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DEPARTMENT OF FISH AND WILDLIFE
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December 15, 2025

Laura Stokes
City of San Juan Capistrano
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Subject: Notice of Preparation of a Draft Environmental Impact Report for the Legacy Ranch Project, SCH No. 2025110456, Orange County, CA

Dear Laura Stokes:

The California Department of Fish and Wildlife (CDFW) reviewed the Initial Study (IS) and Notice of Preparation (NOP) from the City of San Juan Capistrano (City) for the Legacy Ranch (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines[1].

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Fish & G. Code, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for

[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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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 law[2] of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Legacy Ranch Partners, LLC (LRP)

Objective: The objective of the Project is to develop the Legacy Ranch, which includes equestrian facilities, farm stay units, a chapel, and event space. There will also be agricultural and recreational uses within the Project area. Primary Project activities include site preparation, excavation, grading, dewatering, and construction.

Location: The Project is located at 30291 Camino Capistrano, within the Northwest Open Space (NWOS) Specific Plan Area in San Juan Capistrano, Orange County. The Project site is bound by single-family residential uses to the north, Camino Capistrano to the east, The Groves Apartments (multi-family residential) to the south, and an Orange County Transportation Authority-owned rail line to the west. Regional access is provided by Interstate 5 east of the site, with direct access via Camino Capistrano. Trabuco Creek and the Trabuco Creek Trail traverse the Project site, parallel to Camino Capistrano.

Biological Setting: While the NOP states the site has grassland, shrubs, and mature trees, it does not include a biological report, nor does it disclose specific biological resources that may occur on site. The document also states that Trabuco Creek runs along the eastern side of the site and has a densely vegetated riparian corridor. This riparian area is covenanted with a 14-acre conservation easement that encompasses Trabuco Creek and both its banks.

CDFW has historical records of the following species on and around the site:

Birds

a. Coastal California gnatcatcher (*Polioptila californica californica*; Endangered Species Act (ESA)-listed threatened; California Species of Special Concern (SSC))

- White-tailed kite (*Elanus leucurus*; State Fully Protected Species)

[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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- Least bell's vireo (*Vireo bellii pusillus*; ESA-listed endangered, CESA-listed endangered)
- Yellow warbler (*Dendroica petechia*; California SSC)
- Cooper's hawk (*Astur cooperii*)
- Yellow-breasted chat (*Icteria virens*; California SSC)

Amphibians/Reptiles

- Western pond turtle (*Emys marmorata*; SSC)

COMMENTS AND RECOMMENDATIONS

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) Conservation covenant area. Overall, the Draft Environmental Impact Report (DEIR) should provide more information about the conservation easement in the riparian corridor, including: the recordation number on file with the County Clerk's office, the grantee, allowed and prohibited uses of the easement, and whether the easement was recorded as part of mitigation obligations associated with a specific permit or project. We request that the DEIR clarify whether the Project will indirectly or directly impact the easement area, as the IS states no impacts will occur in or within 100 feet of the easement area, but Figure 2-3 shows trails, the "event barn", and the dog park within the easement and the 100-foot setback. Additionally, the NOP states construction of playgrounds, restrooms, shade structures, and signage is permitted within the required setbacks (page 28). Within this additional context, we recommend that the DEIR include mitigation measures which explicitly require avoidance of the easement area, or details as to how Project activities are compatible with the allowable and prohibited uses of the conservation easement.

2) 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. 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 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.

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b. 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 that 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 (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).

c. Surveys and Disclosure. CDFW recommends the Project Proponent 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). Survey 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 (CDFW 2023). The DEIR should provide full disclosure of the presence of Crotch's bumble bee and the Project's potential impact on Crotch's bumble bee.

d. Avoidance, Minimization, and Mitigation. If the site is determined to be occupied by Crotch's bumble bee, the DEIR 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 DEIR should require consultation with CDFW to determine if a CESA Incidental Take Permit (ITP) is required. In addition, the Project Proponent should provide compensatory mitigation for removal or damage to any floral resource associated with Crotch's bumble bee. Floral resources should be replaced as close to their original location as is feasible.

3) Special-Status Birds and Raptors. California Natural Diversity database CNDDB records indicate several special-status birds and raptors were observed adjacent to the Project area including white-tailed kite, least bell's vireo, coastal California gnatcatcher, and yellow warbler (CDFW 2025). CDFW recommends the DEIR analyze the potential for the following species to occur within the Project area:

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e. White-tailed kite. According to the White-Tailed Kite Predicted Habitat and White-Tailed Kite Range datasets, the Project site occurs within the white-tailed kite's yearlong range and contains habitat of high suitability. In addition, an occurrence of white-tailed kite was reported to CNDDB within 1 mile of the Project site. White-tailed kite is a State Fully Protected Species under Fish & G. Code § 3511 and Fully Protected Species may not be taken or possessed at any time except with authorization from CDFW and only under specific circumstances which would not apply to the Project. To avoid take of white-tailed kite, CDFW recommends Project work activities occur outside of the nesting season and that a qualified biologist conduct focused surveys for white-tailed kite within the Project area prior to the start of construction activities (see Comment 4). If white-tailed kite is detected nesting in trees within the Project disturbance area, CDFW recommends the qualified biologist establish a 500-foot no work buffer around the nest. Additionally, the DEIR should include a discussion of how potential direct, indirect, and cumulative impacts to white-tailed kite will be fully avoided. Permanent impacts to any foraging habitat for white-tailed kite should be described in the DEIR and should be considered significant unless mitigation is provided.

f. Coastal California gnatcatcher. Gnatcatchers have been observed on site and in adjacent habitat. To confirm the presence or absence of gnatcatcher on site, CDFW recommends the Project Proponent conduct protocol surveys for gnatcatcher within any suitable habitat following the United States Fish and Wildlife Service (USFWS) Survey Guidelines for the Coastal California Gnatcatcher (USFWS 1997). If gnatcatcher is detected during surveys, CDFW recommends the Project Proponent consult with USFWS on appropriate avoidance, minimization, and mitigation measures.

g. Least Bell's vireo. CDFW recommends protocol level surveys on the Project site and within a 500-foot buffer to determine presence or absence of least Bell's vireo (LBVI). The DEIR should provide full disclosure of the presence of LBVI and the Project's potential impact on the species. Mitigation for direct, indirect, and cumulative impacts to the species should be determined after the completion of these surveys and included in the DEIR. If the Project would impact LBVI, the DEIR should include measures to avoid, minimize, and/or mitigate potential impacts to LBVI as well as the habitat supporting the species. Consultation with CDFW is recommended and may include obtaining appropriate incidental take authorization under CESA

4) Nesting Birds. The DEIR should include mitigation measures which avoid impacts to nesting birds. To avoid impacts on nesting birds, CDFW recommends that clearing of vegetation occur outside of the peak avian breeding season, which generally runs from February 1 through September 1 and as early as January 1 for some raptors. If Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting bird breeding surveys should conduct a

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nesting bird survey within three days prior to work in the area. If an active nest is identified, a buffer shall be established between the construction activities and the active nest so that nesting activities are not interrupted. In general, CDFW recommends a 100-foot buffer for common avian species, 300 feet for listed or highly sensitive species, and 500 feet for raptors. The buffer should be delineated by temporary fencing and remain in effect for the duration of all construction activities. No Project construction shall occur within the nesting buffer area 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.

5) Equestrian impacts. The DEIR should include an evaluation of impacts from developing equestrian areas and include mitigation measures to reduce significant impacts. Given that Figure 2-3 in the NOP shows the equestrian area and public trails within the 100-foot offset from the conservation easement area, a discussion and analysis of impacts to the conserved riparian corridor from equestrian use should be included in that evaluation. Horses can significantly impact the habitat and water quality in an area, due to soil compaction, vegetation trampling, trail proliferation, and runoff from stables (Martin and Butler, 2017; Marion and Olive, 2006; Airaksinen, Heiskanen, & Heinonen-Tanski, 2007). In addition to impacts from general equestrian use, CDFW has concerns about brown-headed cowbird (*Molothrus ater*) in the area. Brown-headed cowbirds are notorious for laying their eggs in the nests of other birds and nest parasitism may increase with the presence of horses (Borgmann and Morrison, 2010). CDFW recommends the DEIR include mitigation measures which require cowbird monitoring and management by the Project Proponent.

6) Cattle impacts. Based on the IS, the direct and indirect impacts to biological resources from cattle are unclear. The DEIR should include a discussion of the intended cattle activities on the Project site and analyze the impacts to biological resources from these activities. Mitigation measures which lower the significance of these impacts should be included in the DEIR, if appropriate.

7) Water quality. While the NOP does not indicate any direct Project activities in Trabuco Creek, runoff from the equestrian or agricultural areas may cause impacts to water quality. The DEIR should discuss potential impacts to water quality and include mitigation measures which avoid and/or reduce these impacts.

8) Rodenticides. To avoid direct and indirect impacts to biological resources (i.e., rodents, raptors, and large mammals), the DEIR should include a mitigation measure to prohibit any use of first-generation anticoagulant rodenticides (i.e., diphacinone, chlorophacinone, and warfarin) and second-generation anticoagulant rodenticides (e.g., brodifacoum, bromadiolone, difethialone, and difenacoum) on site

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during Project implementation and for long-term management, operations, and maintenance activities.

9) Herbicides and pesticides. Due to the proposed agricultural farm on the site, CDFW recommends the DEIR provide a discussion and analysis of the use of any herbicides and pesticides, specifically addressing potential impacts to the riparian corridor and the stream.

General Comments

10) Disclosure. The DEIR 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).

11) 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 DEIR.

a. A complete discussion of the purpose and need for, and description of the proposed Project.

b. 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 to consider establishing appropriate setbacks from sensitive and 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.

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

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d. 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.

12) 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 DEIR should include the following information.

e. Information on the regional setting 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 DEIR 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.

f. 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 Communities* (CDFW 2021). 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

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floristic diversity at a level necessary to determine if special status plants are present.

g. Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted on the Project site and within adjacent areas. The Manual of California Vegetation, 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.

h. A complete and recent assessment of the biological resources associated with each habitat type on the Project site and within adjacent areas. A full literature review includes but is not limited to CDFW's California Natural Diversity Database (CNDDB). The CNDDB 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 CNDDB to determine a list of species potentially present on 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.

i. 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 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 for established survey protocol. Acceptable species-specific survey procedures may be developed in consultation with CDFW and U.S. Fish and Wildlife Service.

j. A recent wildlife and rare plant survey. A lack of records in the CNDDB 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.

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13) Direct and Indirect Impacts on Biological Resources. The DEIR should provide a thorough discussion of direct and indirect impacts expected to affect biological resources with specific measures to offset such impacts. The DEIR should address the following.

k. 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.)).

l. 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)).

m. 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 DEIR.

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

o. 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 DEIR.

14) Cumulative Impact. Cumulative impacts on biological resources can result from collectively significant projects which are individually insignificant. The Project, when considered collectively with prior, concurrent, and probable future projects, may have a significant cumulative effect on biological resources. The Project may have the potential to substantially reduce the number or restrict the range of endangered, rare, or threatened species. Species that may be impacted by the Project include, but are not limited to, the biological resources described in this letter.

Accordingly, CDFW recommends the DEIR evaluate the Project's potential cumulative impacts on biological resources. The Project may have a "significant effect on the environment" if the possible effects of the Project are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in

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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 impact should be justified and supported by evidence to make those conclusions. Specifically, if the City concludes that the Project would not result in cumulative impacts on biological resources, the City, "shall identify facts and analysis supporting the Lead Agency's conclusion that the cumulative impact is less than significant" (CEQA Guidelines section § 15130(a)(2)).

15) 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 DEIR 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 DEIR should include a discussion of the effects of proposed mitigation measures (CEQA Guidelines, § 15126.4(a)(1)). In that regard, the DEIR 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.

16) Compensatory Mitigation. The DEIR 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 assurance and dedicated to a qualified entity for long-term management and monitoring.

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17) Long-term Management of Mitigation Lands. For proposed mitigation lands, the DEIR 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.

18) CESA. CDFW considers adverse impacts to a species protected by CESA 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). Consequently, if the Project or any Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seeks 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 DEIR 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.

19) Salvage, Relocation and Translocation of Plants and Animal Species. Salvage, relocation and translocation require the collection, handling, capturing or possession of wildlife and/or plants with the goal of moving or removing them from one location and permanently moving them to a new location. CDFW generally does not support the use of relocation or translocation as mitigation measure for unavoidable impacts to endangered, rare, or threatened plants and animals. These efforts are often not monitored over the long-term and successful outcomes are dubious. CDFW has found that permanent preservation and management of habitat to support affected species is often a more effective long-term strategy for conserving plants and animals and their habitats.

20) Scientific Collecting Permit and Voucher Collecting Permit. A Scientific Collecting Permit would be necessary if there is a plan to capture and relocate wildlife. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession

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of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). A Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). For more information, please see CDFW's Scientific Collecting Permit webpage.

A voucher collection permit is required to collect state-listed plant species for identification purposes during field surveys, or to collect voucher specimens to document a newly discovered or previously unvouchered occurrence of a state-listed plant. There is no charge to apply for a voucher collection permit. Anyone who collects scientific plant specimens of state-listed species, or who may encounter a state-listed species during field surveys should have a plant voucher collection permit. To apply for a Voucher Collecting Permit please see CDFW's Voucher Collecting Permit Page.

21) Lake and Streambed Alteration. CDFW has regulatory authority over activities in streams 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 a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW recommends that the City assess whether notification is appropriate. A Notification package for a LSAA may be obtained by accessing CDFW's Lake and Streambed Alteration Program website[3].

22) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's (Commission) policies[4]. Through its Wetlands Resources policy, the Commission "…seek[s] to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California" (California Fish and Game Commission, 2005). It is the policy of the Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland

[3] http://www.wildlife.ca.gov/Conservation/LSA
[4] https://fgc.ca.gov/About/Policies/Miscellaneous

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habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."

a. The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, a project should include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions benefiting local and transient wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DEIR and these measures should compensate for the loss of function and value.

b. The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this State that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).

23) Use of Native Plants and Trees. CDFW recommends the City require the Project Applicant to provide a native plant palette for the Project. The Project's landscaping plan should be disclosed and evaluated in the DEIR for potential impacts on biological resources such as natural communities adjacent to the Project site (e.g., introducing non-native, invasive species). 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 any species listed as 'Moderate', 'High', 'Limited', and 'Watch' by the California Invasive Plant Council[5] CDFW supports the use of native species found in naturally occurring plant

[5] https://www.cal-ipc.org/plants/inventory/

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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) that 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.

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[6] 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[7].

The City should ensure data collected for the preparation of the DEIR is properly submitted.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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.)

CONCLUSION

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

[6] https://wildlife.ca.gov/Data/CNDDB
[7] https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit

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Questions regarding this letter or further coordination should be directed to Helena Candaele, Environmental Scientist, at (858) 527-8482 or Helena.candaele@wildlife.ca.gov.

Sincerely,

Signed by:
Glen Lubcke
AD7D070BCB66466...

Glen M. Lubcke
Environmental Program Manager
South Coast Region

ec: California Department of Fish and Wildlife
Glen M. Lubcke, Environmental Program Manager
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