



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



November 24, 2014

Ms. Emma Howard
County of Los Angeles Department of Regional Planning
320 West Temple Street, Room 1354
Los Angeles, CA 90012
E-mail: ehoward@planning.lacounty.gov

Subject: Notice of Consultation on the Sixth Draft Proposed Ordinance for Los Angeles County Significant Ecological Areas

Dear Ms. Howard:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Draft 6 of the proposed ordinance for Los Angeles County Significant Ecological Areas (SEAs) (Ordinance). The Ordinance is a component of the Los Angeles County General Plan update and is a regulatory tool written to maintain a balance between conservation and development within designated SEAs located in unincorporated Los Angeles County.

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 (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 (CESA) (Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.*

1. Cross Referencing Within the Ordinance. When a section in the Ordinance cross-references another section within the Ordinance, the Department requests the final Ordinance include the page number of the referenced section to assist cross referencing review.
2. Exemptions. The Ordinance describes permitted uses within the SEAs and activities that are exemptions from further environmental review and consideration under CEQA. Activities that would be exempt from further CEQA review include vegetation removal for emergencies, hazard emergency maintenance, single-family home development, and other activities typically considered exempt from CEQA within non-SEA areas of the County.

The approval of projects within SEAs that are known to support sensitive biological resources without public CEQA disclosure, including a review of a biological assessment, could lead the applicant to inadvertently conclude that the proposed actions are not subject to additional regulations. The Department is particularly concerned about regulations under our purview, including protection for listed species (Fish and Game Code § 2050 *et seq.*), nesting birds (Fish and Game Code § 3500 *et seq.*), and jurisdictional waters of the state (Fish and Game Code § 1600 *et seq.*).

- a. The Ordinance should define what constitutes an emergency for the purposes of vegetation removal. The Department recommends the County clarify the definition of emergency in the Ordinance. The Department recommends use of Public Resources Code Section 21000 definition, which limits the work to eminent threat to health and human safety. The vegetation removal conducted to reduce risk, such as, but not limited to, wildfire and flooding can often be planned and conducted before a perceived or real emergency to avoid sensitive biological resources or to mitigate for unavoidable impacts to these resources.
 - b. The Department recommends the County avoid exempting from CEQA as a ministerial action (CEQA guideline 15268); single family homes, agriculture use, and other non-emergency activities within the SEA until it is determined the activities would not have a significant impact on biological resources or potentially result in impacts to waters of the state. Single family homes, for example, can be exempt from CEQA using a Class 3 Exemption (CEQA Guidelines § 150303) unless significant impacts may occur (CEQA Guidelines § 15300.1). Permitting the above activities as Ministerial within the Ordinance would result in the activities being Statutorily Exempt under CEQA for the County; However, in situations where the project would impact CESA-listed species or impact waters of the state subject to a Lake or Streambed Alteration Agreement (LSAA), the Department, as the Responsible Agency issuing a Discretionary permit (CEQA Guidelines § 15268(d), must assume CEQA Lead Agency authority for the project and issue a separate CEQA document.
3. Man-made Drainages. Page 20 of 57, Section 22.52.2920 B.1.d. describes staff biologist site reviews. Water resources should also include man-made drainages since these are often considered jurisdictional waters of the state and may be subject to the Department's LSAA permitting process.
 4. Department Consultation. Page 20 of 57, Section 22.52.2920 B.2. describes when the Department will be consulted for development proposals (e.g., CESA-listed species are detected). The Ordinance states that the County will assure compliance to applicable state and federal laws upon specific observations during a staff biologist site visit. The Department recommends the section include a provision that if any CESA-listed species are detected or if any potential Departmental jurisdictional waters of the state are observed, then the Department shall be consulted and the applicant shall comply with all state and federal permits. Early consultation with the Department is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA permit or LSAA.
 5. Fire Safety. Page 22 of 57, Section 22.52.2925 describes development standards that are protective of the integrity of SEAs. Section E describes brush clearing or fuel modification activities for fire safety.
 - a. Brush clearing activities should be subject to applicable state and federal regulations described for construction activities in Section 22.52.2925 D. Brush clearing activities can be conducted in pre-planned measures that are protective of biological resources, which would not be exempt from applicable laws protecting CESA-listed species, native birds, and jurisdictional waters of the state.

- b. SEA development standards should discuss measures to reduce edge effects from stressors such as fuel modification and the introduction of exotic species onto SEAs. For example, development projects may introduce exotic Argentine ants (*Linepithema humile*) onto SEAs and associated habitats for botanical and wildlife resources including arthropod pollinators and dispersal agents. It has been documented that habitat conservation areas located within 200 meters of areas infested with Argentine ants were more likely to have been invaded. Within invaded sites, native ants were largely displaced, and their median species richness declined by more than 60% compared with uninvaded sites (Fisher, Mitrovich, Matsuda and Pease. 2010). The Department recommends the SEA development standards be modified to prevent potential invasion and establishment of Argentine ant colonies, which may occur due to soil disturbance, introduction of hardened surfaces (e.g., paving, cement, storm drains, and structures), and unseasonal watering.
 - c. The Department has concerns regarding adverse effects to SEAs stemming from the recent Los Angeles County Department of Public Work's Notice of Preparation for an Environmental Impact Report (SCH# 2014091048) for a proposal to create an ordinance that would allow hauled water as the primary source of potable water for new development of single-family residences (hauled water ordinance). The hauled water ordinance would apply to homes on existing vacant legal lots or lots that are eligible for a certificate of compliance where the property owner has demonstrated that there is no other feasible source of private or municipal potable water or capability of developing an on-site well to provide potable water to the property. A hauled water ordinance could have significant adverse impacts on SEAs by enabling the removal and modification of native habitat within SEAs and by adverse edge effects on remaining surrounding habitat within SEAs touching a development projects subject to the hauled water ordinance. As stated in Comment 3.b. above, this is especially concerning to the Department since the Ordinance proposes to exempt single-family homes from comprehensive impact assessments by the County that are afforded in the Ordinance to larger developments proposed in SEAs.
6. SEA Permit. Page 25 of 57, Section 22.52.2935 A.3. describes uses subject to an SEA permit. See Comment 3 above.
 7. Missing Sections. Page 26 of 57, Section 22.52.2930 3.a. describes application procedures for uses subject to an SEA permit. This section references approval conditions in Subsection A1, A3, A5 and A6, which are said to be found under Section 22.56.030 of the Ordinance. Subsection A1, A3, A5, and A6, as referenced do not appear to be included on page 48 of 57 under Section 11, which covers Section 22.56.030. Please clarify where the referenced Subsections are located.
 8. Habitat Types and Values. Page 42 of 57, Appendix for Part 28 lists SEA habitat types and habitat values. The Department recommends coastal sage scrub be considered of high value, especially where it provides habitat for special status species. The Department would consider chaparral medium value.

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Page 4 of 4

We appreciate the opportunity to comment on the Draft Ordinance for the Los Angeles County SEAs and to assist in further minimizing and mitigating Project impacts to biological resources.

If you have questions regarding this letter, please contact Mr. Scott Harris by telephone at (626) 797-3170 or e-mail at Scott.P.Harris@wildlife.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Betty J. Courtney". The signature is written in a cursive style and is placed on a light-colored rectangular background.

Betty J. Courtney
Environmental Program Manager I
South Coast Region

cc: Erinn Wilson, CDFW, Los Alamitos
Kelly Schmoker, CDFW, Laguna Niguel
Victoria Chau, CDFW, Los Alamitos
State Clearing House, Sacramento

Literature Review:

(Sawyer et al. 2008). Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions.