



DEPARTMENT OF FISH AND GAME

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Mr. Adam Villani
Environmental Review Coordinator, EIR Unit
City of Los Angeles Dept. of City Planning
200 North Spring Street, Room 750
Los Angeles, CA 90012

Subject: Environmental Assessment for the Forest Lawn Memorial Park – Hollywood Hills Master Plan Expansion, Los Angeles County

Dear Mr. Villani:

The Department of Fish and Game (Department) has received the request to provide input on the preparation of a Draft Environmental Impact Report (DEIR) for the analysis of the effects of a proposal to expand the Forest Lawn Memorial Park. The Project is located at the base of the northeastern portion of the Santa Monica Mountains in the City of Los Angeles at the existing Forest Lawn Memorial-Park—Hollywood Hills property, located at 6300 Forest Lawn Drive, in the City of Los Angeles (Project Site). The existing Project Site comprises approximately 444 acres and is bounded by Forest Lawn Drive, the Los Angeles River Flood Control Channel and the 134 Freeway on the north, Griffith Park on the south and east, adjacent undeveloped property owned by Forest Lawn Memorial-Park Association on the west, and by Mount Sinai Memorial Park and the administrative offices of the Junior Achievement of Southern California, Inc. to the north and northeast. The Project Site is buffered from residential and commercial uses, and many of the property's uses are not visible from off-site, due to the topography of this area.

The Project seeks approval to construct approximately 22,500 square feet of floor area for new structures (including structures for a new church, reception-related uses, administrative space, and a crematory), and approximately 1,100,000 square feet of non-occupied floor area. In addition, the Project includes approximately 200,000 new interment sites within currently undeveloped areas of the Project site. Approximately 7,000 new interment spaces (built spaces) and additional ground spaces would also be constructed within existing developed areas of the Project Site. The Project also includes the development and maintenance of debris basins within the Project Site and at the edge of the property boundary with Griffith Park. It is estimated that over a 15-year construction period, implementation of the proposed Project would require approximately 1,728,000 cubic yards of cut, approximately 1,015,000 cubic yards of fill, and a net export amount of approximately 713,000 cubic yard. In addition, up to 400,000 cubic yards of dirt will be exported in connection with grave preparation through 2050. Depending on when the entitlement process is completed, construction of the Project could commence in 2011 or 2012.

The following comments and recommendations were prepared under the Department authority as 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 CEQA. (See generally Pub. Resources Code, §§ 21070; 21080.4.) Given its

related permitting authority under 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.):

Impacts to Biological Resources

1. Botanical Resource Assessment – The DEIR utilizes an outdated classification system for vegetation communities that does not reflect the true composition and value of these resources to the State of California. *The Manual of California Vegetation, Second Edition (2009)* is the classification system recognized by the Department and a list of the vegetation Natural Communities or Alliances recognized by the Department can be found on-line at <http://www.dfg.ca.gov/biogeodata/vegcamp/pdfs/natcomlist.pdf>. Please be advised that classifications such as 'non-native grassland' have been replaced by more meaningful classifications that more accurately document the true composition of species (both herbs and forbs) as well as allow the Department to accurately assess the value to wildlife these important vegetation systems provide. The classification *non-native grassland* no longer is recognized as it tends to discount the native herbs and forbs that can seasonally dominate this system, as well as discounting the importance this habitat type plays for native species. This manual can be found at http://www.cnps.org/cnps/vegetation/manual_2ed.php. Please update your mapping and classification in the DEIR as well as any corresponding mitigation measures proposed for mitigating impacts to these particular communities.
2. Vegetation and Rare Plant Mitigation – The DEIR states that DFG Protocol level surveys were conducted for rare plants on April 21 and December 16, 2004, August 11 and 25, 2005, May 2 and July 8, 2006, January 8, 2007, March 12, 2008, August 22 and 25, 2008, March 23 and 24, 2009, April 14, 2009, and June 5, 2009. The document indicates that all 119 acres of the Project Site were surveyed for during each site visit (Appendix C-6, page 8). An example of a site visit is March 12, when 2008 six biologists spent from 8am-11am conducting botanical surveys. This does not appear to be enough time to conduct protocol-level rare plant surveys as explained in the Department's Rare Plant Survey Methodology (Attachment 1). The Protocol states that reference sites should be visited to ascertain whether or not certain plants are blooming. Additionally all rare plant surveys should be floristic in nature – meaning all species occurring on the property are recorded and since the entire property should be surveyed, transects are not appropriate per current protocol. Please expand on your rare plant survey methodology in the DEIR.

The DEIR indicates that the proposed Project will remove 632 coast live oak trees (*Quercus agrifolia*), 59 western sycamore trees (*Platanus racemosa*), and 144 walnut trees (*Juglans californica* var. *californica*).

The DEIR states:

"Of the approximately 120 acres of native vegetation communities present on the Project Site, approximately 18.02 acres of vegetation communities locally designated as a Highest Inventory Community by the City of Los Angeles CEQA Thresholds Guide and/or identified as a CDFG Special Community (or the functional equivalent thereof) would be permanently impacted by the implementation of the proposed Project, including approximately 9.27 acres of western sycamore/coast live oak, approximately 7.64 acres of coast live oak woodland, approximately 0.62 acre of California walnut woodland, approximately 0.39 acre of southern willow

scrub/mulefat scrub, approximately 0.05 acre of southern willow scrub, and approximately 0.05 acre of western sycamore/willow riparian forest. The loss of these regulatory status vegetation communities would be considered potentially significant prior to mitigation. As discussed below, implementation of the proposed mitigation program below, including Mitigation Measures C-1 through C-6, Mitigation Measure C-8 and Mitigation Measures C-15 through C-17, would reduce the impact to these regulatory status vegetation communities to a less than significant level."

The Department is concerned that the referenced Mitigation Measures only describe tree replacement ratios and are mainly acorns or 1-gallon replacement plants on graded slopes within the Project or at an undisclosed location off of the Project site. The Department is concerned that solely using tree replacement ratios to re-create a sensitive plant community, and not recognizing the understory and other associated plants that occur in these communities, is not truly mitigating for the loss of a community. The Department recommends that the entire communities be mitigated and this includes the complete representation of herbs, forbs, shrubs, as well as trees to provide a mitigated habitat comparable to or better than the areas being impacted. Additionally, for the Department to be able to fully analyze whether or not the proposed mitigation is truly compensating for any impacts, the mitigation locations need to be identified – including any offsite areas the applicant is proposing to consider.

The DEIR states that four State Rare plants occur on-site, oscillated Humboldt lily (*Lilium humboldtii* ssp. *ocellatum*) (7 of 9 individuals on-site will be impacted), Catalina mariposa lily (*Calochortus catalinae*) (65 of 65 individuals on-site will be impacted), Southern California black walnut (*Juglans californica*) (144 of 198 individuals on-site will be impacted), and Coulter's matilija poppy (*Romneya coulteri*) (15 of 15 'stalks' on-site will be impacted). The DEIR indicates that the mitigation will include bulb salvage and seed collection (Mitigation Measure C-6 and 7) and revegetation of rare plants on manufactured, planted slopes. The Department does not consider salvage of rare plants and seed collection as appropriate mitigation under CEQA for impacts to rare plants. The Department is also unclear which areas are being proposed to restore which habitat types. The Mitigation Measures indicate that 23 acres (MM C-2) and 8 acres (MM C-3) of graded slopes will be used to mitigate for impacts to plant communities and impacts to trees. Please clarify how the proposed rare plant salvage program coordinates with these mitigation measures. Also, the DEIR indicates that these areas will include fire and aesthetic buffers, but these acreages are not deducted from the mitigation total. Buffers, in particular fuel buffers, would not typically meet biological criteria to function as mitigation. Please clarify this in your document. Additional questions the Department has include a regional analysis of the rare plants and vegetation communities you are planning to impact. The DEIR indicates that all or a very significant portion of populations of rare plants are proposed for removal. Please identify where the other regional populations are located, and how the loss of the populations by the Project affects the species distribution. Please also consider where another location exists that can be considered for conservation as the Department does not consider salvage of plants as appropriate mitigation.

The Department does not believe the Mitigation Measures included in this DEIR for impacts to Special Vegetation Communities and Rare Plants have brought the proposed impacts to a level below significance.

3. Special Status Species Assessment– The DEIR references California legless lizard and California mountain kingsnake, both California Species of Special Concern (CSSC), occur or have a high potential to occur on-site. Additionally, during mammal surveys, the San Diego desert woodrat, also a CSSC, was found on-site.

- a. The DEIR only includes pre-construction surveys and salvage and relocation for these CSSC. The Department does not believe this alone is suitable mitigation for species designated with the CSSC title.
4. Impact to Bats - The DEIR states that western red bat, pallid bat, spotted bat, and western mastiff bat, all California Species of Special Concern, have the potential to occur on-site.
 - a. It does not appear any survey work to assess the presence and use of this site by bats was conducted. The Department recommends surveys be conducted and the results be included in the DEIR so a full analysis on impacts to these species, as well as specific mitigation proposed can be evaluated.
 - b. The DEIR does include preconstruction surveys (MM C-12 and C-13) for bats and maternity roosts. However, the mitigation proposed for any 'regulatory status bats' found within the Project footprint and a 100-foot buffer is passive relocation. The DEIR also states that if any maternity bat roosts are found within the Project footprint and a 100-foot buffer they will be avoided until not in use anymore and then impacted. The Department is concerned about the loss of bat habitat and roosting habitat and recommends additional analysis and mitigation, other than solely relying on passive relocation. If maternity bat roosts are found on-site, the Department recommends a minimum 300-foot buffer be established to protect the roost from construction-related disturbances. The Department also recommends conservation of bat habitat and roosting habitat for these CSSC.
5. Impacts to Native Bird Species - The Project Site supports nesting habitat for native birds that will be impacted by the proposed Project. The IS recommends bird surveys be conducted commencing February 15.
 - a. Commencing bird surveys on February 15 may miss early nesting raptor species. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).
 - b. Proposed Project activities (including disturbances to native and non-native vegetation, demolition of structures and substrates) should take place outside of the breeding bird season which generally runs from March 1- August 31 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86).
 - c. If avoidance of the breeding bird season is not feasible, the Department recommends that beginning thirty days prior to the disturbance of suitable nesting habitat, the Project proponent should arrange for weekly bird surveys to detect protected native birds occurring in the habitat that is to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors) as access to adjacent areas allows. The surveys should be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys should continue on a weekly basis with the last survey being conducted no more than three days prior to the initiation of

clearance/construction work. If a protected native bird is found, the Project proponent should delay all clearance/construction disturbance activities within 300 feet of suitable nesting habitat (within 500 feet for suitable raptor nesting habitat) until August 31. Alternatively, the qualified biologist could continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest (within 500 feet for raptor nests) or as determined by a qualified biological monitor, must be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. Limits of construction to avoid a nest should be established in the field with flagging and stakes or construction fencing marking the protected area 300 feet (or 500 feet) from the nest. Construction personnel should be instructed on the sensitivity of the area. The Project proponent should record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds.

6. Preferred Alternative – The DEIR identifies Alternative 4 as the Environmentally Superior Alternative, but the Project as proposed does not utilize this alternative.
 - a. The Department recommends further consideration of Alternative 4, which brings the total usable space to 103 acres and impacts only 4.15 acres of jurisdictional drainages compared with the preferred alternative which has a total usable space of 110 acres and impacts 7.94 acres of jurisdictional drainages.
 - b. Additionally, Alternative 4 would significantly reduce the impacts to rare plants, rare vegetation communities, and riparian resources and states only 339 protected trees of the 835 proposed to be impacted by the preferred alternative will be impacted. The Department supports the further investigation of Alternative 4 to reduce the level of environmental impact from this Project.
7. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts should be included. Total acres of the proposed action area should be included in the impact discussion. This discussion should focus on maximizing avoidance, and minimizing impacts.
 - a. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
 - b. Project impacts should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, adjacent natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas are of concern to the Department and should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic, outdoor artificial lighting, noise and vibration.
 - c. Impacts to migratory wildlife affected by the Project should be fully evaluated including proposals to remove/disturb native and ornamental landscaping and other nesting habitat for native birds. Impact evaluation may also include such elements as migratory butterfly roost sites and neo-tropical bird and waterfowl stop-over and staging sites. All migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory nongame birds as listed under the MBTA.

- d. Proposed Project activities (including disturbances to vegetation) should take place outside of the breeding bird season (February 1- September 1) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). If Project activities cannot avoid the breeding bird season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department recommends a minimum 500-foot buffer for all active raptor nests).
8. An Incidental Take Permit from the Department may be required if the Project, Project construction, or any Project-related activity during the life of the Project will result in "take" as defined by the Fish and Game Code of any species protected by CESA. (Fish & G. Code, §§86, 2080, 2081, subd. (b), (c).) Early consultation with Department regarding potential permitting obligations under CESA with respect to the Project is encouraged. (Cal. Code Regs., tit. 14, § 783.2, subd. (b).) It is imperative with these potential permitting obligations that the draft environmental document prepared by the Lead Agency under CEQA in the present case includes a thorough and robust analysis of the potentially significant impacts to endangered, rare, and threatened species, and their habitat, that may occur as a result of the proposed Project. For any such potentially significant impacts the Lead Agency should also analyze and describe specific, potentially feasible mitigation measures to avoid or substantially lessen any such impacts as required by CEQA and, if an ITP is necessary, as required by the relevant permitting criteria prescribed by Fish and Game Code section 2081, subdivisions (b) and (c). The failure to include this analysis in the Project environmental document under CEQA could preclude the Department from relying on the Lead Agency's analysis to issue an ITP without the Department first conducting its own, separate lead agency subsequent or supplemental analysis for the Project. (See, e.g., Cal. Code Regs., tit. 14, § 15096, subd. (f); Pub. Resources Code, § 21166.) For these reasons, the following information is requested:
- a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.
 - b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.
9. The Department opposes the elimination of watercourses (including concrete channels, blue line streams and other watercourses not designated as bloodline streams on USGS maps) and/or the canalization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of drainage.
- a. The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) or a river or stream or use material from a streambed, the Project applicant (or "entity") must provide written notification to the Department pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department's issuance of an LSA is a Project subject to CEQA. Early consultation is recommended, since

modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. Again, the failure to include this analysis in the Project environmental document under CEQA could preclude the Department from relying on the Lead Agency's analysis to issue an Agreement without the Department first conducting its own, separate lead agency subsequent or supplemental analysis for the Project.

Thank you for this opportunity to provide comments. Please contact Ms. Kelly Schmoker, Staff Environmental Scientist, at (626) 848-8382 if you should have any questions and for further coordination on the proposed Project.

Sincerely,



Edmund Pert
Regional Manager
South Coast Region

Attachment

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