



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4201  
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



February 3, 2014

Ms. Emma Howard  
LA County Department of Regional Planning  
320 W Temple Street, Room 1354  
Los Angeles, CA 90012  
Email: ehoward@planning.lacounty.gov

**Subject: Request for Agency Input on the Draft Significant Ecological Area Ordinance, Los Angeles County**

Dear Ms. Howard:

The Department of Fish and Wildlife (Department) has reviewed the County of Los Angeles' (County) Draft Significant Ecological Area (SEA) Ordinance (Ordinance). The Ordinance provides a process that allows balanced development within the SEAs of the County and reconciles potential conflicts between conservation and development within the SEAs. It is the Department understands that the SEA Ordinance will be incorporated into the revised County General Plan that is currently being drafted.

The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act [CEQA] Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.*

#### SEA Ordinance Comments

1. The State Wildlife Action Plan, a Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) altered fire regimes; and 5) recreational pressures. The Department looks forward to working with the County of Los Angeles to minimize impacts to fish and wildlife resources with a focus on these stressors. The 2005 document as well as an overview for the revision process can be found on the Department website (<http://www.dfg.ca.gov/SWAP/>)
2. On Page 9 of 46, Section C., Part 28, under *Exemptions*, the Ordinance states that the following uses shall be exempt from the provisions of this Part 28: "7. Any of the following activities required, requested, authorized, or permitted by a governmental agency: a. Removal or thinning of vegetation for fire safety or in response to an emergency; and b. Hazard management activities in response to an emergency or other public safety concerns."

#### Comment:

- a. For projects under review by the County that cannot avoid being placed within an SEA, further planning efforts should be made to cite projects in a manner that will avoid or

minimize the necessity of performing ecologically damaging hazard abatement activities within an SEA (e.g., brush clearing, flood control, tree removal) that would be eligible for reduced biological impact assessments under this exemption.

3. The Ordinance states on page 15 of 46, Section 22.52.2920, under *Permitted Uses - Review Procedures part A., Site Plan Review*: "The following provisions shall apply to any ministerial Site Plan Review application required by Section 22.52.2915.A: b. During the biologist site visit, if instances of an observed or likely to occur species of special status officially listed by the State or Federal Governments as Endangered, Threatened or Rare are discovered, the application shall be referred to the California Department of Fish and Wildlife and the applicant shall comply with all relevant State and Federal laws and obtain all necessary State and Federal permits."

Comment:

- a. The Department requests clarification to the "ministerial Site Plan Review" process. This section implies review with less than comprehensive project approval discretion but then describes that a biologist will visit sites under this review. It's not clear what further biological review, if any, or additional discretionary decisions based upon this review will be required in relation to further project approvals.
  - b. Site Plan Reviews should include the evaluation of regionally unique or rare species. CEQA Section 15125(c) specifies that EIRs "should place special emphasis on environmental resources that are rare or unique to that region and would be affected by the project." This may include species that are not listed by a state or federal regulatory agency but are locally significant because it is being extirpated from the county or the species is at the edge of the range.  
A site plan review should utilize any available information, such as lists of locally sensitive species and information compiled by the County in responding to data gaps for this type of information, and other relevant biological data collected by the County. For example a Sensitive Bird Species Working Group composed of professional and experienced amateur ornithologists was convened under the aegis of the Los Angeles Audubon Society to compile a *Los Angeles County Sensitive Bird Species* report that lists sensitive bird species for Los Angeles County. This list is intended as a planning resource document and includes 32 species that are rare in the County even though they may be more common in other parts of their range, and 38 species that are also identified as sensitive by various agencies because of their status across a wider region. The document also establishes a Watch list for the County that identifies species that are less threatened, but at risk of being added to the sensitive species list if impacts continue to occur. See website: <http://losangelesaudubon.org/index.php/conservation-a-restoration-mainmenu-82/sensitive-species-report-mainmenu-150>
4. On page 17 of 46 under Section 22.52.2925 entitled *Development Standards*, it is stated: "4. Construction activities shall comply with the following State and Federal regulations, if applicable: a. The Migratory Bird Treaty Act (16 U.S.C. Section 703); and b. California Fish and Game Code Sections 3503 and 3513;"

Comment:

- a. There are additional state and federal laws and regulations that apply to threatened and endangered species protection besides the Migratory Bird Treaty Act and California Fish

and Game Code Sections 3503 and 3513. It would be more comprehensive to state that all pertinent applicable federal, state and local laws and regulations shall apply and then include some examples.

5. On page 18 of 46 entitled *Habitat Preservation Areas*, it states, habitat types will be described by: “ a. Following the biologist site visit required by Section 22.52.2920.A.2 and in accordance with the SEA Habitat Type List in the Appendix following this Part 28”

Comment:

- a. The Department recommends the County use the vegetation classifications found in The Second Edition of *a Manual of California Vegetation* for describing habitat types. This manual, the State standard since 2009, provides a standardized, systematic classification and description of vegetation communities found throughout the State. The classification system based on dormant species eliminates the use of generic terms that describe native vegetation as ‘desert scrub’, ‘chaparral’ or other that can downplay any significant vegetation resources on the project site. The recommended nomenclature should make it easier to determine which projects are impacting rare habitat because the different vegetation communities on-site will be described at a level to allow meaningful assessment. Further guidance on nomenclature standards and assessing project impact significance can be found on the following Department’s website:[http://www.dfg.ca.gov/biogeodata/vegcamp/natural\\_comm\\_background.asp](http://www.dfg.ca.gov/biogeodata/vegcamp/natural_comm_background.asp)
6. On page 19 of 46 under the discussion for the protection of trees the draft Ordinance states: “New structures and infrastructure shall be set back by at least 50 feet from the dripline of any mature tree identified on the Tree Species List provided in the SEA Program Guide and identified during the biologist site visit required by Section 22.52.2920.A.2. Oak trees shall also be subject to the provisions of Part 16 of Chapter 22.56; and...”

Comment:

- a. Any set-backs should be consistent with the *LA County’s Oak Woodland Protection Ordinance and Guidelines* which is currently under development.
7. On page 20 of 46 it is stated: “c. All development shall be set back from any Water Resources identified on the map required by subsection A.11.a above in accordance with the following chart:”

Comment:

- a. The Department recommends any proposed water resources setback widths be considered a minimum requirement as greater buffers may be warranted for sensitive biological resources if they are associated with these water resources. For example, Federal Endangered Species Act (ESA) - and California Endangered Species Act (CESA)-listed species may warrant greater buffer planning that are more protective for species. In addition, Department issued Lake or Streambed Alteration Agreements may also condition greater buffer areas on a project-by-project basis depending upon species presence and habitat quality.
8. On page 25 of 46 it is described how levels of SEA CUPs will be determined based on resources and impact criteria. One of these considerations is based on whether: “ b. The development is located within the habitat of a species identified as candidate, sensitive, or

special status species by the California Department of Fish and Wildlife or the United States Fish and Wildlife Service.”

Comment:

- a. The Ordinance should include species of regionally unique or rare species. This may include wildlife and plant species that are not listed by a state or federal regulatory agency but are locally significant due to being on the edge of the range for that species of because it is being extirpated from the County.
9. Page 28 of 46 it is stated: “22.52.2925 shall be made conditions of approval for any SEA CUP except where modified by the Reviewing Authority pursuant to Section 22.52.2950. B. Open Space Conditions. 1. Natural Open Space Provision.”

Comment:

- a. The Department requests clarification regarding the open space provision mitigation ratio chart “Percent of Entire SEA Proposed for Development”. It is unclear if this indicates the percent of the project site that is within an SEA or the actual total acreage of the entire SEA. For instance 5 percent of an entire SEA is quite significant while 5 percent of that portion of the SEA located within a development site may be considered less of an impact.
  - b. Some SEAs have been cumulatively degraded to the extent that they are no longer considered SEAs by the County. The Department recommends for loses to SEAs that do not require any open space provisions there should be a cumulative loss analysis threshold at which any loss to the SEA may require setting aside open space within the SEA.
10. On page 38 of 46, the Part 2B Appendix lists SEA Habitat Types and applies a habitat value to each. Within this list, chaparral is ranked as having a low habitat value.

Comment:

- a. The Ordinance should describe how habitat values were derived and clarify why chaparral is assigned a low habitat value. Habitat values should also be based upon biological diversity and not exclusively on amount of acreage or rarity of habitat type.

Thank you for this opportunity to provide comments. Please contact Mr. Scott Harris, Environmental Scientist, at (626) 797-3170 if you should have any questions and for further coordination on the proposed project.

Sincerely,



Betty Courtney  
Environmental Program Manager I  
South Coast Region

cc: Ms. Erinn Wilson, CDFW, Los Alamitos  
Ms. Kelly Schmoker, CDFW, Laguna Niguel  
State Clearinghouse, Sacramento