United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Palm Springs Fish and Wildlife Office
777 East Tahquitz Canyon Way, Suite 208
Palm Springs, California 92262

In Reply Refer To:
FWS-SB-12B0329-16CPA0289

APR 29 2016

Ms. Kim Stater
City Planner
City of Highland Planning Department
27215 Base Line
Highland, California 92346

Subject: Final Environmental Impact Report for the Harmony Specific Plan Project, Highland, California

Dear Ms. Stater:

The U.S. Fish and Wildlife Service (Service) has reviewed the subject Final Environmental Impact Report (FEIR) for the proposed Harmony Specific Plan Project (Project) received on March 18, 2016. The Service provided comments on the Draft Environmental Impact Report (DEIR) to the City of Highland (City; the CEQA lead agency) in a letter dated June 4, 2014. The Service then reviewed the recirculated DEIR (RDEIR) and provided further comments to the City on October 13, 2014 and April 15, 2015. The Service does not feel their concerns regarding the analysis of impacts to biological resources have been adequately addressed in the FEIR and we recommend it not be certified as written.

We recognize that this letter is coming to you outside of the prescribed CEQA process for the FEIR and appreciate your attention to our comments. Because it appears that this project may result in take of listed species and might be the subject of a section 7 consultation under the Endangered Species Act, we wanted to reiterate our concerns related to listed species and designated critical habitat will now, because they will need to be addressed in the consultation process. If the project does not need a Clean Water Act permit and has no other federal nexus, so a section 7 consultation is not appropriate, we request that the project proponent and the City begin discussion s with us as soon as possible regarding a take permit under section 10 of the Endangered species Act. We also understand that the information we provided in our April 2015 letter regarding golden eagles in the project area was outside of the CEQA public comment period. We provided that information because project and the City are still subject to the federal the Bald and Golden Eagle Protection Act. Our concerns as they relate to CEQA and the federal statutes are discussed below.

We disagree that the Project's impacts to biological resources are less than significant and we recommend the City develop and adopt alternatives to reduce its impacts on protected biological resources. According to *CEQA Guidelines Section 15065* (Mandatory Findings of Significance),

a project is considered to have a significant effect on the environment 1) if the project has the potential to substantially reduce the habitat of fish or wildlife species or 2) if it significantly reduces the number or restricts the range of an endangered, rare, or threatened species. The Service has identified potential direct and indirect effects to San Bernardino kangaroo rat, southwestern willow flycatcher, least Bell's vireo, golden eagle, mountain yellow-legged frog, Santa Ana sucker, and coastal California gnatcatcher. The Service requests that the FEIR be revised and recirculated to address the following issues and reduce impacts to less than significant.

San Bernardino Kangaroo Rat

The Service has serious concerns regarding direct impacts to San Bernardino kangaroo rat (*Dipodomys merriami parvus*; SBKR) and the adverse modification of SBKR critical habitat. The project proponent fails to define the number of acres of SBKR critical habitat within the Project area; however, the Service estimates it to be approximately 400 acres. The City repeatedly states that only intermediate Riversidean Alluvial Fan Sage Scrub (RAFSS) is suitable habitat for SBKR and therefore trapping studies were confined to this habitat type. In fact, the Final Rule defining Critical Habitat for SBKR states that the species occupies a wider range of soil and vegetation types than previously thought, including areas of higher vegetation density. Research has shown that areas with mature RAFSS and associated coastal sage scrub and chaparral are in fact utilized by SBKR (Braden and McKernan, 2000). Service biologists have observed this at a site downstream within the floodplain of the Santa Ana River, at a site with dense RAFSS and a large population of SBKR off Opal Avenue, in Redlands, CA. Furthermore, the fourth primary constituent element is listed as upland areas proximal to floodplains, including marginal habitats such as agricultural lands and orchard margins. The property site contains such habitat that was not surveyed. Regarding RAFSS habitat, the federal document defining Critical Habitat for SBKR goes on to state that "although mature areas are generally used less frequently by the kangaroo rats or occupied at lower densities than those supporting earlier phases, these areas are essential for the conservation of the species." In addition, critical habitat may or may not be currently occupied by the species, as defined in Section 3(5)(A) of the Endangered Species Act, but contain physical or biological features that are essential to the conservation of the species.

Based on the above information, the applicant's assessment that there are only 7.3 acres of suitable habitat for SBKR along the southern boundary of the property is a gross underestimate. Surveys for SBKR were limited to intermediate RAFSS. It appears that the project contains 50.7 acres of mature RAFSS, 124 acres of RSS, 668 acres of disturbed RSS, 328 acres of non-native grassland, and 187 acres of former orchard. Each of these communities can support SBKR if alluvial soils are present (Braden and McKernan 2000). The Service recommends that all habitats within the alluvial floodplain south of the bluff at Newport Avenue and the area of critical habitat which extends from Greenspot Road into the proposed development area be trapped for SBKR. We cannot determine impacts with an adequate level of certainty without a more comprehensive presence/absence survey.

An additional significant concern is the proposed location of the Mill Creek Bridge in the southeastern corner of the project. The proposed bridge and road appear to bisect the only SBKR critical habitat, 7.3 acres, in the Project area which is not proposed for development. This bridge is designed to allow residents access to Highway 38 and have an additional outlet in case of emergency. However, it is placed in a very poor location from a biological standpoint. Statements made on pg. 5.4-69 of the FEIR indicate this placement was chosen as it is "the least environmentally sensitive location", "avoid[s] loss of additional habitat", "minimize[s] additional habitat fragmentation", and "avoid[s] impacts to federally and state listed species known to occur within the RAFSS habitat associated with Mill Creek". The Service is unclear as to how these determinations were made. The bridge access point is at the known location of an SBKR trapped during a pre-project survey, and will create a road and traffic through the occupied habitat where it is currently not fragmented. Road lighting and noise may disrupt SBKR biological functions. The effects of direct lighting onto the proposed access road and bridge were not analyzed as to the impacts this would have on immediately adjacent occupied SBKR habitat. The construction and long-term impacts of the bridge placement need to be addressed.

In MM BIO 2, the applicant proposes to mitigate for the loss of 24.3 acres of intermediate RAFSS at a 2:1 ratio and the loss of 36.7 acres of mature RAFSS at a 1:1 ratio by preserving and/or restoring and enhancing 85.3 acres of existing RAFSS habitat offsite. In contrast, MM BIO 5 and FEIR Appendix D.1 – Habitat Assessment state that a total of 88.8 acres will be lost through project development: 38.1 acres of intermediate RAFSS and 50.7 acres of mature RAFSS. We would like clarification as to why acreages within the FEIR and supplemental documents do not correspond. Regardless, the proposed mitigation is insufficient to compensate for the loss of nearly 400 acres of SBKR critical habitat with no additional RAFSS habitat to be created. In fact, the proposed 85.3 acres is actually a reduction from the proposed mitigation acreage within the DEIR. In order to adequately mitigate the loss of the proposed acreage, the enhancement of existing RAFSS habitat would need to more than double its biological function and value. The majority of the historic range of SBKR has been lost due to flood control projects, aggregate mining and urban development. Each acre of habitat developed will cumulatively contribute to this historic loss. Given the substantial cumulative loss of habitat which has occurred, other potential developments in SBKR habitat, and the very limited amount habitat remaining, habitat conservation needs to be the primary mitigation strategy for any impacts to SBKR. Habitat restoration, while of some potential benefit to SBKR, does not reduce the next loss of habitat and thus should be viewed as a secondary measure.

We do not agree that preservation, restoration, or enhancement of habitat on the south side of Mill Creek will provide a biologically superior alternative to the preservation of existing intermediate and mature RAFSS on-site. The purchase of credits within the Cajon Creek Conservation Bank is likewise an inappropriate mitigation strategy, as it occurs within a different watershed and population of SBKR, and therefore does not represent in-kind mitigation. It is unlikely there is enough remaining RAFSS habitat within the Santa Ana River Critical Habitat Unit to compensate for the loss of this size of acreage.

The Santa Ana River Critical Habitat Unit is arguably the most important to achieve species recovery, as it includes the largest and least fragmented meta-population of SBKR remaining. The Service would like to see more significant onsite conservation and management to maintain the hydrologic function and connectivity between Mill Creek and important upland refugia habitat. We recommend that a Project be adopted that includes avoidance and preservation of SBKR habitat adjacent to Mill Creek similar to that proposed in Project Alternatives 4 or 5.

Edge Effects

An analysis of impacts regarding edge effects on SBKR, least Bell's vireo (*Vireo bellii pusillus*; LBV), southwestern willow flycatcher (*Empidonax traillii extimus*; SFWL), and other wildlife were not addressed sufficiently in the FEIR. Edge effects may include noise, light, non-native predators such as domestic cats, increased wildfire risk, and increased unmanaged human use and access to the area.

While the Service appreciates that the project proponent will install fencing surrounding the development, they do not specify the type of fencing that will allow wildlife movement into the conserved habitat areas, including the Wooly Star Preserve Area, but prevent humans and domestic cats from entering. The Service requests further information regarding the design, the ongoing maintenance of the proposed fencing, and associated funding sources. Additionally, the Service is concerned that the proposed trails' access will allow domestic predators, such as cats, access to the wildlands surrounding the development.

The existing trails will undoubtedly be used in much greater frequency if the proposed development is built as planned, and the effects on local special-status wildlife were not addressed. For instance, aerial imagery shows an existing trail entering Morton Canyon from the ridge above, which is directly adjacent to the proposed development footprint. This canyon and the associated riparian vegetation within provide important habitat to LBV and SWFL and was identified as avoidance and minimization for the Project. However, trail use in the canyon can cause direct impacts to the species using this habitat. Likewise, the proposed Project has residential developments directly abutting areas identified as conserved SBKR critical habitat. Educational signs and materials outlining the dangers domestic cats pose to wildlife are unlikely to be effective to keeping domestic cats within the development. The FEIR does not address the potentially significant effects of increased trail use on listed and special status species. We recommend that these impacts be analyzed and addressed before the FEIR is certified. The Service again requests the fence design proposed for each section of the development's perimeter.

The project proponent references that they address potential noise effects to sensitive biological resources within MM NOI 1. However, this Final Noise Impact Study will comply with the City's ordinances regarding noise standards. The City's ordinance does not address noise impacts to biological resources. Long-term noise impacts beyond construction of 3,632 residential units and associated roads will cause impacts to surrounding natural areas that were not analyzed in the FEIR. They need to be assessed and analyzed and as needed, measures to be

reduce noise impacts to special status and listed species should be included.

In addition to noise, the applicant proposes to construct a ball park with high intensity lighting within SBKR critical habitat. The effects of this were not assessed within the FEIR and no mitigation was proposed. Although the project proponent states they will comply with all applicable lighting codes and ordinances set forth by the City of Highland, again the ordinances were not designed to afford protection to biological resources. The overall Specific Lightning Plan needs to include mechanisms to shield SBKR habitat, and other adjacent wildland from the lights of the proposed ballpark, as well as from street, bridge, and house lighting.

Golden Eagles

As previously stated in our comment letter dated April 15, 2015, golden eagles (*Aquila chrysaetos*) have been documented nesting within 2 miles of the Project. Although they are not nesting within the Action Area, golden eagles generally concentrate their foraging activity to 3800 acres or within 6 miles during nesting periods (Marzluff et al. 1997). Successful foraging forays are essential to their nesting and rearing of chicks. Service biologists confirm that the eagle pair in question appear to forage in the direction and location of the proposed Project, as they have observed their travel to and from site. Golden eagles primarily seek prey in open areas, including the foothills and floodplain, and around the edges of the remnant orchards on-site. The proposed Project would equate to the loss of more than 1000 acres of suitable foraging habitat, as well a reduction in prey availability within their territory. The area proposed for development is one of the last remaining expanses of open habitat in this pair's immediate vicinity. If the eagles are forced to travel farther distances to forage, this could result in longer time periods away from the nest, as well as excessive energy expenditure to the point which may not be sustainable. Based on this information, it is the Service's assessment that direct impacts to a golden eagle nesting pair would occur as a result of the proposed Project. Additionally, the vicinity of the Project has not been well surveyed for extant eagles and Service biologists suspect that there may be additional pairs further to the west and north of the Project site that could also utilize this open habitat.

As stated in previous comment letters, it is ultimately the responsibility of those involved with the planning, design, construction, operation, and maintenance of projects to conduct relevant wildlife and habitat evaluation and determine, which, if any, species may be affected, and to seek and obtain necessary permits to avoid liability. Further assessment of golden eagle foraging and nesting activity in the area was not provided as the Service requested and we again repeat this request. To reduce potential impacts to golden eagle foraging areas within the Project footprint, the Service strongly recommends the adoption of a project alternative such as Alternative 4 or 5 within the FEIR.

Mountain Yellow-legged Frog

The Service disagrees with the assessment that there is extensive buffering between the proposed development and potential mountain yellow-legged frog (*Rana muscosa*) habitat. Planning Area

45 is within close proximity of Morton Creek, as is a proposed road. In addition to increased noise due to the nearby residential neighborhood, which may interfere with frogs' calling and ability to find mates, we have previously stated our concerns regarding increased human access to the creek where frogs may reside. We repeat our recommendation that focused surveys be done for mountain yellow-legged frog, using established USGS protocols, and the result included in the recirculated FEIR.

Santa Ana Sucker

The FEIR still does not adequately address the Service's concerns regarding the potential effects to Santa Ana sucker (*Catostomus santaanae*) critical habitat. Major storm events have the potential to wash coarse substrate into Mill Creek, which the sucker needs for reproduction in the lower Santa Ana River. The FEIR states that the majority of coarse sediment currently empties into existing USACE sediment basins, and therefore this issue does not need to be addressed. They refer to a hydrology map within FEIR Appendix I.1. This argument does not address all of the sediment transport in the Mill Creek watershed. There are at least two significant drainages and a number of minor ones that are directly tributary to Mill Creek. The presence of the detention basins in Mill Creek means that the remaining hydromorphic processes are of increased importance in maintaining the function of Santa Ana sucker critical habitat.

The coarse sediment that was historically delivered by the upper Santa Ana River has been trapped behind Seven Oaks Dam and Plunge Creek and now contains a settling basin that has been modified for mining (Service 2010). City Creek and Mill Creek are now the remaining contributors of coarse sediment into the mainstem of the Santa Ana River below the Seven Oaks Dam. We recommend that an alternative be adopted, which avoids reducing further reductions in sediment transport into and from Mill Creek. Alternatives 4 and 5 would preserve some of the Project area's important value as a source of coarse sediment because the eastern portion of the project site would remain intact.

Coastal California Gnatcatcher

The Service previously requested further surveys for coastal California gnatcatchers (*Polioptila californica californica*; CAGN) be conducted across all suitable habitat within the project boundary. We appreciate that 800 acres of Riversidean Sage Scrub (RSS) and RAFSS were surveyed in 2013 and 2014, and that no CAGN were documented. However, please be aware that a negative finding does not conclude absence of the species. There are numerous documented sightings of CAGN within one mile of the Project boundary within recent years, and therefore it is highly likely that they occur within the Project area. Furthermore, the assessment that CAGN are limited to elevations below 1,500 feet is incorrect; the species occurs at higher elevations inland than they are usually found near the coast. In fact, the Habitat Assessment (FEIR Appendix D.1) states that CAGN have historically occurred on the project site.

The Service also maintains that it is highly unlikely that the bird observed in the 2011 survey was a black-tailed gnatcatcher (*Polioptila melanura*). The explanation given for this unusual

event (a desert species occurring outside the desert) was that the area was in a state of drought that year. In fact, the Palmer Drought Severity Index indicates that Southern California was not in drought conditions in 2011, but was experiencing mid-range to moderately moist conditions. This leaves us to remain in doubt of the identification of gnatcatchers to species-level in the 2011 survey. Mr. Cardiff's statement that it was "very possible" to have a black-tailed gnatcatcher within this habitat is not the same as a verification of positive identification. If there is potential for direct impacts to CAGN through the significant habitat loss of 800 acres, appropriate in-kind mitigation should be proposed. Alternatively, the adoption of either Alternative 4 or 5 would significantly minimize impacts to both RSS and RAFSS and thus provide habitat for any CAGN that may be in the area.

Wildlife Corridors

State *CEQA Guidelines Appendix G* asserts that impacts related to biological resources may be considered potentially significant if the Project interferes substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors. The Service continues to find significant direct impacts to wildlife corridors within the Project as currently proposed. As stated in our June 4, 2014 comment letter, the proposed development footprint occupies the majority of the remaining wildland between the San Bernardino Mountains, San Bernardino National Forest and the Crafton Hills. The purpose of wildlife corridors is to provide a range of life history functions for a diverse array of species. They are not merely a means of passing from one area to another. Wildlife corridors also increase genetic diversity through the movement of species over time, thereby maintaining healthy populations that are not genetically isolated and thus subject to local extirpation. Many of the rodent and lagomorph species documented within the proposed development also provide a prey base for the previously discussed golden eagles that nest locally.

We continue to have significant concerns regarding the loss of habitat maintaining a connection between the San Bernardino Mountains and the Crafton Hills. Although we have reviewed the Wildlife Corridor Analysis (FEIR Appendix P.3), several items remain unclear or are inadequately addressed. For instance, it states that "based on field observations and area topography, wildlife movement occurs primarily in the eastern portions of the project site where the slopes of the San Bernardino Mountains are less severe, allowing better movement opportunities for larger mammals to travel out of the San Bernardino Mountains, across the eastern portion of the project site, into the Crafton Hills." The Service would like to reiterate that wildlife corridors are not simply a means for wildlife movement but in fact provide habitat that a multitude of species utilize, including an entire food web that may culminate with larger mammalian species. It is also unclear to us how the existing Crafton Hills wildlife corridor shown in Exhibit 2 was identified and determined to be sufficient. As stated in the FIER, the severe slopes of the San Bernardino Mountains appear to inhibit movement in a northwest to southeast (and vice versa) direction; however, this is precisely the direction the diagram indicates for wildlife movement. While it appears that Morton Ridge may be an impediment to movement, the major drainage into the center of the property appears to provide good access, as does all of the landscape to east of this drainage. The Service agrees that the topography is gentler on the

eastern side of the project site, but we are still unclear as to why wildlife would only utilize the very narrowly identified corridor to connect across Mill Creek. We do not believe that it is appropriate to assume that the existing dirt roads, off-highway vehicle use, lack of cover, lack of water, and ongoing site disturbances have eliminated or severely constrained wildlife movement and usage.

Additionally, we are unsure as to how the proposed wildlife corridor to the east would improve upon the existing condition movement. The FEIR states that human interference would be reduced, although the proposed corridor appears to pass through private residential properties, while the larger area to the west has very little current human use. The FEIR states that the proposed corridor has naturally occurring RSS and that ample cover will be present for traveling animals. In contrast the FIER identifies the portion of the same habitat to be developed as providing little cover. In fact the remnant orchards on the subject property likely provide good cover and facilitate wildlife passage. The analysis also states that two existing roads that have existed for decades should not impede wildlife movement through the proposed corridor area. In contrast, the existing dirt roads on the project site are identified as impeding wildlife movement. Again, we are unclear as to why this would be the case. The proposed corridor location is not an improvement upon the existing area available to wildlife, which is more than 13,000 feet wide. We are also concerned that the proposed Mill Creek Bridge directly adjacent to the proposed wildlife corridor will further impair its utility. The resulting traffic pattern would seem to place both wildlife and drivers at risk.

Furthermore, the proposed corridor depends on land outside of the Project boundary remaining intact and not developed. MM BIO 6 states that long-term management guidelines will include not allowing housing or other impacts into the corridor, which would form impediments to movement and increase harmful edge effects. In fact, a large portion of the proposed corridor appears to occur on private property with two existing residences. Is the City in control of these properties? It does not seem appropriate to provide assurances for land not in the control of the project proponent or the City. Also as discussed below, the long-term management appears to be for only 5 years, not long enough to provide any assurances about adjacent land use..

The Service is further concerned with the proposed long-term monitoring program for the corridor. The monitoring program is to be funded for only 5 years by the project proponent and managed by an Advisory Committee consisting of a City designee, the Applicant's designee, the Project biologist, and additional members selected by the City and Applicant that have appropriate experience. However, the City shall have ultimate authority on Advisory Committee matters. As the City is not in the occupation of managing wildlife and other biological resources, the Service recommends that the corridor be managed by an experienced and independent conservation organization. Also, to serve as effective mitigation for the Project's impacts, the wildlife corridor needs to be protected and managed in perpetuity. A limited 5-year management term is therefore not acceptable.

The proposed mitigation measure MM Bio 6 currently does nothing to alleviate the Service's concerns regarding the loss of linkage between the Crafton Hills and the San Bernardino

Mountains. The Wildlife Corridor Analysis acknowledges that larger habitat patches and connectivity are significantly better for mammal species, and yet there is no evident improvement on the existing habitat and connection between the San Bernardino Mountain and the Crafton Hills. Additionally, we requested that an analysis be conducted that included a diverse representation of taxonomic groups, not simply larger mammalian species. In the analysis, prospective prey base for golden eagles should be considered. We continue to recommend a more scientifically robust methodology to determine corridor linkage, such as that used by South Coast Wildlands, which we referenced in both our June 4, 2014 and October 13, 2014 correspondence. The Service feels that the adoption of either Alternative 4 or 5 would significantly alleviate our concerns regarding the loss of habitat and wildlife movement to and from the Crafton Hills. As stated within the FEIR, either alternative would "avoid any conflict with the Crafton Hills Linkage wildlife corridor."

Fuel Modification Zones

The Service acknowledges that open space was set aside by the project proponent to achieve avoidance and preservation. However, the Conceptual Fire Protection Plan for the Project mandates that Zone 3, which lies along the perimeter of development, will receive regular vegetation thinning and maintenance up to 200 feet into areas designated for conservation. For example, the Community Plan Map in Exhibit 4 shows "Natural" Open Space abutting PA 45, 12, & 46, as well as roads and multiple community public facilities. The Service notes that the required 200 feet is an increase from what was stated within DEIR and requests that this additional fire management acreage be excluded as designated conservation land. The resulting reduction in conservation areas should be reassessed and supplemented with additional mitigation in the revised FEIR. Areas reserved for permanent conservation in the FEIR should not be subject to fuel modification. The artificial thinning and removal of vegetation alters habitat and reduces values for biological resources.

Conservation and Management of Open Space

The FEIR proposes onsite conservation areas to mitigate for Project-related impacts to biological resources. However, it still does not provide information regarding how long-term management of these areas will be accomplished or funded. It also does not identify any legal mechanism to ensure that the land remains in conservation, e.g., a conservation easement. The Service appreciates that the applicant responded to our comment regarding this previously, however, there was never language added to this effect within the regulatory document. The response was "The City of Highland will require, as a condition of approval, the Natural Open Space areas be dedicated open space in perpetuity and an appropriate legal mechanism such as a conservation easement, deed restriction, or transfer to an appropriate public agency, non-profit land conservancy, or a combination thereof will be agreed upon by the Developer and the City, including long-term management activities, prior to the issuance of the first building permit for residential construction in Phase 1." We did not find this stated within the FEIR, nor any supplemental document. We repeat our request for details about the legal instrument that will be used to ensure open space lands remain in conservation, proposed monitoring and maintenance

activities, and how such activities will be funded.

Trails

The FEIR still does not identify an entity or mechanism for management, maintenance, or funding of the proposed trail network. While we appreciate that some unauthorized trails may already be in use, the construction of a development of this size directly adjacent to them will surely increase their use exponentially. This could have both direct and indirect effects to vireo, flycatcher, and SBKR, reducing or eliminating the value of the natural open space to their conservation. We have previously noted an existing trail that travels from the ridge at the edge of the project footprint into Morton Canyon and LBV and SWFL habitat. Additionally, trails along Mill Creek have the potential to impact SBKR and the ecological function of SBKR critical habitat. There is no mention if dogs would be allowed on such trails but the Service assumes the affirmative. In addition, we expect that unmanaged off-trail activities and illegal dumping will occur due to the proximity and availability of trails adjacent to 3,632 new residences. Ultimately, the Project as proposed significantly reduces natural habitat for biological resources, while facilitating increased human use within the remaining habitat areas.

We recognize the value of trails and other recreational facilities in association with wildlands. However, if areas set aside for the benefit of listed and sensitive species are to retain the intended conservation values, human use and presence in these areas must be managed. Additionally, funding for this management in perpetuity must be provided. We repeat our request that the revised FEIR contain an analysis of effects to the listed species identified, due to recreational activities in the conservation areas. As appropriate, please provide subsequent avoidance, minimization and mitigation measures to address them. The effects of trail use on wildlife movement should also be addressed where trails are proposed in areas identified as wildlife corridors. We recommend that a project alternative which does not include trails in proximity to sensitive species, including federally listed species and sensitive habitats such as riparian areas and RAFSS, be adopted.

Potential Conflicts with Other Regional Plans

We repeat our request for an analysis of the potential impacts the proposed Project may have on the directly adjacent Woolly Star Preserve Area and the Upper Santa Ana River Wash Land Management Plan and Habitat Conservation Plan. A development of this proposed size is unlikely to have no effects on these preserved conservation areas.

Project Alternatives

The Service strongly disagrees with the assertion that the Project as currently proposed would result in less than significant impacts on one or more biological resources. We do not feel that the majority of our concerns raised in the previously circulated DEIR and RDEIR have been adequately addressed. The FEIR states that "substantial impacts would be those that substantially diminish or result in the loss of an important biological resource, or those that would conflict

with local, State, and/or Federal resource conservation plans, goals, or regulations." The proposed mitigation measures do not alleviate the substantial adverse effects on sensitive species and their habitats that the Service has the legal responsibility to protect. Moreover, the Project will substantially interfere with the existing wildlife corridor between the San Bernardino Mountains and Crafton Hills. Consequently, we strongly recommend that the current Preferred Alternative not be adopted and that an Alternative be developed which adequately addresses impacts to listed species, golden eagle, and other special status species be developed and adopted.

Alternatives 4, Smaller Project, and Alternative 5, Eastern Mitigation Bank, are each described as designating the eastern portion of the Project as natural open space, avoiding conflict with the existing Crafton Hills Linkage wildlife corridor, minimizing impacts to jurisdictional features and disturbed RSS and RAFSS, and minimizing impacts into SBKR critical habitat. While we are still unable to find a visual depiction of these alternatives, the description in FEIR Section 8.6.4 describes a development footprint roughly half the size of the current Project. It is our opinion these alternatives as described, would better preserve the important habitat linkage between the San Bernardino Mountains/San Bernardino National Forest and the Crafton Hills. These alternatives would also better minimize impacts to important RAFSS and RSS habitat, as well as reduce potential impacts to Santa Ana Sucker and its critical habitat.

Regarding the proposed PA 44, we do not consider a large man-made park to be an adequate buffer to sufficiently conserve and protect the natural habitat occurring along the Mill Creek floodplain. As previously stated when discussing SBKR critical habitat, all stages of RAFSS succession are considered essential to the conservation and recovery of the species. We request a Project alternative that addresses the greater avoidance and minimization of nearly 400 acres of SBKR critical habitat. As the Project is currently proposed, we find there to be significant impacts to this endangered species and its critical habitat.

Cumulative Effects

The applicant asserts that the proposed Project does not substantially diminish the loss of an important resource. The Service disagrees; the project footprint permanently alters close to 400 acres of SBKR critical habitat, as well as causes indirect effects to the local population through edge effects. The project proponent repeatedly discounts mature RAFSS's importance and minimizes the loss of this resource in their analysis. They propose to mitigate for the loss of RAFSS habitat at a less than 1:1 ratio by suggesting they will improve upon existing RAFSS habitat on the alternate side of Mill Creek. The SBKR subspecies is limited to three populations, all within the Inland Empire region, and all are threatened by development projects such as this one. The cumulative effects of these impacts need to be addressed within the scope of this Project and considerations made for the subspecies' long term survival. Therefore, cumulative effects to SBKR cannot be assessed appropriately without examining threats and cumulative impacts to the Lytle Cajon and San Jacinto river populations of SBKR.

We continue to believe a development of this size needs to examine cumulative effects on

downstream Santa Ana sucker critical habitat. The reduction of coarse sediment from at least some of the drainages within the project footprint, taken together with the Seven Oaks Dam, Plunge Creek and other projects, is a potentially significant cumulative impact.

Additionally, the loss of nearly 900 acres of RSS and RAFSS is a significant area of CAGN habitat. The FEIR notes that the area was historically used by CAGN. The species continues to increase its range as the species heads towards recovery, the ultimate goal of the Endangered Species Act, and therefore may require this habitat in the near future, even if it is not currently in use by CAGN. We repeat our request for a cumulative impacts analysis discussing the loss of habitat in the context of CAGN range and distribution in the Inland Empire region.

Finally, as discussed above, we appreciate your attention to our comments outside of the normal CEQA timeframe. And while you need not include our comments in your CEQA record, we hope that you will use this information, along with our earlier comments, to help the Project comply with the relevant federal statutes. We recommend that the City not adopt the FEIR as written and are available to discuss project alternatives. If you have questions regarding this letter; or to schedule a meeting, please contact Geary Hund or Rebecca Gordon of this office at 760-322-2070, extensions 209 and 216 respectively.

Sincerely,

Kennon A. Corey
Assistant Field Supervisor

cc:
Jeff Brandt, CDFW, Ontario
Christine Hill, USFS, Lytle Creek

enclosure

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