DSPEIR should provide mitigation measures that are specific and detailed (i.e., responsible party, timing, specific actions, location) in order for a mitigation measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).
- b. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the proposed Project, the DSPEIR should include a discussion of the effects of proposed mitigation measures (CEQA Guidelines, § 15126.4(a)(1)). In that regard, the DSPEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

6) Compensatory Mitigation. The DSPEIR should include compensatory mitigation measures for the Project's significant impacts (direct and/or through habitat modification) to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement and financial

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assurance and dedicated to a qualified entity for long-term management and monitoring.

- 7) Long-term Management of Mitigation Lands. For proposed mitigation lands, the DSPEIR should include measures to protect the targeted habitat values in perpetuity. The mitigation should offset Project-induced qualitative and quantitative losses of biological resources. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate endowment should be set aside to provide for long-term management of mitigation lands.

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](#)¹³ 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](#)¹⁴.

The City should ensure data collected for the preparation of the DSPEIR 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 of 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.)

¹³ <https://wildlife.ca.gov/Data/CNDDB>

¹⁴ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of San Marcos in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, at (858) 775-6320 or Alison.Kalinowski@wildlife.ca.gov.

Sincerely,

Signed by:

AD7D070BCB66466...

Glen M. Lubcke
Environmental Program Manager
South Coast Region

ATTACHMENTS

- A. Proposed Land Uses
- B. Project Location Map
- C. Conservation Easement Area Map

cc: California Department of Fish and Wildlife
Glen M. Lubcke
Jennifer Turner
Alison Kalinowski

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

United States Fish and Wildlife Service
Jonathan Snyder, jonathan_d_synder@fws.gov

REFERENCES

California Department of Fish and Wildlife. 2025. California Natural Diversity Database. Available at: <https://wildlife.ca.gov/Data/CNDDDB>.

California Department of Fish and Wildlife. 2023. *Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species*. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>.

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California Department of Fish and Wildlife. 2021. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

California Department of Fish and Wildlife. 2017. *California Terrestrial and Vernal Pool Invertebrates of Conservation Priority*. Available at:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline>.

California Department of Fish and Game. 2011. *CNDDDB Data Use Guidelines*.

Retrieved from

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=27285&inline>.

California Fish and Game Commission. 2005. *Miscellaneous Policies*. Retrieved from

<https://fgc.ca.gov/About/Policies/Miscellaneous>.

California Invasive Plant Council (Cal-IPC). 2025. *Cal-IPC Inventory*. Retrieved from:

<https://www.cal-ipc.org/plants/inventory/>.

Dudek. March 2017. Compensatory Wetlands Mitigation and Monitoring Plan for the San Marcos Creek District Specific Plan.

Dudek. March 2017. Long Term Management Plan for the San Marcos Creek District Specific Plan Project.

San Diego Association of Governments (SANDAG). 2003. Multiple Habitat Conservation Program (MHCP) Biological Monitoring and Management Plan Volume III. Retrieved from: <https://www.sandag.org/projects-and-programs/environment/natural-resources/regional-habitat-conservation>

Sawyer, J. O., Keeler-Wolf, T., & Evens, J. M. 2009. *A Manual of California Vegetation* (Second ed.). Sacramento, CA: California Native Plant Society. Retrieved from

<https://vegetation.cnps.org/>.

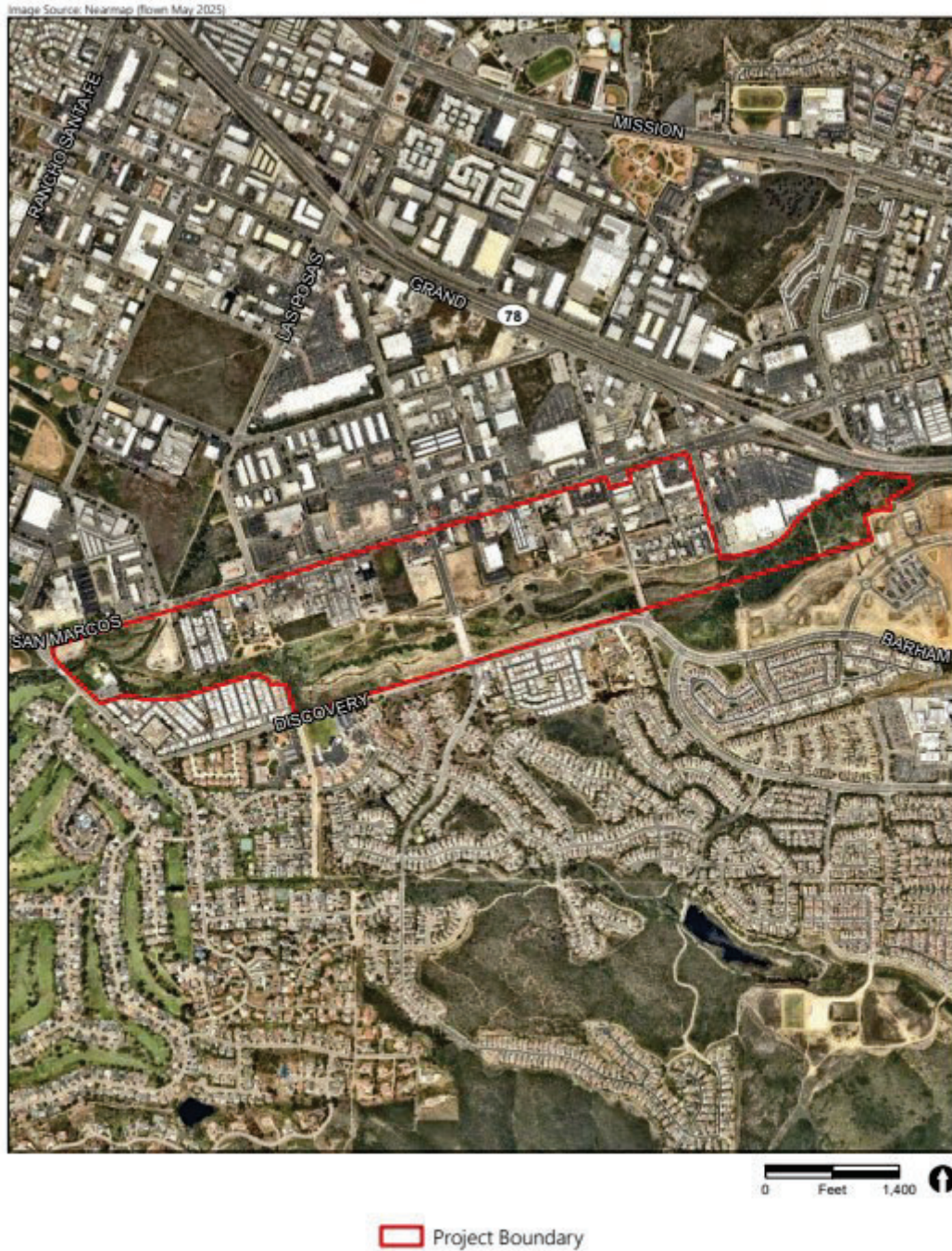
Map Source: MMS



FIGURE 3
Proposed Land Use Map

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ATTACMENT B. Project Location Map (RECON 2025)



RECON

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FIGURE 2
Project Location on Aerial Photograph

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ATTACHMENT C. Conservation Easement Area Map (Dudek 2017)





DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY

Vector Control Program

5570 Overland Avenue Suite 102, San Diego, CA 92123

(858) 694-2888

www.sdvector.com

October 1, 2025

Sean del Solar, Principal Planner/Sustainability Program Manager
City of San Marcos Planning Division
1 Civic Center Drive
San Marcos, CA 92069

Via e-mail: creekplan@san-marcos.net

COMMENTS ON THE SAN MARCOS CREEK DISTRICT SPECIFIC PLAN UPDATE

Dear Mr. del Solar:

Thank you for the opportunity to comment on the Supplemental Program Environmental Impact Report (PEIR) for the above referenced project. The County of San Diego Vector Control Program (VCP) is responsible for the protection of public health through the surveillance and control of mosquitoes that are vectors for human disease including West Nile virus (WNV). The VCP has completed their review and has the following comments regarding the proposed project.

1. The VCP respectfully requests that the Supplemental Program Environmental Impact Report (PEIR) address potential impacts from possible mosquito breeding sources created by the project and that the project be designed and constructed in a manner to minimize those impacts. Specifically, ensure construction-related depressions created by grading activities, vehicle tires, and excavation do not result in depressions that will hold standing water. In addition, ensure swales (described in the PEIR, page 8-10, paragraph 7), filtering devices (described in the PEIR, page 8-10, paragraph 7), rip-rap (described in the PEIR, page 8-9, paragraph 6), detention basins (described in the PEIR, page 4-5, paragraph 2), created or modified wetland areas (described in the PEIR, page 4-7, paragraph 2), and other areas do not create a potential mosquito breeding source. Any area that is capable of accumulating and holding at least ½ inch of water for more than 96 hours can support mosquito breeding and development. For any habitat remediation, the design should be consistent with guidelines for preventing mosquito habitat creation.
2. Please note, the VCP has the authority pursuant to state law and County Code to order the abatement of any mosquito breeding that does occur either during construction or after the project is completed that is determined to be a vector breeding public nuisance. The VCP will exert that authority as necessary to protect public health if the project is not designed and constructed to prevent such breeding.

Mr. del Solar
October 1, 2025
City of San Marcos

3. For your information, the County of San Diego Guidelines for Determining Significance for Vectors can be accessed at http://www.sandiegocounty.gov/content/dam/sdc/pds/docs/vector_guidelines.pdf and the California Department of Public Health Best Management Practices for Mosquito Control in California is available at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/MosquitoesandMosquitoBorneDiseases.aspx#>

The VCP appreciates the opportunity to participate in the environmental review process for this project. If you have any questions regarding these comments, please contact Daniel Valdez at 858-688-3722 or by e-mail at Daniel.Valdez@sdcounty.ca.gov.

Sincerely,

DANIEL VALDEZ, Registered Environmental Health Specialist
Vector Control Program



NATIVE AMERICAN HERITAGE COMMISSION

CITY OF SAN MARCOS
DEVELOPMENT SERVICES

September 18, 2025

SEP 24 2025

RECEIVED

CHAIRPERSON
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Yokayo Pomo, Yuki,
NomlakiSECRETARY
Isaac Bojorquez
Ohlone-CostanoanPARLIAMENTARIAN
Wayne Nelson
LuiseñoCOMMISSIONER
Sara Dutschke
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Stanley Rodriguez
KumeyaayCOMMISSIONER
Bennae Calac
Pauma-Yuima Band of
Luiseño IndiansCOMMISSIONER
VacantCOMMISSIONER
VacantACTING EXECUTIVE
SECRETARY
Michelle CarrNAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov

Re 2025090620 San Marcos Creek District Specific Plan Update Project, San Diego County

Dear Mr. del Solar:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:
Andrew.Green@NAHC.ca.gov.

Sincerely,

Andrew Green

Andrew Green
Cultural Resources Analyst

cc: State Clearinghouse

From: [Dahl, Kyle J CIV USARMY CESPL \(USA\)](#)
To: [Sean del Solar](#); [Fields, Larissa A](#)
Cc: [Zoutendyk, David](#); [Kalinowski, Alison@Wildlife](#); [Lori Spar](#); [Steven Davidovas](#)
Subject: RE: [EXTERNAL] RE: San Marcos Creek Consultation
Date: Wednesday, November 19, 2025 11:34:55 AM
Attachments: [image001.png](#)

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From the Corps' perspective if there are any design changes to what was referenced in our authorization the project would need to be reviewed again. This doesn't just apply to footprint, it includes any design changed that differ than what we permitted. Thank you.

Kyle Dahl, PWS
U.S. Army Corps of Engineers
Section Chief, San Diego & Imperial Counties Section
Los Angeles District, Regulatory Division
5950 La Place Ct., Suite 160
Carlsbad, CA 92008-8832
Phone: 760-602-4834

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http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

From: Sean del Solar <SdelSolar@san-marcos.net>
Sent: Wednesday, November 19, 2025 11:32 AM
To: Fields, Larissa A <larissa_fields@fws.gov>; Dahl, Kyle J CIV USARMY CESPL (USA) <Kyle.J.Dahl@usace.army.mil>
Cc: Zoutendyk, David <David_Zoutendyk@fws.gov>; Kalinowski, Alison@Wildlife <alison.kalinowski@wildlife.ca.gov>; Lori Spar <lspar@reconenvironmental.com>; Steven Davidovas <sdavidovas@migcom.com>
Subject: [Non-DoD Source] RE: [EXTERNAL] RE: San Marcos Creek Consultation

Its not anticipated to

Sean del Solar | Principal Planner / Sustainability Program Manager
T: (760) 744-1050 ext. 3223 | C: (760) 786-4410
sdelsolar@san-marcos.net | www.san-marcos.net

From: Fields, Larissa A <larissa_fields@fws.gov>
Sent: Wednesday, November 19, 2025 11:30 AM
To: Sean del Solar <SdelSolar@san-marcos.net>; Dahl, Kyle J CIV USARMY CESPL (USA) <Kyle.J.Dahl@usace.army.mil>
Cc: Zoutendyk, David <David_Zoutendyk@fws.gov>; Kalinowski, Alison@Wildlife <alison.kalinowski@wildlife.ca.gov>; Lori Spar <lspar@reconenvironmental.com>; Steven Davidovas <sdavidovas@migcom.com>
Subject: Re: [EXTERNAL] RE: San Marcos Creek Consultation

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Apologies, the habitat impact footprint.

Thank you,
Larissa

Larissa Fields (she/her)
U.S. Fish and Wildlife Biologist
Carlsbad U.S Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
larissa_fields@fws.gov

From: Fields, Larissa A <larissa_fields@fws.gov>
Sent: Wednesday, November 19, 2025 11:27 AM
To: Sean del Solar <SdelSolar@san-marcos.net>; Dahl, Kyle J CIV USARMY CESPL (USA) <Kyle.J.Dahl@usace.army.mil>
Cc: Zoutendyk, David <David_Zoutendyk@fws.gov>; Kalinowski, Alison@Wildlife <alison.kalinowski@wildlife.ca.gov>; Lori Spar <lspar@reconenvironmental.com>; Steven Davidovas <sdavidovas@migcom.com>
Subject: Re: [EXTERNAL] RE: San Marcos Creek Consultation

Okay thank you. In addition, is the project habitat footprint anticipated to change, and if so how?

Thank you,
Larissa

Larissa Fields (she/her)

U.S. Fish and Wildlife Biologist
Carlsbad U.S Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
larissa_fields@fws.gov

From: Sean del Solar <SdelSolar@san-marcos.net>
Sent: Wednesday, November 19, 2025 11:16 AM
To: Fields, Larissa A <larissa_fields@fws.gov>; Dahl, Kyle J CIV USARMY CESPL (USA) <Kyle.J.Dahl@usace.army.mil>
Cc: Zoutendyk, David <David_Zoutendyk@fws.gov>; Kalinowski, Alison@Wildlife <alison.kalinowski@wildlife.ca.gov>; Lori Spar <lspar@reconenvironmental.com>; Steven Davidovas <sdavidovas@migcom.com>
Subject: RE: [EXTERNAL] RE: San Marcos Creek Consultation

Its not anticipated however we are completing an update to bio survey to confirm. The supplemental Program EIR will be circulated for a 45-day public review period when the draft is completed.

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sdelsolar@san-marcos.net | www.san-marcos.net

From: Fields, Larissa A <larissa_fields@fws.gov>
Sent: Wednesday, November 19, 2025 11:10 AM
To: Sean del Solar <SdelSolar@san-marcos.net>; Dahl, Kyle J CIV USARMY CESPL (USA) <Kyle.J.Dahl@usace.army.mil>
Cc: Zoutendyk, David <David_Zoutendyk@fws.gov>; Kalinowski, Alison@Wildlife <alison.kalinowski@wildlife.ca.gov>; Lori Spar <lspar@reconenvironmental.com>; Steven Davidovas <sdavidovas@migcom.com>
Subject: Re: [EXTERNAL] RE: San Marcos Creek Consultation

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Hi Sean,

Thank you for the information. Just to clarify, will the revisions to the project result in impacts Federally listed species that are not already addressed in our consultation?

Thank you,
Larissa

Larissa Fields (she/her)

U.S. Fish and Wildlife Biologist
Carlsbad U.S Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
larissa_fields@fws.gov

From: Sean del Solar <SdelSolar@san-marcos.net>

Sent: Wednesday, November 19, 2025 10:37 AM

To: Dahl, Kyle J CIV USARMY CESPL (USA) <Kyle.J.Dahl@usace.army.mil>; Fields, Larissa A <larissa_fields@fws.gov>

Cc: Zoutendyk, David <David_Zoutendyk@fws.gov>; Kalinowski, Alison@Wildlife <alison.kalinowski@wildlife.ca.gov>; Lori Spar <lspar@reconenvironmental.com>; Steven Davidovas <sdavidovas@migcom.com>

Subject: [EXTERNAL] RE: San Marcos Creek Consultation

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Kyle and Larissa,

The current Creek Specific Plan update project is focused on revising the land uses and mobility framework to reflect market demand and existing site conditions, such as parcel configuration and updated floodway footprints. These changes occur within the existing footprint for private development established by the current agency permits. Overall, the updates are expected to reduce the intensity of commercial and office land uses while maintaining the same number of residential units (2,300). CDFW provided a comment letter in response to the NOP (attached for your reference), and we would be happy to meet with your team for a brief discussion about the project.

Thank you,



Sean del Solar | Principal Planner / Sustainability Program Manager
City of San Marcos | 1 Civic Center Drive, San Marcos, CA 92069
T: (760) 744-1050 ext. 3223 | C: (760) 786-4410
sdelsolar@san-marcos.net | www.san-marcos.net

FREQUENTLY REQUESTED INFORMATION:

[Zoning Map](#) | [Municipal Code](#) | [Planning Applications](#) | [Business Resources](#)

From: Dahl, Kyle J CIV USARMY CESPL (USA) <Kyle.J.Dahl@usace.army.mil>
Sent: Wednesday, November 19, 2025 9:11 AM
To: Fields, Larissa A <larissa_fields@fws.gov>
Cc: Sean del Solar <SdelSolar@san-marcos.net>; Zoutendyk, David <David_Zoutendyk@fws.gov>;
Kalinowski, Alison@Wildlife <alison.kalinowski@wildlife.ca.gov>
Subject: RE: San Marcos Creek Consultation

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Thanks Larissa,

This appears to be a CEQA NOP so I don't know how this would overlap with Federal actions.
Perhaps the City can clarify.

Kyle Dahl, PWS
U.S. Army Corps of Engineers
Section Chief, San Diego & Imperial Counties Section
Los Angeles District, Regulatory Division
5950 La Place Ct., Suite 160
Carlsbad, CA 92008-8832
Phone: 760-602-4834

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From: Fields, Larissa A <larissa_fields@fws.gov>

Sent: Tuesday, November 18, 2025 4:46 PM

To: Dahl, Kyle J CIV USARMY CESPL (USA) <Kyle.J.Dahl@usace.army.mil>

Cc: sdelsolar@san-marcos.net; Zoutendyk, David <David_Zoutendyk@fws.gov>; Kalinowski, Alison@Wildlife <alison.kalinowski@wildlife.ca.gov>

Subject: [Non-DoD Source] San Marcos Creek Consultation

Hi Kyle,

We received the attached NOP and did not have time to review and comment due to the furlough. We would like to understand how this plan is different from the attached consultation and if we need to reinitiate to address any changes to impacts.

Thank you,
Larissa

Larissa Fields (she/her)

U.S. Fish and Wildlife Biologist

Carlsbad U.S Fish and Wildlife Office

2177 Salk Avenue, Suite 250

Carlsbad, CA 92008

larissa_fields@fws.gov

From: [Creek Plan General Email](#)
To: [Raphael, Rita](#); [Creek Plan General Email](#)
Cc: [Cruz, JoAnn](#); [Lori Spar](#); [Nick Larkin](#); [Steven Davidovas](#)
Subject: RE: IJN Review: NOP - Supplemental PEIR- San Marcos Creek District Specific Plan Update - City of San Marcos -
Date: Thursday, October 9, 2025 8:28:00 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[CEQA MND San Marcos Creek.docx](#)

Good morning,

Thank you for your **comments** on the Creek Plan Notice of Preparation (NOP). We have **received** them and they will be taken into careful consideration during the preparation of the environmental document.

If you have any further questions or would like to check on the status of the project, please don't hesitate to reach out. Project information, including updates to the environmental document, will be made available on the project webpage: <http://www.san-marcos.net/CreekPlan>.

Cordially,



Sean del Solar | Principal Planner / Sustainability Program Manager
City of San Marcos | 1 Civic Center Drive, San Marcos, CA 92069
T: (760) 744-1050 ext. 3223 | C: (760) 786-4410
sdelsolar@san-marcos.net | www.san-marcos.net

FREQUENTLY REQUESTED INFORMATION:

[Zoning Map](#) | [Municipal Code](#) | [Planning Applications](#) | [Business Resources](#)

From: Raphael, Rita <Rita.Raphael@sdcounty.ca.gov>
Sent: Wednesday, October 8, 2025 1:29 PM
To: Creek Plan General Email <creekplan@san-marcos.net>
Cc: Cruz, JoAnn <JoAnn.Cruz@sdcounty.ca.gov>
Subject: IJN Review: NOP - Supplemental PEIR- San Marcos Creek District Specific Plan Update - City of San Marcos -

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Hi ,

Kindly find the Department of Environmental Health and Quality/ Hazard Materials and Vector control programs' comments regarding Supplemental PEIR- San Marcos Creek District Specific Plan Update.

VCP comments (attached)

HMD Comments are as follows:

1. PLAN CHECK: Depending on the nature of construction, a Hazardous Materials Plan Check review may be necessary for buildings to be cleared for occupancy. Similarly, if the project will create new facilities that become subject to regulation by the HMD, permits must be established for those facilities. Additional information on Plan Check requirements can be found on our website at: [Hazardous Materials Plan Check \(sandiegocounty.gov\)](http://sandiegocounty.gov)
2. HAZARDOUS MATERIALS: If chemicals/hazardous materials/hazardous wastes stored in project will hold a volume greater than or equal to 55 gallons, 500 pounds or 200 cubic feet each (e.g. gasoline, diesel fuel, lubricating oil, grease, cleaning products, landscaping chemicals and fertilizers, and solvents, etc.), permits must be established. Please be advised, any proposed activities involving the storage and handling of hazardous materials will require the owner/operator and/or contractor(s) to comply with local and state laws and regulations. Additional information on HMBP requirements can be found on our website at: [HMBP \(sandiegocounty.gov\)](http://sandiegocounty.gov)
3. HAZARDOUS WASTE: All construction-related hazardous wastes (e.g. waste gasoline, waste diesel fuel, waste lubricating oil/grease, waste cleaning products, waste landscaping chemicals and fertilizers, and waste solvents, etc.) generated and stored onsite must be properly labeled and handled in manner to prevent release to the environment. Contractor(s) must ensure any hazardous wastes generated onsite during construction is properly disposed by registered hazardous waste transporter and compliant with local and state laws and regulations. Additional information on Hazardous Waste requirements can be found on our website at: [Hazardous Waste \(sandiegocounty.gov\)](http://sandiegocounty.gov)
4. CONTAMINATED SOIL: If it is discovered that any hazardous materials and or waste has been released to the environment before or during the project, the contaminated environmental media (e.g. soil) must be removed and properly managed and disposed. A Voluntary Assistance Project (VAP) may need to be initiated to ensure the hazardous materials/waste release has been properly cleaned up. See the HMD's VAP website for additional information: [Voluntary Assistance Program \(sandiegocounty.gov\)](http://sandiegocounty.gov)

Please note, the HMD has the authority pursuant to state law and County Code to regulate facilities that handle or store hazardous materials and/or generate hazardous/medical wastes. The HMD will apply that authority as necessary to protect public health and the environment. Additional information about HMD can be found on our website at: [Hazardous Materials Division \(sandiegocounty.gov\)](http://sandiegocounty.gov)

Respectfully ,



Rita Raphael, Office Support Specialist
Department of Environmental Health and Quality
Policy, Outreach and Data

[SanDiegoCounty.gov](https://www.sandiegocounty.gov) | [News Updates](#) | [Engage](#)



Subject: IJN Review: NOP - Supplemental PEIR- San Marcos Creek District Specific Plan Update - City of San Marcos - DUE 10-1-25

Importance: High

Interjurisdictional Notice		
Comments Due to Edwin Andrus by 10/1/2025		
	<u>NOTICE OF PREPARATION (NOP) OF A SUPPLEMENTAL PROGRAM ENVIRONMENTAL IMPACT REPORT (PEIR) AND SCOPING MEETING for San Marcos Creek District Specific Plan Update</u> Lead Agency: City of San Marcos (City) Notice: Attached and at the provided link: Creek Specific Plan San Marcos, CA Project Description: In 2007, the City adopted the existing San Marcos Creek District Specific Plan (Adopted Specific Plan). The intent of the Adopted Specific Plan was to create a planning framework for the future growth and redevelopment of the Creek District and to provide the mechanism to ensure that future development would occur in a coordinated, orderly, and well-planned manner. The Adopted Specific Plan was supported by the San Marcos Creek Specific Plan PEIR certified in 2007 (Certified PEIR; SCH No. 2006121080). Since 2007, several major events have impacted the feasibility of on-going private development in the project area, including:	

10/1/25	• Economic uncertainty, starting with the 2008 global financial crisis. • Dissolution of redevelopment agencies by the State of California (taking away an important funding source). • Build-out of the adjacent University District/North City area. • Shifting market demands for retail and office space following the COVID-19 pandemic. Since 2007, the City has completed the following public improvements projects that were identified in the Adopted Specific Plan: • Construction of bridges over San Marcos Creek at Bent Avenue and Via Vera Cruz. • Construction of flood control levees along the creek. • Establishment of habitat conservation areas along the creek. • Construction of public park promenades and parklets, also along the creek. Project Location: The San Marcos Creek Specific Plan area (project site) covers approximately 217.3 acres within the City's Creekside District. The project site is bound by San Marcos Boulevard to the north, Discovery Street to the south and west, and Grand Avenue and State Route 78 to the east. See attachment - Figure 1 presents the project's regional location and Figure 2 presents the project location on an aerial photograph. Guidance for Responses: To maximize the value of your input, please consider the following: • In your comments, please clearly identify the specific issues on which you are commenting. If you are commenting on a particular word, phrase, or sentence, please provide the page number and paragraph citation.	City of San Marcos
---------	--	--------------------

	• All written comments should focus on the sufficiency of the document in identifying and analyzing the potential impacts on the environment that may result from the proposed project, and the ways in which the significant effects are avoided or mitigated. • Also, please note: if there are any impacts in the unincorporated county, in your comments please distinguish if the impacts are to: ◦ Privately-owned lands in the unincorporated county, ◦ and/or County-owned lands/resources etc.	
--	--	--

Thank you,
Edwin



Edwin Andrus, Administrative Analyst I

Pronouns: he/him/his

Planning & Development Services

C: (619) 909-7362

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California Department of Transportation

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www.dot.ca.gov



October 14, 2025

11-SD-78

PM 12.18

San Marcos Creek District Specific Plan Update
NOP/SCH#2025090620

Mr. Sean del Solar
Principal Planner
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

Dear Mr. del Solar:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Notice of Preparation of a Draft Environmental Impact Report (NOP) for San Marcos Creek District Specific Plan Update project located near State Route 78 (SR-78). The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities.

Safety is one of Caltrans' strategic goals. Caltrans strives to make the year 2050 the first year without a single death or serious injury on California's roads. We are striving for more equitable outcomes for the transportation network's diverse users. To achieve these ambitious goals, we will pursue meaningful collaboration with our partners. We encourage the implementation of new technologies, innovations, and best practices that will enhance the safety on the transportation network. These pursuits are both ambitious and urgent, and their accomplishment involves a focused departure from the status quo as we continue to institutionalize safety in all our work.

Caltrans is committed to prioritizing projects that are equitable and provide meaningful benefits to historically underserved communities, to ultimately improve transportation accessibility and quality of life for people in the communities we serve.

We look forward to working with the City of San Marcos in areas where the City and Caltrans have joint jurisdiction to improve the transportation network and connections

between various modes of travel, with the goal of improving the experience of those who use the transportation system.

Caltrans has the following comments:

Traffic Impact Study

- A Vehicle Miles of Travel (VMT) based Traffic Impact Study (TIS) may be needed for this project. Please use the Governor's Office of Planning and Research Guidance to identify VMT related impacts.¹
- The TIS may also need to identify the proposed project's near-term and long-term safety or operational issues, on or adjacent any existing or proposed State facilities.
- For the Draft Environmental Impact Report (DEIR) please reference the Caltrans "Local Development Review (LDR) Safety Review Practitioner's Guidance" <https://dot.ca.gov/-/media/dot-media/programs/safety-programs/documents/202402-ldr-safety-review-practitioners-guidance-a11y.pdf> to determine if the project meets both of the screening criteria. If both screening criteria are not met, then a safety review will be needed.

Vehicle Miles Traveled (VMT)

We encourage the City to utilize strategies that will help the City achieve conformance with State GHG emission and VMT reduction goals. Potential measures to reduce VMT include, but are not limited to:

- Improve or increase access to transit.
- Increase access to common goods and services, such as groceries, schools, and daycare.
- Incorporate affordable housing into the project.
- Incorporate neighborhood electric vehicle network.
- Orient the project toward transit, bicycle, and pedestrian facilities.
- Improve pedestrian or bicycle networks, or transit service.
- Provide traffic calming measures and strategies.
- Provide bicycle parking.
- Limit or eliminate parking supply.
- Implement or provide access to a commute reduction program.
- Provide car-sharing, bike sharing, and ride-sharing programs.
- Provide transit passes.

¹ California Governor's Office of Planning and Research (OPR) 2018. "Technical Advisory on Evaluating Transportation Impacts in CEQA." https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf

- Shifting single occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services.
- Providing telework options.
- Providing incentives or subsidies that increase the use of modes other than single-occupancy vehicle.
- Providing on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms.
- Providing employee transportation coordinators at employment sites.
- Providing a guaranteed ride home service to users of non-auto modes.

ISOAP

Mitigation measures for proposed intersection modifications are subject to the Caltrans Intersection Safety and Operational Assessment Policy (ISOAP). Alternative intersection design(s) will need to be considered in accordance with the ISOAP policy. Please refer to the policy for more information and requirements (<https://dot.ca.gov/programs/traffic-operations/isoap>).

Hydrology and Drainage Studies

- Please provide hydraulics studies, drainage and grading plans to Caltrans for review.
- Provide a pre and post-development hydraulics and hydrology study. Show drainage configurations and patterns.
- Provide drainage plans and details. Include detention basin details of inlets/outlet.
- Provide a contour grading plan with legible callouts and minimal building data. Show drainage patterns.
- On all plans, show Caltrans' Right of Way (R/W).
- Early coordination with Caltrans is recommended.
- Caltrans generally does not allow development projects to impact hydraulics within the State's Right-of-Way. Any modification to the existing Caltrans drainage and/or increase in runoff to State facilities will not be allowed.

Environmental

Caltrans welcomes the opportunity to be a Responsible Agency under the California Environmental Quality Act (CEQA), as we have some discretionary authority of a portion of the project that is in Caltrans' Right-of-Way (R/W) through the form of an encroachment permit process. We look forward to the coordination of our efforts to ensure that Caltrans can adopt the alternative and/or mitigation measure for our

R/W. We would appreciate meeting with you to discuss the elements of the Environmental Document that Caltrans will use for our subsequent environmental compliance.

An encroachment permit will be required for any work within the Caltrans' R/W prior to construction. As part of the encroachment permit process, the applicant must provide approved final environmental documents for this project, corresponding technical studies, and necessary regulatory and resource agency permits. Specifically, CEQA determination or exemption. The supporting documents must address all environmental impacts within the Caltrans' R/W and address any impacts from avoidance and/or mitigation measures.

We recommend that this project specifically identifies and assesses potential impacts caused by the project or impacts from mitigation efforts that occur within Caltrans' R/W that includes impacts to the natural environment, infrastructure including but not limited to highways, roadways, structures, intelligent transportation systems elements, on-ramps and off-ramps, and appurtenant features including but not limited to fencing, lighting, signage, drainage, guardrail, slopes and landscaping. Caltrans is interested in any additional mitigation measures identified for the project's draft Environmental Document.

Land Use and Smart Growth

Caltrans recognizes there is a strong link between transportation and land use. Development can have a significant impact on traffic and congestion on State transportation facilities. In particular, the pattern of land use can affect both local vehicle miles traveled and the number of trips. Caltrans supports collaboration with local agencies to work towards a safe, functional, interconnected, multi-modal transportation network integrated through applicable "smart growth" type land use planning and policies.

The City should continue to coordinate with Caltrans to implement necessary improvements at intersections and interchanges where the agencies have joint jurisdiction.

Broadband

Caltrans recognizes that teleworking and remote learning lessen the impacts of traffic on our roadways and surrounding communities. This reduces the amount of VMT and decreases the amount of greenhouse gas (GHG) emissions and other pollutants. The availability of affordable and reliable, high-speed broadband is a key component in supporting travel demand management and reaching the state's transportation and climate action goals.

Right-of-Way

Per Business and Profession Code 8771, perpetuation of survey monuments by a licensed land surveyor is required, if they are being destroyed by any construction.

Any work performed within Caltrans' R/W will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans' R/W prior to construction.

Additional information regarding encroachment permits may be obtained by visiting the website at <https://dot.ca.gov/programs/traffic-operations/ep>. Projects with the following:

- require a Caltrans Encroachment Permit
- have completed the Caltrans Local Development Review (LDR) process
- have an approved environmental document

need to have documents submitted for Quality Management Assessment Process (QMAP) process via email to D11.QMAP.Permits@dot.ca.gov. Early coordination with Caltrans is strongly advised for all encroachment permits.

If you have any questions or concerns, please contact Shannon Aston, LDR Coordinator, at (619) 992-0628 or by e-mail sent to shannon.aston@dot.ca.gov.

Sincerely,

Kimberly D. Dodson

KIMBERLY D. DODSON, GISP
Branch Chief
Local Development Review