



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Office of the Director
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EDMUND G. BROWN, Jr. Governor
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February 12, 2018

Mr. Kevin Johnston
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**Subject: Comments on the Draft Environmental Impact Report for the
Property Specific Request General Plan Amendment
(SCH# 2015121012)**

Dear Mr. Johnston:

52-1
The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Property Specific Request General Plan Amendment Draft Environmental Impact Report (DEIR). 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; California Environmental Quality Act [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. (*Id.*, § 1802.) Similarly for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW 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.) To the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code would be required.

CDFW also administers the Natural Community Conservation Planning (NCCP) program. The County of San Diego (County) participates in the NCCP program through implementation of its South County Subarea Plan (SC-Multiple Species

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Conservation Program [MSCP]), and in development of its draft North County Subarea Plan (NC-MSCP) and draft East County Subarea Plan (EC-MSCP). The proposed Project components are located in the following Community/Regional Planning Areas of the unincorporated area of San Diego County: Bonsall, Borrego Springs, Campo/Lake Morena, Crest/Dehesa/Harbison Canyon/Granite Hills, Fallbrook, North County Metro, Pala/Pauma, San Dieguito, and Valley Center. The

S2-2
Project proposes a general plan amendment (GPA) and rezone for three Project components. The first would revise land use designations (and zoning use regulations when necessary for consistency) for 21 Property Specific Request Analysis Areas (PSR). These requests are generally for increased residential density. The second component includes revisions to land use designations and zoning use regulations of the former Champagne Gardens Specific Plan Area (CGSP). The third component is a revision to Residential Policy 8 of the Valley Center Community Plan, addressing minimum lot size requirements, that does not propose changes in allowed density.

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The Department has been working in good faith with the County to complete the North County Multiple Species Conservation Program (NC-MSCP) Subregional Plan for many years. Multiple factors were considered in developing the model that led to the development of the Pre-Approved Mitigation Area (PAMA), which are the geographic areas within which the future NC-MSCP Preserve would occur. In addition to biological criteria, the model considered other factors such as land use and parcel size. Areas of small parcel sizes were avoided by modelling or later removed from PAMA in recognition of the inability to assemble a fully functioning preserve with requisite connectivity. Also during the planning process, despite the importance of lands borne out by modelling, considerations were given to allow development in urban nodes and transportation centers to move forward with greater impacts than would otherwise be compatible with PAMA designation (e.g., along I-15 northeast of the San Luis Rey River). In such instances the County, the Department, the U.S. Fish and Wildlife Service, and individual applicants worked together to identify solutions that would not preclude options in order to successfully complete the NC-MSCP. Discussion and planning was the means to reach solutions, and essential analysis informed land use and density designations.

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PAMA was also identified in the approved SC-MSCP, and Focused Conservation Areas (FCAs), which function similarly to PAMA, were included in the draft EC-MSCP. Section 2.3.4.6 of the DEIR states that the document does not propose to allow development in areas designated for biological preservation; however, the same paragraph of the DEIR states that some development projects would be exempt from the MSCP subject to negotiation with the Department and the U.S. Fish and Wildlife Service (collectively, the Wildlife Agencies). It is not clear whether this negotiation refers to discussion prior to the adoption of the NC-MSCP or EC-MSCP, current practice under the SC-MSCP, or both. Regardless, the document makes reference to regulatory processes being in place to ensure implementation of and

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conformance with applicable Habitat Conservation Plans and NCCPs, but does not provide analysis of how the proposed zoning changes could impact those plans.

Several of the PSR Analysis Areas include considerable amounts of NC-MSCP or SC-MSCP PAMA, or are located, in part, in an EC-MSCP FCA. The Department's primary concerns include, but are not limited to, PSR Analysis Areas CD14, FB2+, FB19+, FB21+, ME26, ME30A, NC3A, NC22, NC37, PP30, and SD15 as they relate to lands targeted for conservation.

S2-11
In addition to PAMA, given the existing land constraints within the NC-MSCP Plan Area, NC-MSCP planning efforts also included the identification of key movement linkages. These linkages serve to both connect conserved lands within the NC-MSCP Preserve, as well as to connect NC-MSCP Preserve lands to conserved lands outside of the NC-MSCP Plan Area. These areas are critical not only to the build-out of the NC-MSCP preserve, but also to creating a functional, region-wide Preserve network. A number of the PSR Analysis Areas (FB2+, FB19+, and NC3A) are located within one or more identified NC-MSCP linkages. Given the critical nature of these lands for conservation, the Department is particularly concerned about the proposal to increase density in these areas.

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Very recently, in regular NC-MSCP planning meetings, County staff and representatives have repeatedly stated to the Wildlife Agencies that application of the Conservation Subdivision Ordinance (CSO) would require clustering of residential units to ensure conservation of PAMA. In fact, this was presented to be a primary tool to implement the NC-MSCP. However, it appears that some (notably CD14, FB2+, FB19+, FB21+, ME26, ME30A, NC3A, NC22, NC37, PP30, and SD15) of the proposed density increases may result in the CSO no longer being applicable or that conservation requirements would be reduced. This has the potential to adversely affect assembling the Preserve within PAMA and substantially further fragmenting habitat blocks in the County. Projects having such potential to undermine planning efforts should have been specifically presented to the Wildlife Agencies in our regular (monthly) NC-MSCP planning meetings. If prioritized by the County, such projects could still seek individual agreements by ensuring appropriate avoidance and/or mitigation components without compromising essential conservation objectives. While the additional meetings would slow progress toward completing the NC-MSCP, the Department is available to have such project-specific discussions, and recommends this occur in regular or additional planning meetings rather than extend blanket increases in density without specific analysis on the potential effects on species, vegetation/habitat types, or preserve design. This approach is much more in line with the Planning Principles advocated by the County in their NC-MSCP Stakeholders meetings.

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Given the extent of the potential impact on regional conservation planning efforts, CDFW recommends a final SEIR not be certified without providing a specific, robust analysis of each proposed zoning change. Where possible, the best available sensitive species information should be used and the requirements for subsequent,

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focused surveys for species, species groups, or other relevant information should be identified. Information developed for the NC-MSCP and EC-MSCP could contribute to such an analysis. Absent a comprehensive, project-specific analysis, the Department strongly recommends that the No Project Alternative be selected for the SEIR. With that in mind, we urge the County to recognize more than a decade of earnest planning effort that has occurred using federal, state, and local funding, and not allow projects a path that could impact the potential to develop a functioning preserve by eroding the importance of designated PAMA or FCA in each applicable adopted or draft plan.

Questions regarding this letter or further coordination should be directed to Eric Hollenbeck, Senior Environmental Scientist at (858) 467-2720 or Eric.Hollenbeck@wildlife.ca.gov.

Sincerely,



Gail K. Sevens
Environmental Program Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento

Response to Comment Letter S2

California Department of Fish and Wildlife

February 12, 2018

S2-1 This introductory comment recites the Department’s statutory authorities under CEQA and the Fish and Game Code. This comment identifies the Department as a Trustee Agency and a Responsible Agency under CEQA. This comment also discusses the Natural Community Conservation Planning program of the Department and states that the County is an active participant with current and under development conservation plans. The comment also correctly identifies the community planning areas within which the Project components are located.

This comment further states the Project may result in “take” as defined by the California Endangered Species Act and applicable Fish and Game Code. The Proposed Project will not require the need for take under the California or Federal Endangered Species Act because it does not permit development. Development applications made subsequent to the approval or denial of the Proposed Project may or may not need take depending on the proposed development and the biological resources found on the particular site. Projects located within the MSCP County Subarea Plan would be able to obtain take from the County, consistent with the Biological Mitigation Ordinance. Projects located outside the County Subarea Plan would need to obtain take authorization from the Wildlife Agencies. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

The Project does not involve proposals for, applications for, or approval of any development. The Project would only involve changes to General Plan land use designations, zoning regulations (when necessary for consistency with proposed land use designations on certain properties), and to Residential Policy 8 of the Valley Center Community Plan. The Project would not require subsequent approvals from CDFW in order for these types of changes to take effect and be finalized. The Project would not involve any of the potential examples given in the comment as rationale for CDFW being considered a Responsible Agency for the Project. Therefore, the County does not concur that CDFW would be considered a Responsible Agency under CEQA for this Project, as stated in the comment.

S2-2 The comment correctly describes the main components of the Proposed Project. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

S2-3 This comment correctly describes the general considerations taken into account with the development of the Draft Pre-Approved Mitigation Area (PAMA) of the Draft

MSCP North County Plan. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

S2-4 This comment further describes the general considerations taken into account, and the general intent of stakeholders, when working toward the development of the Draft Pre-Approved Mitigation Area (PAMA) of the Draft MSCP North County Plan. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

S2-5 The comment correctly describes the area intended for preservation in the approved MSCP County Subarea Plan and the currently inactive Draft MSCP East County Plan. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

S2-6 This comment refers to Section 2.3.4.6 of the Draft SEIR; the citation is in error as it does not exist. The citation is likely referring to Section 2.4.3.6, Issue 6: Habitat Conservation Plans and Natural Community Conservation Plans. While not a direct quote, the comment accurately repeats a statement made in the last paragraph on page 2.4-18 of the Draft SEIR. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

S2-7 Given this comment refers to Section 2.4.3.6, rather than 2.3.4.6 which does not exist, this comment inaccurately rephrases the discussion in the Draft SEIR. The section discloses that "...some projects would be exempt from MSCP limitations, while others would need to meet certain criteria as negotiated by the County and the federal and State wildlife agencies for future project approvals." The comment asserts that projects exempt from the MSCP would be subject to negotiation. That is inaccurate. The Draft SEIR states that some projects are exempt from the MSCP, while others that are not exempt from the MSCP are subject to meeting certain criteria and that criteria is negotiated by the County and the Wildlife Agencies for processing future projects.

Projects located within the approved County Subarea Plan are subject to the County's Biological Mitigation Ordinance as well as other regulations. Projects located outside of the approved County Subarea Plan are not subject to the BMO, but rather, criteria that is currently under development, or negotiation, by the County and the Wildlife Agencies for the MSCP North County Plan. The negotiation referred to is in relation to the MSCP North County as the Draft Plan is under development. Those criteria cannot be used for evaluating projects unless and until a MSCP North County Plan and its associated implementing ordinance(s) are adopted by the County Board of Supervisors, therefore the negotiation refers to ongoing discussions prior to the adoption of a North County Plan. There are no criteria to be negotiated for the MSCP County Subarea Plan (South County) as it is an adopted plan, the terms of which are not under discussion or negotiation by the County with the Wildlife Agencies.

S2-8 This comment claims that the SEIR does not provide an analysis of the effects of how the proposed zoning changes could affect adopted and under development MSCP plans.

The County does not agree that an analysis was not provided; Section 2.4.3.6 of the Draft SEIR includes the guidelines for determining significance and the impact analysis. The Draft SEIR concludes that impacts would be less than significant

Also, the planning documents under development, e.g. the MSCP North and East County Plans, are unaffected by the proposed zoning changes as they are draft plans and as such have no force or effect on the discretionary review of project applications. The Planning Agreement between the County and the Wildlife Agencies does include provisions for the County to consider project approvals in the context of its potential to preclude the assembly of a preserve system in the MSCP North and East County planning areas. Those considerations are more appropriately evaluated during a development project approval process. As noted previously, there are no development applications or proposals associated with the Proposed Project. Future development projects would have to comply with the provisions of any adopted MSCP plan in place at the time of development application, regardless of General Plan land use designation or zoning.

The Proposed Project does not alter any provisions of the adopted MSCP County Subarea Plan (South County) or the implementing documents, therefore projects proposed within the County Subarea Plan area will be subject to the same development regulations regardless of the Proposed Project General Plan land use designation changes or zoning changes.

- S2-9** This comment reiterates information contained in the Draft SEIR pertaining to the co-location of the PSR areas and the existing or proposed PAMA areas of the MSCP plans. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.
- S2-10** This comment lists those PSR area of particular concern to the commenter, but does not specifically list concerns for each area, but rather a general concern that these PSR areas are co-located with areas that could be conserved at some point in the future. Lands within the MSCP plan areas can be conserved in different ways including acquisition by a public agency, a land conservancy or other non-governmental organization, or land is set aside as mitigation when associated with a discretionary project approval. The Proposed Project does not preclude any of these actions to occur in the future. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.
- S2-11** This comment correctly states that the MSCP North County planning efforts include identification of key movement linkages which serve to create a functional Preserve network. This comment also states the Department is particularly concerned about PSR areas located within the identified linkages. Section 2.4.3.4 of the Draft SEIR analyzes potential impacts to identified wildlife movement corridors and linkages. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

S2-12 This comments states that County staff and representatives have stated to the Wildlife Agencies that the Conservation Subdivision Ordinance would require clustering of residential units to ensure conservation of PAMA. This comment further states the proposed density increases may result in the Conservation Subdivision Ordinance no longer being applicable or that conservation requirements would be reduced. The comment specifically references Analysis Areas CD14, FB2+, FB19+, FB21+, ME26, ME30A, NC3A, NC22, NC37, PP30, and SD15.

A Conservation Subdivision process is required in SR-10 and lower densities and is optional in higher densities. The retention of the Conservation Subdivision requirement, or lack thereof, was a major consideration in the development of alternative maps that were developed to address environmental impacts of the Proposed Project, and are analyzed in Chapter 4 of the Draft SEIR. This was also a major consideration in the evaluation of General Plan consistency for policies that apply to a “stand-alone” General Plan Amendment (GPA)/Rezone (with no development applications/proposals) and that were relied upon in the 2011 General Plan PEIR, which the Draft SEIR tiers from. This review of applicable General Plan policies by Analysis Area is provided in Section 2.9.3.2 of Chapter 2.9-Land Use and also in Section 4.2.1.9 of Chapter 4-Alternatives (for review of applicable General Plan policies in relation to alternative maps). In particular, see the references to the Conservation Subdivision requirement implications in the reviews of Policies LU-6.2 and LU-2.3.

A Conservation Subdivision process would be required for the entire Analysis Area in both the Proposed and Alternative maps for the following Analysis Areas referenced in the comment: FB19+, FB2+, ME26, and NC3A. For FB2+, ME30A, and PP30, a Conservation Subdivision process would be required for the entire Analysis Area in the Alternative map for each. For NC37, the Alternative map would retain the Conservation Subdivision requirement in the area of Draft PAMA. For CD14 and SD15, the Alternative maps would retain SR-10 or lower in the portions with the greatest wildlife corridor and sensitive habitat implications (northern and eastern portions of CD15; southern portion of SD15).

For Analysis Areas FB2+, FB21+, NC22, and PP30, the implications of proposed density increases per the Proposed Project maps in relation to sensitive habitats and wildlife corridors were critical considerations in the findings of General Plan Policy LU-6.2 (low density/intensity designations in areas with sensitive resources) inconsistencies for these Proposed Project maps. In the case of NC22, the Alternative map (which would also have a portion change from SR-10 to higher density) was also found to be inconsistent with this policy. Staff will not be recommending any map

options where General Plan inconsistencies have been found, and the Board of Supervisors would have to adopt findings of General Plan consistency for any map options they approve, even if they contradict the staff findings.

- S2-13** This comment states that proposed density increases which result in the Conservation Subdivision no longer being required have the potential to adversely affect assembling the Preserve within PAMA.

The Draft SEIR takes into consideration the increased density of development that could occur within PAMA/FCA lands with approval of the Proposed Project. Refer to Section 2.4.3.6, page 2.4-18 of the Draft SEIR for information on how the regulatory process works for development proposals within PAMA/FCAs. Conformance with the MSCP would be required for future development projects, regardless of the applicable General Plan land use designation.

See the response to comment S2-12 for information on how Conservation Subdivision requirement implications have played a major role in guiding the process of developing Alternative maps and in evaluating General Plan consistency for certain policies.

- S2-14** This comment claims that projects having potential to undermine MSCP planning efforts should have been specifically presented to Wildlife Agencies at monthly MSCP North County planning meetings with the County. The County does not agree with this statement as the commenter did not previously provide input on the Proposed Project during the NOP review period nor has the commenter requested the Project be discussed at meetings with the County. In addition to the monthly MSCP coordination meetings, 17 separate Interim Review/Batching meetings have been held between the County and the Wildlife Agencies since the NOP was issued. The commenter did not request the proposed Project be included as an agenda item. Thus, there has been ample opportunity for the commenter to request a presentation of the Proposed Project. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

- S2-15** This comment makes a general statement that projects could seek individual agreements. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

- S2-16** This comment states the commenter is available to have project-specific discussions and recommends this occur in regular or additional meetings with the County. As discussed in Response to Comment S2-14, the commenter was notified of the Proposed Project through the NOP process and had numerous opportunities to request the Project be discussed at regularly occurring meetings with the County. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.

- S2-17** This comment refers to the County extending blanket increases in density without specific analysis. The PSR GPA does propose changes to existing General Plan land use designations that would increase densities; however, the PSR GPA cannot predict when and how future development will occur. The maximum potential development can be analyzed on a programmatic scale. Thus, a programmatic SEIR was prepared for this Project.
- S2-18** This comment suggests a specific analysis approach is more in line with the planning principles advocated by the County in their MSCP North County Plan stakeholder meetings. As discussed in Response to Comment S2-17, the PSR GPA cannot predict when and how future development would occur. Also, the PSR GPA includes PSR areas located outside of the MSCP North County planning area. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.
- S2-19** This comment recommends a final SEIR not be certified without providing a specific, robust analysis of each proposed zoning change. The PSR GPA/Rezone proposes to amend the General Plan land use designations and, when necessary for consistency, the associated zoning use regulations. The PSR GPA/Rezone cannot predict when and how future development will occur, therefore maximum potential development is analyzed on a programmatic scale. Future subdivision applications and/or Site Plan applications would be required for development at any of the proposed densities/intensities of the Proposed Project, within all of the areas covered by the project (in addition to grading permits and other potential discretionary applications, depending on the area). These are discretionary processes which would trigger CEQA review. When future development projects are proposed (for densities/intensities allowed under the GPA proposals) within areas covered by the proposed project, the proposed development footprint would be analyzed in relation to potential impacts to biological resources and potential edge effects. The future projects would have to meet requirements in the County's Guidelines for Determining Significance – Biological Resources, the Resource Protection Ordinance (RPO), the Biological Mitigation Ordinance (BMO) where applicable, and the Habitat Loss Permit (HLP) where applicable, as referenced in mitigation measures Bio-1.5 and Bio-1.6 of the Draft SEIR. The SEIR is adequate and complies with CEQA and the CEQA Guidelines.
- S2-20** This comment states best available sensitive species information should be used and requirements for subsequent surveys should be identified. Section 2.4.3.1 of the Draft SEIR analyzes potential direct and indirect impacts to special status plant and wildlife species at the programmatic level of analysis. As stated in response to comment O3-4 and S2-19, future subdivision applications and/or Site Plan applications would be required for development in accordance with any approved density/intensity increases, within the areas covered by the Project. Presence (or the potential to occur) of sensitive species would require confirmation through site-specific biological resource surveys

and project level mitigation when future discretionary projects are proposed, as stated in Section 2.4.3.1 of the Draft SEIR.

- S2-21** This comment suggests information developed for the MSCP North and East County planning efforts could contribute the analysis in the Draft SEIR. See Response to Comment S2-20 above.
- S2-22** This comment recommends the No Project Alternative be selected for the SEIR. The County acknowledges the commenter's recommendation.
- S2-23** This comment urges the County to recognize the MSCP planning efforts and not allow projects a path that could impact the potential to develop a functioning preserve. This comment does not raise concerns regarding the adequacy of the Draft SEIR, therefore, no further response is required.