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February 10, 2012

Ms. Emma Howard
Los Angeles County Department of Regional Planning
320 West Temple Street, Room 1354
Los Angeles, California 90012

Comments on Preliminary Draft Significant Ecological Area and Hillside Management Area Ordinance

Dear Ms. Howard:

The Wildlife Corridor Conservation Authority (WCCA) provides the following comments on the Preliminary Draft Significant Ecological Area (SEA) and Hillside Management Area (HMA) Ordinance. WCCA was created to provide for the proper planning, conservation, environmental protection and maintenance of the habitat and wildlife corridor between the Whittier-Puente Hills, Chino Hills, and the Cleveland National Forest in the Santa Ana Mountains.

As you know, WCCA has been following closely the changes to the proposed General Plan, SEA boundaries, and SEA regulations[1]. WCCA provided numerous comment letters over the years, including a July 4, 2004 letter commenting on the General Plan Update and SEA Proposed Regulatory Changes.

WCCA greatly appreciates your efforts and finds that the proposed ordinance is generally well-drafted and should improve protections for the County's biological resources. The specific comments and suggestions that follow reinforce the County's and WCCA's shared aims. Page numbers refer to the preliminary draft ordinance published on November 10, 2011. WCCA's proposed additions to the text are <u>underlined</u>; proposed deletions are shown in ~~strike-out~~.

Purpose of SEA Ordinance

The purpose of the SEA Ordinance as written is "to ensure that development activities in these areas do not unduly compromise the underlying ecological systems of the County in such a manner that would

[1]WCCA prepared comments on the Los Angeles County General Plan, SEA boundaries, and/or SEA regulations in comment letters dated July 20, 2011; December 17, 2008; September 27, 2007; July 7, 2004; December 20, 2002; May 2, 2001; and April 30, 2001.

threaten the future existence of these systems" (22.56.215.A., p. 1, emphasis added). WCCA believes that this is an unnecessarily dire program objective that does not reflect the high quality of the ordinance that follows. The objective of the program should be to preserve ecosystem health, not just avert fatal impacts. WCCA recommends the following revision as a statement of overarching program goals: "to ensure that development activities in these areas respect their ecological context and do not unduly compromise the health and vitality of the County's diverse ecosystems."

As WCCA stated in its May 2, 2001 comment letter on the SEA Update Study, WCCA concurs with limiting development to no more than 20 percent of the SEA per the recommendation on the SEA Update Study Background Report (PCR Services Corporation et al., 2000[2], p. 29). It would be appropriate to include this as a policy in the General Plan or to include it in the purpose section of the SEA Ordinance, along with a procedure for monitoring impacts to the SEAs.

Need to Accommodate Open Space Park Agency Management Activities and Facilities in SEAs

The SEA Ordinance should clearly accommodate open space park agency management activities and facilities in the exceptions section. In the draft SEA Ordinance, several development activities are proposed as exceptions to the SEA conditional use permit (SEA CUP) requirement (22.56.215.D., pp. 4-6). The SEA CUP requires the submission of an initial project appraisal, including biological information (22.56.215.F., pp. 6-9). The SEA CUP requires development activities be reviewed by the Significant Ecological Area Technical Advisory Committee (SEATAC) (per the County's website).

Open space park agencies primarily target their land acquisitions within open space areas often supporting sensitive plant communities and other sensitive environmental resources. SEAs are identified based on the presence of these sensitive resources. Open space park agencies often have uses and facilities within SEAs, and it is critical that the proposed SEA Ordinance does not unduly burden open space park agencies in achieving their missions of protecting open space and providing interpretation and access for the public. WCCA recommends that the following activities be included as exceptions to the SEA CUP (22.56.215.D., pp. 5-6):

> [Exception to SEA CUP:] 9. Any of the following activities undertaken by a governmental agency of requested by a governmental agency:...

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[2]PCR Services Corporation, Frank Havore & Associates, and FORMA Systems. 2000. Los Angeles County Significant Ecological Areas Update Study 2000 Background Report. Prepared for: Los Angeles County Department of Regional Planning. November.

> e. passive recreational and open space park uses (e.g., construction or demolition of trails, scientific studies, interpretation activities, and other temporary park events hosted by park agencies [camps, trail maintenance days for volunteers, nature education activities, festivals, weddings, etc.]).
>
> [Exception to SEA CUP:] 10. Public facilities and infrastructure. This includes passive recreational and open space park support facilities (e.g., trails, facilities, and existing structures necessary for open space management activities; nature centers and camps; offices and ranger stations in existing structures; park staff residences in mobile homes and existing structures; native plant nurseries; restrooms; parking; fencing; signage; etc.).

In addition, WCCA recommends that all native habitat restoration programs be excepted from the CUP requirement, not just those for fire prevention, in order to avoid a redundant and unnecessary permit review process for activities that are necessary to improve ecological function. We recommend the following change (22.56.215.D., pp. 6-7).

> [Exception to SEA CUP:] 9. Any of the following activities undertaken by a governmental agency...
>
> c. Native habitat restoration programs ~~for fire prevention~~...

Need for Other Modifications to SEA Conditional Use Permit (CUP) Exceptions

The draft SEA Ordinance provides an application process and CUP requirement for projects within an SEA, as long as they do not fall within the exception categories. In addition, the draft SEA Ordinance (22.56.215.E., p. 6) states that if a development requires a CUP and is located only within an Ecological Transition Area (ETA)[3], the applicant may request that the Director consider the application in accordance with the Minor Conditional Use Permit provisions. (Under the Minor CUP process, a public hearing may or may not be held [existing County code 22.56.085].) Under the preliminary draft SEA Ordinance, some exceptions would include new individual single-family homes (involving grading of less than 5,000 cubic yards, or cumulative floor area of less than 4,000 square feet), vegetation clearance of less than 2.5 cumulative acres, and managed grazing as an accessory use. Monitoring the impacts on SEAs is important to understand the cumulative impacts on the SEA. As such, thresholds for exceptions much be carefully chosen because impacts to SEAs from excepted projects may not be documented. We are

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[3]The draft SEA Ordinance (22.56.215.B., p. 2) states that an Ecological Transition Area is a subset of a Significant Ecological Area where the natural ecological features or systems have been degraded as a result of past of on-going land use activities but are deemed functionally integral to the SEA or support important plant or animal populations.

concerned that the proposed exceptions for the draft SEA Ordinance regulations would let projects through like a super-coarse sieve.

More specifically, WCCA seeks clarification as to why grading projects of less than 5,000 cubic yards are excepted from the ordinance (22.56.215.D.3., p. 5). (We assume that the County intended to state that grading projects of *less* than 5,000 cubic yards of earthwork would be excepted, rather than *more* than, as stated.) If it is because there is a separate process that takes effect at that threshold, then the ordinance should explicitly state that the SEA standards, guidelines, and mandatory findings still apply for discretionary actions taken under a different ordinance. Alternatively, these projects should also have to apply for a SEA CUP. If the 5,000-cubic yard threshold was intended to be an upper limit, then it is much too high. This comment also applies to the proposed HMA provisions (22.56.216.D.5., p. 20). (Again, we assume the County intended that grading projects less than, not more than, 5,000 cubic yards would be excepted from the HMA CUP.) We also are concerned with cumulative impacts to SEAs from exceptions for projects that result in large areas of surface grading. At the very least, we recommend the following changes:

> [Exception to SEA CUP:] 3. Grading projects of ~~more~~ less than ~~5,000~~ 1,000 cubic yards
>
> [Exception to SEA CUP:] 2. Individual single family residences...This exception shall not apply if:
> c. Grading of more than ~~5,000~~ 1,000 cubic yards of earthwork or more than 5,000 square feet of surface area grading...
> d. The cumulative floor area of the single-family and all accessory structures exceeds 4,000 square feet.

This 1,000 cubic yards recommended amount is approximately equivalent to 100 full-sized end dump trucks. Similar changes should be made to the HMA Ordinance (22.56.216.D.2.c., and 22.56.216.D.5.).

Also, the 2.5-acre threshold for vegetation clearance (22.56.215.D.5., p. 5) is too high as a general rule. By definition, vegetation within a SEA is critical to continued ecological function. The amount of habitat that can be cleared without a significant impact is context-sensitive, depending on both the vegetation type to be cleared and the surrounding land cover. The location can also define the significance of the impact (e.g., if it is in a sensitive habitat area near water sources used by wildlife [such as mammals], or near a habitat linkage chokepoint, versus if the habitat is abutting an existing residential development). In some locations, the loss of 2.5 acres of vegetation may be below a level of significance. However, in sensitive areas, even the loss of a critical 0.5 acre could significantly impact the surrounding SEA function.

Also, the lack of documentation of a cumulative habitat loss of up to 2.5 acres at a time would be contrary to the desired goals of protecting the integrity of the SEAs. For example, the presettlement extent of the sensitive plant community coastal sage scrub has been destroyed by 70-90 percent in southern California[4]. This plant community is sensitive because it has sustained such great losses and it supports numerous sensitive and declining wildlife species. Numerous projects resulting in just less than 2.5 acres of this plant community loss could potentially result in a significant cumulative impact on this plant community, without adequate documentation, avoidance, and mitigation. Such a threshold should be set in the context of a location-specific biological study, rather than a general County-wide rule.

Furthermore, woodlands and riparian resources are particularly sensitive to disturbances smaller than 2.5 acres. Even a fraction of an acre that interrupts the continuity of a riparian corridor would significantly harm resources. To address this issue in a comprehensive way, WCCA recommends that clearance of native vegetation occur only after an initial project appraisal that identifies sensitive vegetation, as required by 22.56.215.F.1.iii. (pp. 7-8). Only once sensitive vegetation and habitat, including woodlands and riparian resources, are identified can clearance be designed to prevent, avoid, minimize, or mitigate impacts as intended by the ordinance. It is unworkable to allow a substantial amount of clearance without first knowing what resources will be lost.

In any case, 2.5 acres is much too high of an allowance without specificity to sensitive habitat types. Furthermore, there is no acreage limit in the proposed SEA Ordinance for grazing and corrals in SEAs. In particular, if the County chooses not to proceed with a context-specific basis, we recommend that the thresholds for sensitive plant communities and habitats be set lower than the thresholds for other vegetation types. At the very least, we recommend the following changes (22.56.215.D.5., p. 5):

> [Exception to SEA CUP:] 5. Vegetation clearance of less than ~~2.5~~ ½ cumulative acre~~s~~.
>
> [Exception to SEA CUP:] 7. Managed grazing lands of horses, cattle, or sheep, and the construction of corrals as an accessory use, resulting in less than ½ acre, as allowed by Title 22 and other applicable County regulations, including but not limited to regulations related to time of year, County wildlife preserves, and hazardous dust conditions.

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[4]Multiple citations in: Noss, R.F., E.T. LaRoe III, and J. M. Scott. 1995. Endangered Ecosystems of the United States: A Preliminary Assessment of Loss and Degradation. Biological Report 28. U.S. Department of the Interior, National Biological Service. February

SEA Development Standards and Guidelines

Regarding the configuration of open space to be preserved on a project site, we recommend the following change (22.56.215.H.1., p. 10);

> a. Preserved Habitat. Preserved habitat and water resources areas designated open space shall be contiguous within the project site and with dedicated open space on adjacent parcels. The location of preserved habitat areas should align with regional, local and site specific habitat and wildlife linkages and limit the creation of isolated islands of habitat. <u>The preserved habitat should be clustered, rather than long and skinny, in order to minimize edge effects on the preserved habitat.</u>

The lighting guidelines should include a firm standard like the noise guidelines. In addition to requiring that lighting be directed and shielded (22.56.216.H.1.i., p. 11), projects should be held to preventing ambient light from illuminating natural areas. For example, a standard in lumens could be set at 200 feet from the perimeter of developed areas. Furthermore, in and adjacent to SEAs, lighting intensity and extent (e.g., numbers of lights and/or locations) should be limited to reduce the overall glow of night lighting. This would be consistent with the recommended management practice from the SEA Background Report (PCR et al., 2000), which states that lighting for public health and safety should represent the minimum required to conform to applicable ordinances (p. 29).

We concur with the comment of the Puente Hills Habitat Preservation Authority (January 26, 2012 letter) regarding setbacks from dedicated natural open space. The draft ordinance requires that structures and infrastructure in high fire areas be set back at least 200 feet from dedicated natural open space within the site or on adjacent parcels (22.5.215.H.1.b., p. 10). This requirement should be applied to all areas, not just within high fire areas, as fuel modification requirements could possibly by expanded to up to 200 feet in other areas.

The draft ordinance's treatment of roadways through SEAs (22.56.215.H.2., p. 12) is comprehensive. Will these standards apply to County road projects as well? WCCA also notes that while wildlife passages are more effective when free from human activity, shared hiking-wildlife crossings have been successful in some locations.

Need for Solid Permanent Protection of Open Space in SEAs

The legal protections proposed for open space areas (22.56.215.H.3., pp. 12-13) are appropriate. However, as a preservation instrument, conservation easements are a preferred mechanism over deed restrictions. Conservation easements are enforced by a third party, which improves accountability for compliance with open space restrictions.

WCCA requests that voluntary conservation easements be listed before deed restrictions on page 13 to denote this preference.

While the draft ordinance does provide dedication of open space to a land management entity, it does not provide the funding necessary for an agency to take on additional management burdens, nor does it specify when the dedication would occur. A funding mechanism should be provided for management of dedications (including for conservation easements) over a certain size, for example 40 acres, subject to waiver by the Director for special circumstances. Depending on the specific resources in the open space to be protected, the funding could be minimal, for example, to fund periodic biologist or ranger site visits, or more involved, such as plant and wildlife annual monitoring and management. The SEA Ordinance should identify the specific, pre-permit issuance timing of the open space dedication – such as – prior to the issuance of a grading or other permit, map recordation, vegetation removal, or issuance of a certificate of occupancy.

Other Comments on SEA Ordinance

It is our understanding from the County website and from conversations with Department of Regional Planning staff that SEATAC review is mandatory for all of the activities within a SEA requiring a CUP or minor CUP. WCCA recommends that the County specify that requirement in the SEA Ordinance. The SEA Ordinance should also specify that not only regular CUPs, but also minor CUPs, require preparation of an initial project appraisal and a biota report/biological constraints analysis.

We appreciate the requirement for key biological information in the initial project appraisal for projects subject to the SEA CUP (22.56.215.F.1., pp. 6-8). Consistent with comments provided by the Puente Hills Habitat Preservation Authority (January 26, 2012), please consider including the requirement for an assessment of regional habitat linkages, wildlife corridor, and wildlife movement chokepoints present within the SEA, which may be impacted by the proposed development, as well as potential avoidance and mitigation measures.

Hillside Management Area Ordinance

Unlike passive recreation facilities like trails, "[p]arks, playgrounds, and other recreational facilities" are built environments and do not meet the definition of protected open space (22.56.216.F., p. 24). These uses should not be allowed in the required open space. Native plants, trails, and manufactured slopes are appropriate uses of open space dedications. WCCA recommends deleting 22.56.216.F.1.c.ii. "~~(a) Parks, playgrounds and other recreational facilities;~~" accordingly (p. 24).

Consistent with previous comments, conservation easements are the preferred preservation instrument for open space areas. Recordation of a voluntary conservation easement should be included in the list of acceptable instruments on page 25 (22.56.216.F.d.). We recommend this be listed as the first option. Recordation on a final map (i.) should be changed to recordation of a deed restriction to maintain consistency with the SEA section. (Section d. already references recordation on all maps.)

We appreciate your consideration of these comments. We look forward to continued collaboration with the County as this General Plan and SEA process moves forward. Please continue to maintain our agency on your email/mailing lists for the General Plan, SEA Ordinance, and related documents. If you have any questions, please contact Judi Tamasi of our staff by phone at (310) 589-3230, ext. 121, or by email at judi.tamasi@mrca.ca.gov.

Sincerely,

Glenn Parker
Chairperson