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 4949 Viewridge Avenue  
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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.

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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.

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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.

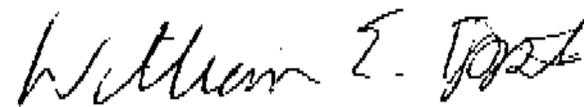
- B8. Page 4.3-2 of the draft SEIR states that 0.27 acre of riparian scrub occurs on-site. However, page 4.3-8 states that 0.35 acre of riparian scrub will be impacted. Because the project cannot impact more riparian scrub than is present, we request clarification on the acres of riparian scrub on-site 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  
U.S. Fish and Wildlife Service



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



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In Reply Refer to:  
 FWS-SDG-1668.3

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Mr. Michael D. Ott, Executive Officer  
 San Diego Local Agency Formation Commission **REGULATORY BRANCH**  
 1600 Pacific Highway, Room 452  
 San Diego, California 92101 **RS**

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

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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.

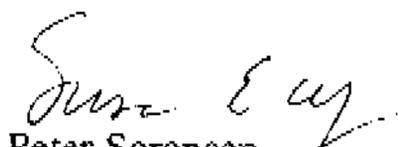
Your December 10, 2002 letter states that the man-made pond on-site is to be retained. However, during a meeting with the applicant and his consultants, PCR, on January 15, 2002, the Wildlife Agencies and the U.S. Army Corps of Engineers agreed with a proposal by PCR that the pond be removed and restored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

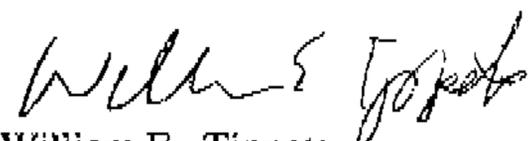
Unfortunately, the aforementioned issues with the San Marcos Highlands project remain outstanding. Therefore, we would like to bring your attention to our comments and recommendations in the enclosed letters. Per your request for terms and conditions, the following measures would address our most critical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