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Ms. Brianna Menke
LA County Department of Regional Planning
320 W Temple St Room 1354
Los Angeles, CA 90012
Email: bmenke@planning.lacounty.gov

Subject: Draft Hillside Management Area Ordinance and Accompanying Draft Hillside Design Guidelines for Unincorporated Los Angeles County

Dear Ms. Menke:

The Department of Fish and Wildlife (Department) has reviewed the Draft Hillside Management Area (HMA) Ordinance and accompanying Draft Hillside Design Guidelines (HDG) which are designed to regulate development within designated HMAs in unincorporated Los Angeles County. The HMA Ordinance will be a component of the Los Angeles County General Plan 2035 Update. The Department understands that after the formal comment period closes, the 2013 Draft HMA Ordinance and Draft HMG will be revised. It is anticipated that public noticing of a Draft Environmental Impact Report and public hearings regarding the General Plan 2035 and its components, including the Draft HMA Ordinance, will begin in 2014.

The California Wildlife Action Plan, a recent 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. Please let Department staff know if you would like a copy of the California Wildlife Action Plan to review.

The Department is California's Trustee Agency for fish and wildlife resources, holding these resources in trust for the People of the State pursuant to various provisions of the California Fish and Game Code. (Fish & G. Code, §§ 711.7, subd. (a), 1802.) The Department submits these comments in that capacity under the California Environmental Quality Act (CEQA). (See generally Pub. Resources Code, §§ 21070; 21080.4.) Given its related permitting authority under the California Endangered Species Act (CESA) and Fish and Game Code section 1600 et seq., the Department also submits these comments likely as a Responsible Agency for the project under CEQA. (Id., § 21069.)

The Department recommends consideration of the following comments and recommendations when finalizing the HMA Ordinance and HDG. The cited section of the HMA Ordinance is followed by the Department's comments for each section.

1. Section 22.56.215 2. B.1. entitled "Hillside Management Areas" (HMA), page 2, states: "Constraints" means features of the built or natural environment containing hazards or environmental resources, including those listed in the Hazard, Environmental and Resource Constraints Model of the General Plan (Appendix C).

- a. There does not appear to be any references in the HMA Ordinance or HDG regarding measures to avoid or minimize impacts to biological resources from hazardous fire conditions that exist on hillsides due to dense vegetation growth and topographic features that fuel wildfire and convey heavy winds that drive wildfire, respectively. Citing development away from recognized wildfire hazards (heavy vegetation or near tops of steep canyons, etc.) may reduce the need for extensive fuel modification and associated adverse biological impacts in addition to reducing development related ignition sources that could cause biologically destructive wildfires on site and off site of development.
 - b. The latest October 2013 draft HMA Ordinance and HDG do not appear to include open space design standards that would require identifying the existence of drainage features and implementing protective provisions for these features. These measures were included in the January 2013 Draft HMA Ordinance that described on Page 7 of 12, Section (c)(iv) that natural watercourses with a minimum 50-foot buffer from the edge of the banks shall be mapped on the site plan and prioritized for inclusion in the required open space.
 - c. In the HMA Ordinance and HDG the Department recommends providing recognition on site plans where drainage features occur and providing ample buffers from development disturbances including fuel modification. The Department recommends a minimum 100-foot buffer on each side of the bank of drainage features from development related disturbances.
 - d. Some anthropogenic water courses exhibit important biological resource value and should be mapped for planning purposes in order to avoid oversight during subsequent plan review that may result in loss of resources or unauthorized impacts to state and/or federal jurisdictional streams. Further analysis should be utilized to determine resource value of each water course and inclusion within designated open space.
2. Section 22.56.215 D. entitled "Permit Required", parts (a) through (i). Beginning on page 6, the document lists exemptions from permitting under the HMA for smaller projects and those not exceeding a standard grading threshold.

The Department recognizes that smaller projects have a direct reduced impact footprint; however, there are circumstances when significant impacts may occur within reduced project footprints if those areas support special status species, drainage features and other wetlands, and critical wildlife movement linkages. The HMA Ordinance and HMG should recognize this potential and provide a screening process to avoid significant impacts that may be overlooked using the current exemption criteria. One recommendation would be to provide an exception to the HMA Ordinance exemption if adverse impacts to biological resources may occur on a project by project basis.

3. Section 22.56.215 E. entitled "Application Materials", page 8, describes the information required by applicants for a HMA Conditional Use Permit (CUP).

The Department recommends the inclusion of a biological resource report in the HMA CUP application process.

4. Section 22.56.215, F.4. (b) page 13, entitled "Recordation" states: "If the development is not a subdivision, required open space areas shall be shown on the site plan or lot line adjustment exhibit. All required open space shall be labeled as Open Space – Restricted Use Area on a recorded covenant."

The Department is unclear regarding the difference in standards for developments that are not part of a subdivision and developments that are part of a subdivision. The Department recommends that natural open space be protected in perpetuity under a conservation easement and managed by a local land conservancy to assure protection for any biological resource attributes included in the planning goals of the HMA.

5. Section F 5, page 13, entitled "Open Space Ownership and Management" states:
"If the development is a subdivision and open space lots are required by subsection F.3.c, prior to tentative map approval, a condition shall be established regarding ownership and management of the open space lots. The condition may require: a. Dedication to a government entity, such as a county, city, state, federal, or joint powers authority;
b. Dedication to a non-profit land conservation organization that meets the Statement of Qualifications of Non-Profits Requesting to Hold Mitigation Land according to Government Code Section 65965;

The Department believes that a due diligence review by a state or local agency must be broader to encompass other entities in addition to Non-Profits requesting to hold interest in mitigation land. See Government Code 65967(c) which states: "A state or local agency shall exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources. The local agency may adopt guidelines to assist it in that review process, which may include, but are not limited to, the use of or reliance upon guidelines, standards, or accreditation established by a qualified entity that are in widespread state or national use."

The Department recommends that the lead agency address the Department's concerns within subsequent iterations of the HMA Ordinance. 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: Erinn Wilson, Los Alamitos
Kelly Schmoker, Laguna Niguel
Scott Harris, Pasadena

