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In Reply Refer to:  
FWS-SDG-1668.1

DEC 28 2001

Mr. Jerry Backoff  
City of San Marcos  
Planning Division  
1 Civic Center Drive  
San Marcos, California 92069

Re: Draft Supplemental Environmental Impact Report for the San Marcos Highlands Specific Plan, City of San Marcos, San Diego County, California (SCH# 1999071007)

Dear Mr. Backoff:

The California Department of Fish and Game (Department) and U. S. Fish and Wildlife Service (Service), hereafter referred to as the Wildlife Agencies, have reviewed the Draft Supplemental Environmental Impact Report (DSEIR) for the San Marcos Highlands Specific Plan in the City of San Marcos (City). The Wildlife Agencies have some concerns regarding the potential effects of this project on wildlife and regional conservation planning. We offer the following comments to assist the City in minimizing and mitigating project impacts to biological resources, and to assure that the project is consistent with ongoing regional habitat conservation planning efforts.

The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), Sections 15386 and 15381 respectively. Pursuant to Section 1802 of the Fish and Game Code, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency, the Department must be consulted by the Lead Agency during the preparation and public review for project-specific CEQA documents if there are potential impacts to biological resources. The Department reviews proposed projects, comments on their impacts, and determines whether the mitigation measures or alternatives proposed are feasible and appropriate. Under the California Endangered Species Act (CESA), it is the Department's charge to conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat (Section 2052 of the Fish and Game Code). The Department also administers the Natural Community Conservation Planning (NCCP) program. The City is currently participating in the NCCP program through the preparation of a Multiple Habitat Conservation Program (MHCP) Subarea Plan.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*).

The proposed project is an amendment to the 1990 San Marcos Highlands Specific Plan for the approximately 203-acre property, including annexation of approximately 113 acres that are within the City's sphere of influence. The project site is located south of Buena Creek Road, west of North Twin Oaks Valley Road, north of West Borden Road, and north-northeast of the northern terminus of Las Posas Road. The project proposes the construction of 230 residential dwelling units on 60.3 acres, including streets, an extension of Las Posas Road that will occupy 4.6 acres, and preservation of 138 acres of open space. The extension of Las Posas Road beyond Planning Area 1 (PA1) north to Buena Creek Road is not part of the proposed project. Approximately 68 percent of the site will be left as natural open space.

The site has gently rolling topography with several prominent ridge lines and elevations ranging from approximately 600 feet above mean sea level (AMSL) in the southern part of the site to 1,100 feet AMSL in the northwestern and southeastern parts of the site. The main vegetation types on the project site are Diegan coastal sage scrub (205.7 acres), riparian woodland (6.0 acres), freshwater marsh (3.1 acres), riparian/eucalyptus woodland (1.6 acres), unvegetated waters of the United States (0.55 acre), riparian scrub (0.27 acre), and disturbed habitat (6.82 acres).

Diegan coastal sage scrub is considered a sensitive habitat due to its increasing rarity, and because it has the potential to support several state- and federally-listed threatened and endangered species. Diegan coastal sage scrub is also a key habitat component of the State NCCP program, including the MHCP.

Anticipated impacts to 76 acres of Diegan coastal sage scrub are proposed to be mitigated at a replacement ratio of 2:1, through onsite preservation of 129.7 acres of Diegan coastal sage scrub, 10.1 acres of riparian habitat, 0.11 acre of waters of the United States adjacent to the development area onsite (totaling 139.9 acres), and 12 acres of Diegan coastal sage scrub offsite. There will be impacts to 0.87 acre vegetated wetland habitat, including 0.38 acre of riparian woodland, 0.35 acre of riparian scrub, 0.04 acre eucalyptus/riparian, and 0.1 acre freshwater marsh (due to the installment of a pier).

To mitigate for wetland impacts, a riparian revegetation plan will be developed. The revegetation plan will create 2.07 acres of riparian vegetation along the upper corridor in the northern part of the project site, elsewhere in the northern part of the City of San Marcos, or in the adjacent unincorporated area of the San Marcos Mountains. This replacement acreage represents a mitigation ratio of 3:1 for riparian woodland, 2:1 for riparian scrub and riparian/eucalyptus woodlands, and 1.5:1 for freshwater marsh. It is also proposed that

enhancement of degraded parts of the drainage on the project site may be substituted for part of these 2.07 acres. There is no proposed mitigation for impacts to 0.44 acre unvegetated waters of the United States or 0.93 acre of disturbed habitat.

The Wildlife Agencies offer the following comments and recommendations:

1. The County is presently participating in the NCCP program by preparing a Multiple Species Conservation Program North Subarea Plan (MSCPN). Approximately 113 acres of the proposed project occur within the County's jurisdiction. Therefore, we strongly recommend that the City work with the County to ensure adequate preserve design and linkage to the area within the County's jurisdiction located northwest of San Marcos Highlands. We anticipate that connecting the MSCPN to the MHCP in this area will be an important component for both plans. The Wildlife Agencies are available to work with all parties to ensure adequate preserve design across regional planning efforts.
2. The open space portion of the San Marcos Highlands property is proposed by the City as a hard-line 100 percent conservation area in the Northern Focused Planning Area, in the City's Draft Subarea Habitat Conservation Plan (SHCP, figure 4) that has been submitted for public environmental review. The DSEIR must evaluate the project's consistency with the NCCP Act and Guidelines and the proposed MHCP, which identifies the entire San Marcos Highlands property to be within the Biological Core and Linkage Area (BCLA) (Vol. I, figure 2-3). The MHCP states that the BCLA is "...a biologically preferred preserve alternative because it identifies all large contiguous areas of habitat, all areas supporting major and critical species populations or habitat areas, and all important functional linkages and movement corridors between them" (p. 2-18). Furthermore, we recommend that the Preserve Management Plan be consistent with the management guidelines in the SHCP (p. 92).
3. This project should maintain the existing east-west habitat linkage and Diegan coastal sage scrub habitat connectivity for the coastal California gnatcatcher (*Polioptila californica californica*). While the two 48-inch culverts proposed to be placed under Las Posas Road and under Street "A" may be large enough to facilitate coyote and bobcat movement, the Wildlife Agencies are concerned that the culverts will not be adequate to allow for the movement of southern mule deer (*Odocoileus hemionus fuliginata*). Please provide an evaluation of corridor use by deer.
4. The NCCP requires that mitigation for loss of Diegan coastal sage scrub habitat be in-kind. Therefore, the Wildlife Agencies cannot accept the 10.1 acres of riparian habitat and 0.11 acre of waters of the United States as mitigation for Diegan coastal sage scrub. We recommend that the additional 22.3 acres of Diegan coastal sage scrub be acquired within the immediate northwest portion of San Marcos to contribute to the habitat linkage in the County's Multiple Species Conservation Program North Subarea Plan.

5. Page 4.3-8 states that the project will impact 0.44 acre of unvegetated waters of the United States that will be reduced to below a level of significance by implementation of mitigation measures MM 4.3-1 through 4.3-10. However, none of the measures explain how this will be accomplished. Please clarify how impacts to the unvegetated waters of the United States will be mitigated.
6. We recommend that freshwater marsh be mitigated at a 2:1 creation ratio to ensure no net loss of wetlands and allow for the potential failure of portions of the revegetation efforts.
7. To mitigate for impacts to riparian and wetland habitats, the Wildlife Agencies recommend that the applicant consider implementing measures to control exotic amphibians (e.g. bullfrogs) and plants, such as eucalyptus.
8. The discussion of native vegetation communities on page 4.3-2 states that 0.27 acre of riparian scrub occurs onsite. However, the first paragraph on page 4.3-8 states that the 0.87 acre of impacts to vegetated waters of the United States includes 0.35 acre of impact to riparian scrub. Please clarify this discrepancy.
9. Figure 4.3-1 shows a fishing pier in the riparian habitat. This is inconsistent with Project Objective number 2 on page 5-2, which states that the existing riparian woodland, freshwater marsh pond, and wildlife corridors will be preserved, and wherever possible, enhanced.
10. The Wildlife Agencies request clarification on what portion of the biological open space will be protected by a conservation easement. Mitigation measure 4.3-6 in the DSEIR states that some of the biological open space will be put in a conservation easement, while page 3-2 of the biological resources report states that all of the biological open space will be put in a conservation easement.
11. Please differentiate between the permanent and temporary impacts of project construction and identify the acreage of each.
12. The DSEIR notes that a coastal California gnatcatcher was observed during the 1999 biological surveys. This is significant because the coastal California gnatcatcher is a federally threatened species and California species of special concern (CSC). The project should be designed to avoid and/or minimize impacts to this species to the maximum extent practicable, including maintaining a habitat linkage to San Diego County land to the northwest. This property is part of the identified MHCP core/linkage area, the project as presently proposed seriously constrains the Diegan coastal sage scrub linkage. We recommend that the DSEIR provide information on how this project intends to address project impacts that result in take of this federally-listed species including which process is proposed.

13. The site supports many sensitive species including federal species of concern (FSC). Bell's sage sparrow (*Amphispiza belli belli*, FSC, CSC) is known to occur onsite (MHCP), and Cooper's hawk (*Accipiter cooperii*, CSC) and northern red diamond rattlesnake (*Crotalus ruber ruber*, CSC) were observed onsite during the biological surveys. The DSEIR should provide an analysis of the project's possible impacts to these species and the other biological resources that will be impacted as a result of the San Marcos Highlands project.
14. Wart-stemmed ceanothus (*Ceanothus verrucosus*, FSC) was observed onsite during the 1989 biological surveys for the project. The Wildlife Agencies request clarification on whether the project will impact these locations of wart-stemmed ceanothus.
15. The federal and state endangered least Bell's vireo (*Vireo bellii pusillus*; LBV) has the potential to occur onsite and has been observed in the last few years in more atypical wetland areas, including isolated wetlands. New territories may be established with each breeding season, hence, LBV surveys that are not more than one year old at the time of application for any type of permit (e.g., NCCP 4(d), section 7, section 10) are necessary.
16. Because the southwestern pond turtle (*Clemmys marmorata pallida*, FSC) has the potential to occur in the pond and riparian area onsite, surveys should be done for this species.
17. Mitigation measure 4.3-7, which states that "clearing of vegetation shall be restricted to occur outside the bird breeding season (March through July, inclusive)", should be adjusted to reflect the following bird breeding season (February 15 to August 30).
18. The Wildlife Agencies recommend the extensive incorporation of appropriate native plants in the proposed landscape areas (see attached SHCP Table 5-3), especially those areas abutting open space. The applicant should not plant, seed, or otherwise introduce invasive exotic plant species to the landscaped areas adjacent to the open space preserve corridor and wetland/riparian areas. Exotic plant species that should not be used include those species listed on Lists A & B of the California Exotic Pest Plant Council's list of "Exotic Pest Plants of Greatest Ecological Concern in California as of October 1999." This list includes such species as pepper trees, pampas grass, fountain grass, myoporum, black locust, capeweed, tree of heaven, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. A copy of the complete list can be obtained by contacting the California Exotic Pest Plant Council at 32912 Calle del Tesoro, San Juan Capistrano, California 92675-4427, or by accessing their web site at <http://www.caleppc.org>.

Numerous species on the proposed landscape plant palettes list (Tables 4.2-1, 4.2-3, and 4.2-4, pages 4.2-16 to 4.2-19 in DSEIR) should not be used because they are exotic, invasive species. These include the following: agave (*Agave* sp.), rockrose (*Cistus* sp.)

including *Cistus crispus* and *Cistus purpureus*, prostrate acacia (*Acacia redolens*), eucalyptus (*Eucalyptus* sp.), false acacia (*Robinia pseudoacacia*), California pepper (*Schinus molle*), iceplant including white Disneyland iceplant prostrate (*Delosperma alba*), red apple (*Aptenia cordifolia*), and periwinkle including *Vinca major* and *Vinca minor*. Moreover, use of these species for landscaping purposes could potentially conflict with mitigation measure 4.3-6, which discusses "...preventing establishment of non-native invasive species and remediating any disturbance to native vegetation in biological open space after project completion" (page 4.3-10 in DSEIR). The Wildlife Agencies would like to review the final landscape plant palette list before any revegetation is done. Any plant species used for landscaping purposes should be biologically compatible with the sensitive resources onsite.

19. The residential landscaping adjacent to the open space area should not use plants that require intensive irrigation, fertilizers, or pesticides. Water runoff from landscaped areas should be directed away from the open space preserve corridor and contained and/or treated within the residential development footprint.
20. EIR 90-13 addressed three project alternatives: No Project, Larger lot size, and Realignment of Las Posas Road. The addresses two alternatives titled: No Project/No Development, and No Project/Development under the Existing Specific Plan. The directive of section 4(d) of the Act is to minimize and avoid impacts to listed species to the maximum extent practicable. Therefore, we recommend that a third alternative be considered that would reduce the project footprint, thereby reducing impacts to the sensitive coastal sage scrub habitat, minimizing edge effects, and providing better habitat linkage and wildlife corridors. At a minimum, the Reduced Project alternative should address the following issue:
  - In a December 5, 2000, letter to the property owner, Farouk Kubba, the Wildlife Agencies recommended that the project be redesigned to provide a habitat linkage to the open space area to the northwest. However, the project footprint in Figure 3-4 appears to have increased rather than decreased from the *Weilands Preservation and Wildlife Corridor Exhibit* received during an on-site meeting on December 15, 2000. There are two areas where it would be possible to enhance the habitat linkage and wildlife corridor:

Currently, Planning Area 1 constrains a potential north/south corridor along the western boundary of the property. The lots west and northwest of the circular street in Planning Area 1 could be relocated or removed to provide a better north/south corridor configuration and habitat linkage.

The northwest/southeast corridor which occurs between open spaces 3A and 3E through 3B and Planning Area 1 would be constrained by the arm of Planning Area 2 that extends into Open Space 3A. Another pinch point would be created by development along the northern and northwestern boundary. These areas could be removed to reduce edge effects and provide a better configuration to the wildlife corridor.

21. The project footprint in Figure 1-3 is not the same as that in Figure 4.2-13. Please clarify which footprint represents the proposed project.
22. It is unclear from the graphics in the where the wetland impacts from the Las Posas Road extension will be. We request clarification on the impact location and an explanation on why this impact cannot be avoided.
23. During a March 2000 meeting, the Wildlife Agencies were told that a switchback trail in Open Space 3C had been removed from the open space and placed closer to the development. The map received during a site visit on December 15, 2000, shows the trail removed; however, Figure 3.4 shows the switchback trail. Please clarify the discrepancy.

In addition, the states that public access to the riparian corridor will be limited, but does not provide information on the location of such trails, whether these would be creating new trails, or maintenance of existing trails. Any trails (page 4.11-1 in ) proposed to be maintained in the open space preserve should be designed to avoid or minimize impacts to restoration areas and sensitive habitat areas, such as those used by breeding coastal California gnatcatcher. No new trails should be created in the open space and all direct and indirect impacts to biological resources that may result from long-term use should be included in any impact assessment. Increases in indirect effects from pets or feral animals, human encroachment, and noise could disrupt coastal California gnatcatcher breeding and habitat use. Trails near sensitive species should be closed during the breeding season to avoid harassment and nest abandonment. Trails should be well-demarcated, have clearly-marked access areas, and have signs discouraging off-trail access and use. The applicant should describe the location of any trails, new or existing, planned for the open space preserve corridor and address the Wildlife Agencies' concerns about the impact of these trails on the biological resources. Any new trails planned that would require removal of habitat, should be included in the calculation of impacts.

24. Mitigation measure MM 4.3-5 states that a fuel modification plan will be implemented. We request clarification on the location of the fuel modification zone. The Wildlife Agencies consider the fuel modification zone to be impacted, and therefore, it should be included in the calculation of the project impacts to habitats and species and not included as part of the mitigation acreage.
25. The Wildlife Agencies have concerns regarding the extension of Las Posas Road to the northern edge of the proposed project as well as any future extension to Buena Creek Road. The current road alignment appears to run through the wetland all the way from the northern edge of the proposed project to Buena Creek Road.
26. The Wildlife Agencies would like information on the duration, speed, and volume of the water release and how long the dam construction project is expected to take. Draining of this pond should be done in a manner that does not negatively impact the riparian habitat due to a drop in the water table.

27. The applicant should explain what measures will be taken to ensure that noise and lighting from the residential development does not negatively impact wildlife in the riparian area, including the pond, and adjacent open space area.
28. The Wildlife Agencies request clarification on how the applicant intends to limit public access to the sensitive, riparian corridor section of the proposed Buena Neighborhood Park, south of the dam (page 4.11-2 in ), and sensitive resources within the open space corridor.
29. The Wildlife Agencies encourage and support programs that maintain high quality waters of the state and prevent the degradation thereof caused by pollution and contamination. In addition, we seek mutual cooperation with the Regional Water Quality Control Board (Regional Board) in solving water quality problems. The Wildlife Agencies are concerned about the potential for project-related contaminants to reach Aqua Hedionda Creek. The roads would be the source of many pollutants that can harm the aquatic resources in the creek. Therefore, the roads should divert runoff away from the creek. The planned landscaping could also be a source of pollutants of concern. It is inappropriate to rely on the creek to reduce the impacts from the contaminated surface flows from the project site to a level less than significant. In general, the Regional Board does not condone the use of natural water bodies as treatment systems (Phil Hammer, Regional Board, pers. comm., 6/15/01). The best management practices (BMPs) on site should fully mitigate for the project-related contaminants in the surface flows prior to their discharge to Aqua Hedionda Creek.

Furthermore, Section 5650(a)(6) of the California Fish and Game Code (Code) states that it is unlawful to deposit in, permit to pass into, or place where it can pass into waters of the State any substance or material deleterious to fish, plant life, or bird life. "Fish" is broadly defined per Section 45 of the Code to mean wild fish, mollusks, crustaceans, invertebrates, or amphibians, and any part, spawn, or ova thereof.

30. The Regional Board has designated the beneficial uses of "warm freshwater habitat" and "wildlife habitat" for portions of the Aqua Hedionda Creek, including the reach adjacent to and downstream from the proposed project.<sup>1</sup> The Wildlife Agencies recommend that every effort be made to design measures to ensure full protection of the beneficial uses of the riparian areas downstream of the project.
31. The Wildlife Agencies have concerns about the potential effects that project-related changes in natural hydrologic regimes may have on Aqua Hedionda Creek and its associated biological resources. In addition to modifications in peak flows, we are concerned about changes in the velocity, volume, duration, pollutant loads, and frequency of wet- and dry-weather flows and flows from less than the 100-year events. The

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<sup>1</sup> The beneficial use of "warm freshwater habitat" includes uses of water that support warm water ecosystems including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, and fish or wildlife, including invertebrates. The beneficial use of "wildlife habitat" includes uses of water that support terrestrial ecosystems including, but not limited to, preservation or enhancement of terrestrial habitats, vegetation, wildlife or wildlife water, and food sources.

proposed project should not rely on the stream to minimize the potential for any increased flood hazard. The project design should mitigate for any increased potential for flooding. We recommend that the applicant consider using pervious or semi-pervious surfaces where possible (i.e., roads, hardcourts, and walkways) to reduce the increase in the velocity of peak flows. Increases in flows from impervious surfaces associated with urbanization can result in: 1) stream bed scouring and habitat degradation; 2) shoreline erosion and stream bank widening; 3) loss of aquatic species; and 4) decreased baseflow (USEPA 1999). The Wildlife Agencies oppose any development which would result in a reduction of wetland habitat values or area. Therefore, we recommend that the site design and operation minimize the increase in dry- and wet-weather flows and to integrate BMPs onsite that would attenuate the flows to reduce impacts on the stream morphology and habitats. Examples of BMPs to consider include appropriately-sized grassy swales and vegetated detention basins. In addition, the BMPs should be fully described in the DEIR.

32. Based on the proposed project's impacts, the Department will require a Streambed Alteration Agreement, pursuant to Section 1600 *et seq.* of the Fish and Game Code, with the applicant prior to the applicant's commencement of any activity that will substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank (which may include associated riparian resources) of a river, stream or lake, or use material from a streambed. The Department's issuance of a Lake or Streambed Alteration Agreement for a project that is subject to CEQA requires CEQA compliance actions by the Department as a Responsible Agency. As a Responsible Agency under CEQA, the Department may consider the local jurisdiction's (Lead Agency's) CEQA documentation for the project. To minimize additional requirements by the Department pursuant to Section 1600 *et seq.* and/or under CEQA, the final document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the agreement. A Streambed Alteration Agreement notification form may be obtained by writing to the Department of Fish and Game, 4949 Viewridge Avenue, San Diego, California 92123-1662, or by calling (858) 636-3160, or by accessing the Department's web site at [www.dfg.ca.gov/1600](http://www.dfg.ca.gov/1600).
33. The did not address several concerns that were expressed in a May 7, 2001, Department comment letter on the notice of preparation for the for this project. These include discussion of sensitive species' seasonal use of the project site, impacts to offsite habitats, wildlife-human interactions at the interface between the development project and natural habitats, and restricting public access, preventing illegal dumping, and monitoring and management in the open space. Please address these issues in the final SEIR.

Mr. Jerry Backoff (FWS-SDG-1668.1)

10

The Wildlife Agencies appreciate the opportunity to comment on the DSHR. We are available to work with the City and their consultants to assist in designing this project to minimize impacts to biological resources. Please contact Nancy Frost of the Department at (858) 637-5511, or Janet Stuckrath of the Service at (760) 431-9440, if you have any questions or comments concerning this letter.

Sincerely,

for Nancy Gilbert  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

for William E. Tippetts  
Environmental Program Manager  
California Department of Fish and Game

cc: State Clearinghouse  
Department of Fish and Game  
C.F. Raysbrook  
San Diego

Literature Cited

San Marcos, City of. 2001. Draft Natural Community Conservation Plan for the City of San Marcos.

U.S. Environmental Protection Agency. 1999. Preliminary Data Summary of Urban Storm Water Best Management Practices. EPA-821-R-99-012, Pp. 4-24

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In Reply Refer to:  
 FWS-SDG-1668.2

JUN 03 2002

Mr. Jerry Backoff  
 City of San Marcos  
 Planning Division  
 1 Civic Center Drive  
 San Marcos, California 92069

Re: Responses to Comments on the Draft Supplemental Environmental Impact Report for the San Marcos Highlands Specific Plan, City of San Marcos, San Diego County, California

Dear Mr. Backoff:

The California Department of Fish and Game (Department) and U. S. Fish and Wildlife Service (Service) (collectively, "Wildlife Agencies") have reviewed the Responses to Comments on the Draft Supplemental Environmental Impact Report (SEIR) for the San Marcos Highlands Specific Plan in the City of San Marcos (City), dated May 2002. The Wildlife Agencies have some concerns regarding the accuracy of the responses to the comments we submitted in our letter dated December 28, 2001. We offer the following clarification to assist the City in minimizing and mitigating project impacts to biological resources, and to assure that the project is consistent with ongoing regional habitat conservation planning efforts.

The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), Sections 15386 and 15381 respectively. Pursuant to Section 1802 of the Fish and Game Code, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency, the Department must be consulted by the Lead Agency during the preparation and public review for project-specific CEQA documents if there are potential impacts to biological resources. The Department reviews proposed projects, comments on their impacts, and determines whether the mitigation measures or alternatives proposed are feasible and appropriate. Under the California Endangered Species Act (CESA), it is the Department's charge to conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat (Section 2052 of the Fish and Game Code). The Department also administers the Natural Community Conservation Planning (NCCP) program. The City is currently participating in the NCCP program through the preparation of a Multiple Habitat Conservation Program (MHCP) Subarea Plan.

Mr. Jerry Backoff (FWS-SDG-1668.2)

2

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*).

Due to receiving the City's Responses to Comments one week before the hearing, we have not fully evaluated each response. However, we would like to take this opportunity to provide the following recommendations and clarification regarding your response to our comments as numbered in the DSEIR Responses to Comments.

- B1. We recognize that the County of San Diego (County) has not yet determined the location of regional habitat linkages as part of their Multiple Species Conservation Program North Subarea Plan (MSCPN). However, it is extremely important at this juncture that development not preclude preserve design and connectivity between the MSCPN and the MHCP. Thus, we recommended the City and applicant work with the County to ensure adequate preserve design in the MSCPN.

The Response to Comments states that two coastal California gnatcatcher (*Poliophtila californica californica*; gnatcatcher) point locations are recorded in the regional databases and that one is a 1989 sighting. However, during March 2002 surveys by PCR, the biological consultant for the project, one pair of gnatcatchers was observed in the northwestern portion of the San Marcos Highlands property. A previous survey by URS Biological Consultants in 1999 also detected a pair of gnatcatchers in the same area. Two additional pairs were detected immediately off-site by URS during the 1999 surveys: one northeast of the northern property boundary and one east of the southeastern corner of the project site. Neither of the off-site pairs was located during the 2002 surveys.

- B3. The minimum corridor width requested by the Wildlife Agencies is 1,000 feet. We suggested the applicant acquire easements on the adjacent properties to the west in order to provide adequate corridor width in conjunction with the 500-foot north-south corridor. The applicant was advised by the Service during a meeting on March 23, 2000, that without the easements, there would be no way to ensure a corridor would remain. During meetings on January 15, 2002, and March 5, 2002, the Wildlife Agencies expressed concern that without easements there is no assurance that a corridor could be maintained through the backyards of current residences. We requested that the applicant demonstrate that he had minimized and mitigated to the maximum extent practicable. We have not received this information.

- B4. The Response to Comments states that "...the Wildlife Agencies previously agreed upon using gross acreage of onsite conserved habitat in calculating the resulting off-site mitigation." However, the Wildlife Agencies never agreed to accept riparian and open water habitats as mitigation for coastal sage scrub.

Mr. Jerry Backoff (FWS-SDG-1668.2)

3

Mitigation ratios were discussed during the March 3, 2000, meeting and the applicant proposed mitigating 76.0 acres of coastal sage scrub impacts by conserving 129.7 acres of coastal sage scrub on-site, resulting in a 1.7:1 ratio. The Wildlife Agencies stated that occupied habitat is mitigated at 2:1, which would result in a mitigation obligation of 152.0 acres. In the December 5, 2000, letter we recommended that coastal sage scrub be mitigated at a 2:1 ratio, preferably within the northwest portion of San Marcos so that it would contribute to the habitat linkage with the proposed MSCPN. During a meeting on January 15, 2002, Farouk Kubba, the applicant, acknowledged that Nancy Gilbert of the Service had requested 2:1 mitigation for sage scrub and the Wildlife Agencies again stated that we would not accept riparian and open water habitats as mitigation for coastal sage scrub impacts.

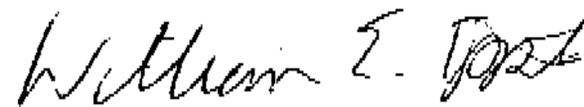
- B8. Page 4.3-2 of the draft SEIR states that 0.27 acre of riparian scrub occurs on-site. However, page 4.3-8 states that 0.35 acre of riparian scrub will be impacted. Because the project cannot impact more riparian scrub than is present, we request clarification on the acres of riparian scrub on-site and how much will be impacted.
- B15. We recommend that least Bell's vireo (*Vireo bellii pusillus*; vireo) surveys be no more than one year old at the time of permit application.

The Wildlife Agencies appreciate the opportunity to comment on the SEIR. We are available to work with the City and their consultants to assist in designing this project to minimize impacts to biological resources. Please contact Janet Stuckrath of the Service at (760) 431-9440 extension 270, or Nancy Frost of the Department at (858) 637-5511, if you have any questions or comments concerning this letter.

Sincerely,



Susan E. Wynn  
Acting Assistant Field Supervisor  
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William E. Tippets  
Environmental Program Manager  
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Mr. Michael D. Ott, Executive Officer  
 San Diego Local Agency Formation Commission  
 1600 Pacific Highway, Room 452  
 San Diego, California 92101

**REGULATORY BRANCH**  
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Re: San Marcos Highlands Reorganization (Ref. Nos. RO02-29, SA02-29; SCH# 1999071007)

Dear Mr. Ott:

This letter is in response to your letter dated December 10, 2002, and received on December 12, 2002. During the public review period for the draft Supplemental Environmental Impact Report for the San Marcos Highlands project, the U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (Department) (collectively, Wildlife Agencies), submitted a joint comment letter dated December 28, 2001, to the City of San Marcos. Our concerns focused on the inadequacy of the preserve and wildlife corridor design. In addition, the Wildlife Agencies had concerns regarding both the adequacy and accuracy of the responses made to our California Environmental Quality Act (CEQA) comments and submitted a joint letter, dated June 3, 2002, restating our concerns and clarifying our comments and recommendations. These letters are enclosed.

Our concerns include the inadequacy of the proposed wildlife corridor to maintain connectivity to off-site high value habitats, the fragmented preserve design, and wildlife road crossings that are too small to allow for movement by southern mule deer (*Odocoileus hemionus fuliginata*). The Wildlife Agencies and County of San Diego have developed a map depicting draft North County Multiple Species Conservation Program (NCMSCP) Subarea Plan Composite Habitat Evaluation Model Results (August 2002). Currently, there is connectivity between the San Marcos Highlands property and moderate, high, and very high value habitats to the west and northwest that are within the NCMSCP planning area. The County is currently preparing the preserve design alternatives for the NCMSCP, and development of the San Marcos Highlands project could preclude subregional preserve design since the project as proposed does not include adequate wildlife corridors. The resulting fragmented nature of the habitat on the project would allow for increased edge effects such as human and pet intrusion. In addition, the project does not include adequate measures to reduce wildlife mortality on the proposed roads which cross the open space between Planning Area 1 and Planning Area 2.

Another issue that has not been resolved is the need for appropriate measures to offset impacts to coastal sage scrub that is occupied by the coastal California gnatcatcher (*Poliopitila californica californica*; gnatcatcher). The City's May 2002 response to our December 28, 2001, CEQA comment letter stated that the Wildlife Agencies had agreed to accept out-of-kind compensation for coastal sage scrub occupied by the gnatcatcher. The applicant proposes to offset impacts at a 1.7:1

Mr. Michael D. Ott (FWS-SDG-1668.3)

2

ratio through the preservation of on-site habitats, including riparian and open water habitats. However, the Natural Community Conservation Plan requires that the loss of coastal sage scrub habitat be offset in-kind, and the Wildlife Agencies have consistently stated that occupied gnatcatcher habitat should be offset in-kind at a 2:1 ratio.

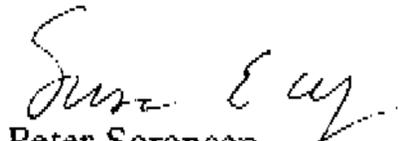
Your December 10, 2002 letter states that the man-made pond on-site is to be retained. However, during a meeting with the applicant and his consultants, PCR, on January 15, 2002, the Wildlife Agencies and the U.S. Army Corps of Engineers agreed with a proposal by PCR that the pond be removed and restored with appropriate southern willow scrub species to partially offset project impacts to wetland habitat.

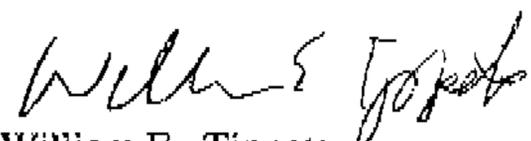
Unfortunately, the aforementioned issues with the San Marcos Highlands project remain outstanding. Therefore, we would like to bring your attention to our comments and recommendations in the enclosed letters. Per your request for terms and conditions, the following measures would address our most critical issues if incorporated into the project:

1. Redesign the proposed project footprint to provide a minimum 500-foot north-south or east-west corridor of native habitat to maintain connectivity with the off-site County lands to the northwest;
2. Provide wildlife undercrossings that are adequate to pass large wildlife species, including mule deer, where the proposed Las Posas Road and Street "A" cross the open space between Planning Area 1 and Planning Area 2. We recommend that the undercrossing be no less than 4.5 meters in height and width;
3. Offset project impacts to coastal sage scrub through the preservation of in-kind habitat at a 2:1 ratio; and
4. Remove the on-site pond and restore the site to southern willow scrub habitat.

Please contact Janet Stuckrath of the Service at (760) 431-9440 extension 270, or Nancy Frost of the Department at (858) 637-5511, if you have any questions or comments concerning this letter.

Sincerely,

  
FOR Peter Sorensen  
Acting Assistant Field Supervisor  
U.S. Fish and Wildlife Service

  
William E. Tippets  
Environmental Program Manager  
California Department of Fish and Game

cc Elizabeth Goldmann, EPA  
Jerry Backoff, City of San Marcos  
Tom Oberbauer, San Diego County, Planning & Land Use  
Robert Smith, U.S. Army Corps of Engineers  
State Clearinghouse

Enclosures (2)