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City Council Members
City of Los Angeles
c/o Michael Espinosa
City Clerk's Office
City Hall, Room 395
200 North Spring Street
Los Angeles, CA 90012
michael.espinosa@lacity.org

Re: CEQA Appeal of Board of Public Works Adoption of an MND (ENV-2015-1843) and Its Addendum and Approval of Tree Removal Permit Request (SR Number 1-22817431 / BPW-2017-1178) for Removal of Five Protected Trees Located at 2251 Nichols Canyon Road Pursuant to California Public Resources Code Section 21100 et seq

Dear City Council Members,

On behalf of Citizens for Los Angeles Wildlife ("CLAW") we hereby appeal the City of Los Angeles Board of Public Works ("BPW") adoption of an MND (ENV-2015-1843-MND) and its Addendum, as well as BPW's approval of a tree removal permit request for the removal of one Southern California Black Walnut (*Juglans californica*), one Western Sycamore (*Platanus racemosa*), and three California Bay Laurel (*Umbellularia californica*) trees from 2251 Nichols Canyon Road, Los Angeles, CA 90046 ("tree removal permit"). The Applicant proposes to build an 8,183 square foot house on a never-before developed 22,898 steep hillside parcel at 2251 Nichols Canyon Road. Property contains a year-round spring-fed stream and serves as a vital wildlife corridor between the Mountains Recreation and Conservation Authority parkland (the Trebek Open Space) and open space to the west. CLAW works to benefit wildlife and their habitat, including wildlife living in the area surrounding the tree removal. Removal of the trees would adversely affect CLAW's mission. CLAW submitted written comments to Councilmember Ryu opposing the granting of the tree removal permit and the adoption of the MND due to its inadequacy.

BPW's determination adopting the MND and its Addendum and approving the tree removal permit was made on March 23, 2018, and therefore this appeal is timely.

BPW exceeded its powers, erred, and abused its discretion when it adopted the MND and its Addendum and approved the tree removal permit in violation of the California Environmental Quality Act, California Public Resources Code (“PRC”) Section 21100 et seq (“CEQA”). Public Resources Code Section 21151(c) allows any interested party to file an appeal of a CEQA determination to the public agency’s elected decision-making body. This section of the PRC states as follows:

“If a nonelected decisionmaking body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decisionmaking body, if any.”

Accordingly, we respectfully request that the City of Los Angeles City Council (“Council”), after reviewing this appeal and its records, set aside BPW’s adoption of the MND and its Addendum and its approval of the tree removal permit request and the tree removal permit. While this appeal is pending, we further request that the Council place an immediate stay on all tree removal permit and tree removal-related activities related to the property.

A. Issuance of a Tree Removal Permit and Adoption of an MND Violated CEQA.

The approval of the tree removal permit and adoption of the MND and its Addendum violated CEQA in the following ways, as stated by the Santa Monica Mountains Conservancy.

The subject MND is deficient for its failure to adequately address significant impacts to the onsite blueline stream, Nichols Canyon Creek. The subject project proposes the removal of one California black walnut tree, two western sycamore trees, and four California bay laurel trees for the construction of a residence of more than 8,000 square feet. It is impossible for the subject project to not result in significant adverse impacts to the onsite riparian habitat that is subject to regulation by both the California Department of Fish and Wildlife and the United States Army Corps of Engineers. The subject MND refers to, but does not describe, mitigation measures that are specified in the Protected Tree Report for the subject project.

The subject MND is further deficient for its failure to address potentially significant adverse impacts to wildlife movement that would result from the proposed project. The subject property lies within a designated habitat block (No. 44) on the Santa Monica Mountains Conservancy's Eastern Santa Monica Mountains Habitat Linkage

Planning Map (2017). Habitat block No. 42, which encompasses Trebek Open Space, is located directly across Nichols Canyon Road. The MND must analyze how to maintain adequate habitat connectivity for large mammals through the subject property to an interface point on Nichols Canyon Road. The MND must also include mitigation that permanently protects that sufficient level connectivity through the subject property. The property itself contains riparian and woodland habitat that is rare in the eastern Santa Monica Mountains and constitutes the most ecologically significant habitat in lower Nichols Canyon based on riparian canopy width and height and integration with upland habitat.

The development of an 8,000 square-foot residence and appurtenant elements on the subject property, with its associated retaining walls, would irrevocably remove a section of habitat that is fundamental to the function of the eastern Santa Monica Mountains ecosystem. Permanent impacts from Fire Department-required fuel modification (brush clearance), night time lighting, and chain link (or other) fencing would further degrade the surrounding habitat and impede wildlife access.

Each of these above-described adverse ecological impacts can be reduced, and be more easily mitigated, with a smaller, customized overall project footprint.

B. Tree Removal Permit Should Not Issue Until City Council Has Reviewed the Board of Public Works Determination Adopting the MND and MND Addendum

CEQA requires that consideration and adoption of a project's CEQA environmental document occur prior to project approval so that the CEQA environmental document informs the agency's decisionmaking. Cal. Pub. Res. Code § 21151; CEQA Guidelines § 15090 (requiring that "the decisionmaking body reviewed and considered the information contained in the final EIR **prior to approving** the project"). A lead agency cannot approve a project prior to completing the CEQA environmental review process. *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 965. A lead agency cannot remedy its failure to complete CEQA environmental review by completing it after project approval. (*Save Tara v. City of West Hollywood* (2008) 45 Cal. 4th 116, 127, 132.)

For the foregoing reasons, the City must ensure the Tree Removal Permit does not issue until the City Council has made the final administrative determination on the adoption or otherwise of the MND and Addendum.

Conclusion.

This appeal is made to exhaust administrative remedies concerning the MND and MND Addendum adoption and tree removal permit approval and adopts and incorporates by reference all Project objections raised during the environmental review process and Board of Public Works hearings, including all objections and evidence submitted by all other appellants in these proceedings.

In particular, we adopt the objections found in letters submitted to the Board of Public Works by attorney Jamie Hall of Channel Law Group and those found in public comment letters submitted by the Santa Monica Mountains Conservancy; the Sierra Club; and the Federation of Hillside and Canyon Associations, Inc, and in the March 21, 2018, analysis Memo by biologist Daniel Cooper of Cooper Ecological Monitoring of the developer's Biological Resources Inventory prepared by Envicom Corporation.

Please note that we reserve the right to supplement the justifications for appeal presented.

Sincerely,



Douglas P. Carstens

cc: Holly Wolcott, City Clerk
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