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July 20, 2011

Mr. Jeff Adams
City of Whittier
13230 Penn Street
Whittier, CA 90602
Fax #: (562) 464-3509

Subject: Draft Revised Environmental Impact Report for Matrix Whittier Oil Field Project, SCH #2010011049, Los Angeles County

Dear Mr. Adams:

The Department of Fish and Game (Department) has received the draft Revised Environmental Impact Report (DREIR) for the proposed Matrix Whittier Oil Field Project. The Project proposes to drill wells for oil and gas production on lands owned by the City of Whittier (City) for which the City also owns mineral rights. The proposed Project would involve drilling wells and producing oil and gas from the Project Site, which includes approximately 7 acres of pad area plus additional disturbed and modified areas and roads owned by the City. The project site is included within the Puente Hills Landfill Native Habitat Preserve (Preserve). The 3,869-acre Preserve is located at the eastern edge of Los Angeles County and extends across three jurisdictions: the City of La Habra Heights; the City of Whittier; and the communities of Rowland Heights and Hacienda Heights, both in unincorporated Los Angeles County. The Preserve is a part of the larger Puente Chino Hills Wildlife Corridor in which much attention and resources have been devoted to preserving connectivity through this area which connects to the San Gabriel River and Santa Ana Mountains.

The Project Site is included within a larger City-owned property of approximately 1,290 acres of former oil fields. Additional impacts from road construction, pipeline construction, equipment parking/staging areas and fuel modification zones around the drill pads are proposed as part of the project. The project area was commonly known as the Whittier Main Field, an active oil field that produced oil for more than 100 years with approximately 500 drilled wells until the early 1990s. The majority of the land encompassing the oil field was purchased from Chevron and Unocal Corporation by the City via a grant of Proposition A funds. Proposition A authorized numerous urbanized counties statewide to issue a tax assessment for the purchase of open space including enhancing recreational opportunities and expanded access to recreational facilities for all residents throughout the district and improve the quality of life for all communities in the district by protecting, restoring, and improving the district's irreplaceable beach, wildlife, park, and open-space land.

The project sites are zoned as Open Space (OS) under the City Municipal Code *Section 18.09.010* which states "The purpose of the OS zone and provisions of this chapter is the delineation of wild lands, wildlife and wildlife habitat. Restoration and protection of such areas provides valuable resources for the community, and surrounding communities, through conservation and integrated use."

Conditions of the Proposition A funding prevent the City from using the land for anything other than open space. The Preserve, including the project sites, is currently managed for the City by the Puente Hills Landfill Native Habitat Preservation Authority (Habitat Authority). Currently, activity at the Whittier Main Field is limited to Preserve operations and activities, which consist of restoration and management of natural areas, and management of educational and recreational facilities.

On October 28, 2008, the City entered into an Oil, Gas, and Mineral Lease Agreement with Matrix. The agreement leases the City's mineral rights underlying the Whittier Main Field to Matrix and provides that, subject to a conditional use permit (CUP) and contractual provisions, Matrix could have certain rights, including drilling exploratory oil wells and extracting oil, gas, and other hydrocarbons, such as natural gas liquids, from the land. In exchange, Matrix would pay the City royalties on proceeds from the sale of produced oil and natural gas.

In order to use the proposed approximately 7 acres of the surface within the oilfield area for drilling and pumping, the City will be required to either reimburse the Los Angeles County Proposition A District for the 7 acres or provide a comparable area of land that can be used for open space.

As proposed, the preferred Project implementation would include vegetation removal for well pad construction, processing pad construction, road widening and realignment, vegetation clearing on the sides of facilities and roads for fire fuel reduction requirements, the construction of new underground oil and gas production pipelines along the Loop Road, and the installation of an underground electrical power line along the main access road from the Project Site to the tie-in of the SCE Line at Ocean View Ave.

The USFWS designates the Project Site as critical habitat for the federally threatened *Poliophtila californica* (coastal California gnatcatcher). Two individual gnatcatchers and one family group have been observed within the Project Area boundaries during protocol surveys conducted in coastal sage scrub and riparian scrub on the Project Site. Project implementation would entail permanent loss of 4.16 acres of coastal sage scrub and 0.22 acres of riparian scrub for grading and clearing for fuel modification. Another 0.86 acres of coastal sage scrub and 0.03 acres of riparian scrub would be temporarily impacted by grading and then will be restored to native vegetation. The DREIR concludes that proposed impacts represent potentially significant adverse impacts to coastal California gnatcatcher and its required habitat.

Several additional "special status" species that are not listed as threatened or endangered are present, or could be present, on the Project Site. *Neotoma lepida intermedia* (silvery legless lizard), *Icteria virens* (yellow-breasted chat), *Antrozous pallidus* (pallid bat), and *Neotoma lepida intermedia* (San Diego desert woodrat) are California Species of Special Concern that are known or presumed to occur on the site. The DREIR concludes that the Project's permanent grading impacts to approximately 13.54 acres and temporary impacts to approximately 8.03 acres of native upland habitats used by these species would be potentially less than significant with mitigation.

The California Wildlife Action Plan, a recent Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) altered fire regimes; and 5) recreational pressures. The Department looks forward to working with the Lead Agency to minimize impacts to fish and wildlife resources with a focus on these stressors. Please let Department staff know if you would like a copy of the plan to review.

The Department provided a comment letter dated 12/7/2010 (attached) on the previous Oilfield project described in the DEIR submitted for public review dated 10/6/2010 through 12/6/2010. The following comments for the current subject DREIR 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 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 the California Environmental Quality Act (CEQA). (See generally Pub. Resources Code, §§ 21070; 21080.4.) Given its related permitting authority under the California Endangered Species Act (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.):

CEQA Compliance

1. Open Space Zoning Provision – The proposed project site is within a Preserve area that is zoned as Open Space by the City.

The DREIR does not appear to include a rezoning proposal that would change the land use provisions for the project site. Because oil and gas extraction and resulting environmental impacts, including significant unavoidable impacts to wildlife movement and loss of occupied coastal California gnatcatcher habitat is not compatible with the City's stated zoning ordinance the DREIR should clearly explain this apparent inconsistency.

2. Whole of the Action Considerations - The DREIR states "On October 28, 2008, the City entered into an Oil, Gas, and Mineral Lease Agreement (Lease Agreement) with Matrix. The agreement leases the City's mineral rights underlying the Whittier Main Field to Matrix and provides that, subject to a conditional use permit (CUP) and contractual provisions, Matrix could have certain rights, including drilling exploratory oil wells and extracting oil, gas, and other hydrocarbons, such as natural gas liquids, from the land."
 - a. The DREIR does not appear to reference any previous level of CEQA review regarding the Oil, Gas, and Mineral Lease Agreement with Matrix in 2008 or a zoning ordinance change to accommodate the project. CEQA requires a Lead Agency to consider the whole of the action when analyzing a project's environmental impacts (CEQA Guidelines §15063(a)(1), §15378). This includes activities that lead to reasonably foreseeable direct and/or indirect effects which are actual or potential (CEQA Guidelines §15064(d)).
 - b. If the Lead Agency prepared a Negative Declaration or Environmental Impact Report for the Lease Agreement, the Department believes that this action is part of

- the same project and should have been discussed in one CEQA document which included the proposed Project CUP consideration prior to entering into the Lease Agreement. The preparation and circulation of separate CEQA documents for actions that are parts of the same project (commonly referred to as “piece-mealing”) is therefore not allowed by CEQA. The Department believes the Lease Agreement, zone change request and the CUP should be noticed under one CEQA document as it was reasonably foreseeable that the proposed Project and zone change is the direct and/or indirect effect of the Lease Agreement.
- c. If the Lead Agency prepared a Categorical Exemption for their discretionary issuance of a Lease Agreement, a Categorical Exemption should not be used for any activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines §15300.2(c)).
 - d. The Department recommends that the Lease Agreement be invalidated pending further Lead Agency discretionary action approvals following the public comment period for a CEQA document that includes the whole of the action which includes the Lease Agreement, request for zone change and CUP if this has not already been accomplished.

Project Alternatives

1. No Project Alternative – The DREIR describes a No Project Alternative. With the No Project Alternative, the oilfield would not be developed and the resources of the oilfield would not be utilized. Under the No Project Alternative, no new activity would occur at the Preserve.
 - a. The Department acknowledges that the DREIR has implemented several of the Department’s recommendations to implement mitigation measures to further reduce impacts from the project to botanical and wildlife resources. The Department however continues to recommend that no oil and gas extraction take place within the Project sites zoned as open space, which are recognized for its biological resource attributes. The No Project Alternative would avoid impacts to biological resources within this preserve. The proposed activities appear to be incompatible with the unique biological attributes for which this location was zoned. In addition, if oil extraction is approved within the preserve area as proposed, the Department is concerned that this sets a precedent for further degradation of the preserve area for consumptive resource extraction in the future.

Impacts to Biological Resources

1. Core Habitat – In the Core Habitat discussion of the DREIR it is stated “It is also relevant that, for many decades, extensive and unmitigated oil operations took place across a much wider portion of the La Cañada Verde and Arroyo Pescadero watersheds than is currently being proposed, without resulting in significant, long-term, adverse effects on the local wildlife populations. For these reasons, the proposed actions are not anticipated to substantially inhibit the bobcat and other larger mammal species’ use of the La Cañada Verde watershed, either as a nursery site or as a movement corridor. It is concluded that the Project’s potential impacts on bobcats and

other wildlife species will be adverse, but less than significant with provision of the required mitigation measures.”

- a. Please provide references to substantiate the conclusion regarding decades of oil operations and the resulting lack of long-term adverse effect on local wildlife populations based upon baseline data and current population trends.
- b. The Department is concerned that the project may result in degradation of the Preserve area from any proposed oil development on the project site. Please provide a summary of any historical petroleum releases and wildfires resulting from oil operations in the project area and any records of violations by Matrix Oil Company at any of their other operating sites that may raise concern for future environmental compliance at the proposed project site.

Thank you for this opportunity to provide comments. Please contact Scott Harris, Environmental Scientist, at (626) 797-3170 if you should have any questions and for further coordination on the proposed project.

Sincerely,

Edmund Pert
Regional Manager
South Coast Region

Attachment

cc: Ms. Terri Dickerson, CDFG, Laguna Niguel
Ms. Kelly Schmoker, CDFG, Pasadena
Mr. Scott Harris, CDFG, Pasadena
Ms. Sarah Rains, CDFG, Thousand Oaks
State Clearinghouse, Sacramento

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Whittier, CA 90602

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