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March 1, 2012

Ms. Elizabeth Shearer-Nguyen  
City of San Diego, Development Services Department  
1222 First Avenue, MS-501  
San Diego, CA 92101

**Subject: Comments on the Draft Environmental Impact Report for Balboa Park Plaza de Panama Project, San Diego, San Diego County, CA (SCH# 2011031074)**

Dear Ms. Shearer-Nguyen:

The California Department of Fish and Game (Department) has reviewed the draft Environmental Impact Report (DEIR) dated January 23, 2012, for the Balboa Park Plaza de Panama Project. The comments provided herein are based on information provided in the DEIR and associated documents (including the Biological Resources Survey Report prepared by RECON, dated January 12, 2012), our knowledge of sensitive and declining vegetation communities in the County of San Diego, and our participation in regional conservation planning efforts.

The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; §§ 15386 and 15281, respectively) and is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (Fish and Game Code § 2050 et seq.) and other sections of the Fish and Game Code (1600 et seq.). The Department also administers the Natural Community Conservation Planning (NCCP) program. The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

The proposed Balboa Park Plaza de Panama project site is within the City of San Diego, 5.6 miles east of the Pacific Ocean, 1.5 miles northeast of San Diego Bay, 13 miles north of the United States/Mexico border, and immediately northeast of downtown San Diego. Balboa Park (Park) is generally bounded by 28<sup>th</sup> Street to the east, 6<sup>th</sup> Avenue to the west, Upas Street to the north, and Russ Boulevard to the south. The Park is characterized by a variety of landforms including vegetated canyons, ornamental gardens, open spaces, and developed areas. The project site is within a 15.4 acre area centrally located in the Central Mesa area of the Park; much of the Central Mesa is a designated National Historic Landmark and is home to a number of cultural amenities and attractions including El Prado, the Plaza de Panama, and Pan American Road.

The project includes rehabilitation of the Plaza de Panama consistent with early design of a ceremonial plaza and gathering space. It would accomplish this through elimination of automobile traffic and parking from the Plaza de Panama and adjacent promenades. Construction of a two-way elevated road at the east end of the Cabrillo Bridge that continues past the Museum of Man would reroute vehicle traffic west of Pan American Road to a new subsurface three-level parking structure. The structure would be built where the Organ Pavilion surface lot is currently located and would have a 2.2 acre rooftop park. The adjacent Alcazar

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parking lot would be redesigned to improve accessible parking as well as passenger drop-off, museum loading, and valet.

The Arizona Street Landfill (located east of Balboa Park) is an off-site project component which would serve as the disposal site for the soil export generated through construction of the Organ Pavilion parking structure. The Arizona Street Landfill is an inactive landfill equipped with a landfill gas collection system and flare station. Land uses are restricted because of a lack of formal closure, irregular settlement of the ground surface, and past problems with methane generation; however, the City's Parks and Recreation Department utilizes a portion of the landfill for maintenance sheds and equipment storage. The second off-site project component is a temporary access road within Cabrillo Canyon. Adjacent to SR-163, it would be utilized during construction of the elevated road's abutments and piers.

There are several biological resources issues (both on- and off-site) to the Department. The Plaza de Panama is a mosaic of developed and green open spaces with landscaped ornamental vegetation, while the area underneath and adjacent to the Cabrillo Bridge consists of eucalyptus woodland. Areas along the bridge could serve as roosting area for colonial bats, while eucalyptus woodland has the potential to support nesting birds and tree-dwelling bat species. The Arizona Street Landfill area is comprised of non-native grassland and disturbed land (potentially serving as raptor foraging habitat), and is adjacent to the City's Multi-Habitat Planning Area (MHPA). The MHPA to the northwest of the landfill contains several habitat types, of which the most dominant is coastal sage scrub (CSS). CSS serves as nesting and foraging habitat for coastal California gnatcatcher (*Polioptila californica californica*; Federally Threatened; State Species of Special Concern). No species-specific surveys were conducted according to the Biological Resources Survey Report.

We offer the following comments and recommendations to assist the City in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources, and to ensure that the project is consistent with ongoing regional habitat conservation planning efforts.


1. The DEIR neither adequately addresses potential for colonies of roosting bats under the Cabrillo Bridge, nor the potential for tree dwelling species in areas designated for vegetation clearing and grading. In evaluating potential biological resources that may be present within the project footprint, the Department reviewed the California Natural Diversity Database (CNDDDB). The CNDDDB was used as the primary source to identify previously reported occurrences of special species and sensitive habitats in the project vicinity. This database is a statewide inventory, managed by the Department, and is routinely updated with the location and condition of the state's rare and declining species and habitats. The CNDDDB records indicate that there is the potential for Mexican long-tongued bat (*Choeronycteris mexicana*; State Species of Special Concern), pocketed free-tailed bat (*Nyctinomops femorosaccus*; State Species of Special Concern), western red bat (*Lasiurus blossevillii*; State Species of Special Concern), and hoary bat (*Lasiurus cinereus*) to occur within proximity to the project area. Although the CNDDDB is the most current and reliable tool for tracking occurrences of special status species, it contains only those records that have been reported to the Department. Data in the CNDDDB were supplemented by independent data provided by Drew Stokes, resident chiropteran biologist for the San Diego Natural History Museum, which further support a conclusion that these species may be present. The Department requests a focused survey be conducted in accordance with the City's Guidelines for Conducting Biology Surveys (Table 1) to address the aforementioned wildlife concerns. Completed survey results should be included in the biological technical appendices for the final EIR (FEIR). The Department would appreciate a supplemental copy of the completed survey results.

2. While the Department agrees that coastal California gnatcatcher (CAGN) is unlikely to be present within the project footprint, we remain concerned with potential edge effects and indirect impacts to off-site breeding habitat within the MHPA, particularly noise-related impacts associated with proposed construction activities. While the DEIR's Mitigation, Monitoring and Reporting Program (MMRP) element LU-1:I.A.8 briefly addresses this issue, the FEIR should identify the specific MMRP measure that will address avoidance and/or minimization of indirect impacts to CAGN pursuant to the City's SAP.
3. Location, distribution, and timing of spoils to be deposited at the Arizona Street Landfill are not specified in the DEIR; therefore, potential exists for indirect and cumulative impacts to raptor foraging habitat in non-native grassland within this off-site project component (CEQA Guidelines, §15064(d)). Non-native grasslands in San Diego County provide important foraging areas for raptors and, primarily due to development, raptor foraging areas are rapidly disappearing throughout the County. Although off-site project components at the Arizona Street Landfill do not provide suitable raptor nesting habitat, they do provide a significant area to support raptor foraging (7.01 acres of non-native grassland). The Biological Resources Report documented the occurrence of several raptor species on-site, as well as important raptor prey species California ground squirrel (*Spermophilus beecheyi*). Given the proximity of raptor nesting to the project footprint, we believe suitable foraging habitat exists at the landfill site. Cumulatively, raptor foraging habitat loss may be significant, and impacts to this resource warrant further analysis through incorporation of the following elements into the FEIR:
  - a. Impacts to non-native grassland should be minimized through utilization of the most disturbed habitat types available within the off-site project components. The Biological Resources Report states there is 13.96 acres of disturbed habitat at the Arizona Street Landfill, and the Department supports the use of this habitat type as the environmentally superior alternative for deposition of spoils resulting from the excavation of the Organ Pavilion parking structure.
  - b. A detailed description of location, distribution, and timing of spoils to be deposited and their impacts on raptor foraging in non-native grassland should be included in the biological technical appendices of the FEIR.
  - c. In order to assess and minimize indirect impacts to non-native grassland and the adjacent MHPA, a list of species proposed for revegetation of the areas impacted by spoils deposition should also be included, as well as a schedule of anticipated hydroseeding activities should also be included with in the FEIR.
4. Mitigation language provided in MMRP (BR-1) partially addresses impact concerns for resident, migratory and other bird species (e.g., raptors). However, the City's MSCP SAP does not provide take for non-MSCP covered species, including many migratory avian species. In order to comply with sections 3503 and 3503.5 of the Fish and Game Code and to ensure no direct and indirect impacts to active avian nests, construction activities, (including vegetation clearing and grubbing) within or adjacent to avian nesting habitat should occur outside of the avian breeding season which generally runs from March 1 – August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs. Depending on the avian species present, a qualified biologist may determine that a change in the breeding season dates is warranted. Additionally, the following measures should be considered for the FEIR:

- a. The Department recommends the buffer for active raptor nests be 500 feet, as opposed to the 300 foot buffer that is currently proposed.
- b. If avoidance of the avian breeding season is not feasible (as defined above), the Department recommends that, beginning 30 days prior to the initiation of project activities, a qualified biologist with experience in conducting breeding bird surveys conduct weekly bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). The surveys should continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of project activities. If a protected native bird is found, the project proponent should delay all project activities within 300 feet of on- and off-site 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, project activities 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 there is no evidence of a second attempt at nesting. Flagging, stakes, and/or construction fencing should be used to demarcate the inside boundary of the buffer of 300 feet (or 500 feet) between the project activities and the nest. Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. The project proponent should provide the City with results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds.
- c. If the biological monitor determines that a narrower buffer between the project activities and observed active nests is warranted, he/she should submit a written explanation as to why (e.g., species-specific information; ambient conditions and birds' habituation to them; and the terrain, vegetation, and birds' lines of sight between the project activities and the nest and foraging areas) to the City and, upon request, the Department. Based on the submitted information, the City (and the Department, if the Department requests) will determine whether to allow a narrower buffer.
- d. The biological monitor shall be present on site during all grubbing and clearing of vegetation to ensure that these activities remain within the project footprint (*i.e.*, outside the demarcated buffer) and that the flagging/stakes/fencing is being maintained, and to minimize the likelihood that active nests are abandoned or fail due to project activities. The biological monitor shall send weekly monitoring reports to the City during the grubbing and clearing of vegetation, and shall notify the City immediately if project activities damage active avian nests.

We appreciate the opportunity to comment on the DEIR for this project and to assist the City in further minimizing and mitigating project impacts to biological resources. If you should have any questions or comments regarding this letter please contact Jennifer Edwards at (858) 467-2717 or via email at [JEdwards@dfg.ca.gov](mailto:JEdwards@dfg.ca.gov).

Sincerely,

  
Stephen M. Juarez  
Environmental Program Manager  
South Coast Region