Dear Mr. Wilson and Ms. Grefsrud,

Through a recent Public Records Act Request, we learned that the California Department of Fish and Wildlife is requiring that the Oakland Zoo add more mitigation acreage to their proposed expansion project in Knowland Park due to permanent impacts to Alameda whipsnake (Alameda Striped Racer) habitat. As part of a recent PRA request, we received an email message dated 10/11/2013, in which Marcia Grefsrud told Zoo consulting biologist, Jim Martin, that consideration of new areas of permanent impact "could increase [the Zoo's] mitigation requirement by approximately 20 acres." We have noted that the Zoo's recently submitted proposed mitigation maps show only 6.387 additional acres compared for mitigation. We are writing to share our concerns about the feasibility of meeting the required mitigation standards on site and within the limits of this project as approved by the Oakland City Council. High quality habitat in the park – both Alameda whipsnake habitat and native grasslands – is being destroyed by this project, and it appears that the Zoo is now attempting to use low quality habitat to meet the new mitigation requirements since that is largely what remains within and adjacent to its proposed fenceline.

Karen Swaim's updated map (Figure 11) that we received on April 16th 2014 includes the most recent version of the Zoo's proposed mitigation areas that we have seen. See Figure 11 which is called "Conservation Easement/Deed Restriction Area for ASR Habitat Mitigation". On that figure she shows 4 polygons representing a total of 52.737 acres of mitigation:

The figure shows a grand total of 52.737 acres of mitigation proposed. The map mentioned above shows areas outside of the fence and furthermore outside of the "urban openspace area" zoning designation approved by the City of Oakland to accommodate this project, and it is still well short of representing the additional 20 acres that Marcia Grefsrud noted could be required due to permanent impacts the Zoo had failed to consider.

While we are unsure of what the Zoo will ultimately settle on for mitigation areas, we note that using land outside of the Zoo’s proposed fenceline would be illogical, as those areas are already acting as protected wildland habitat that do not require further protection.

The Zoo’s most detailed public description of its proposed mitigation measures can be found in the Habitat Enhancement Plan submitted as part of the Subsequent Mitigated Negative
Declaration/Addendum for this project. That plan describes the goals of mitigation: “Habitat enhancement provided under the HEP would be achieved through the control and eradication of the target invasive species and through revegetation with native grassland, riparian, and woodland species where the native cover types have been displaced by non-native species.” Further descriptions of mitigation actions are provided in Volume 1 of the Subsequent Mitigated Negative Declaration/Addendum for this project. Figure 2-10 (Proposed Master Plan Amendment: Schematic Planting Plan for California Exhibit) divides the project area into 4 different zones (each one with a separate schematic for planting or retaining native plants within or around exhibits. Zone 4 refers to the two “Ecological Recovery Zones” as follows: “Natural areas to be enhanced through invasive species removal and native enhancement plantings. Treatment area for enhancement will be defined as part of the Habitat Enhancement Plan. Provide Additional plantings of native trees, shrubs, and grasses for habitat enhancement.”

EBCNPS is concerned that the extra acreage for mitigation has been found in areas of the park that have lower habitat value (for whipsnake and native grassland which are supposedly being mitigated for) than the areas being damaged by the development. Much of the proposed mitigation area is made up of closed canopy oak woodland on northern aspects. This is surprising considering that in the March 2013 Revised Biological Assessment, Karen Swaim wrote that “Coast live oak woodland habitats with a more open canopy and on aspects facing southerly and easterly, are generally used more frequently by ASR.”

Given these descriptions, we are surprised by the fact that much of the proposed mitigation area is dominated by closed-canopy oak woodland – a habitat type that is not particularly threatened by invasive species, that does not provide quality habitat for native grasslands or whipsnake, and which due to its healthy and dense canopy is not in need of revegetation.

Another important concern is that the four fragments of mitigation land are themselves bounded at least in part by development, are separated from each other, and in no way replace the value of the original unbroken habitat of the undeveloped site. These areas do not form an integrated reserve but rather are simply the attempt of the zoo to cobble together bits of left over land within and adjacent to the development footprint.

We also note that due to volunteer efforts over the past two years, several acres of the highest quality grassland and chaparral habitat within the project area have already been cleared of “target” invasive species such as French broom. These volunteer groups are not affiliated with the Zoo. This volunteer park stewardship would continue to occur in the absence of the Zoo project thereby making the Zoo’s proposal to mitigate by removing these already removed species inadequate. To summarize the issue, the Zoo appears to be proposing to mitigate for damage of rare habitat types and the potential of harming a threatened species by protecting land that is already protected and by managing invasive weeds which are already being successfully managed. These mitigations therefore seem to fall far short of good faith efforts.

Another area of seeming contradiction is the slope above the recently constructed Veterinary Medical Hospital. In Exhibit B of Court Documents Submitted by Oakland Zoo for Alameda County Superior Court Case No. RG 11-586554, Karen Swaim wrote:

*I have personally surveyed the site of the Veterinary Medical Hospital. Based on my survey of the site and my review of the plans for the Veterinary Medical Hospital, I have determined that construction of the Veterinary Medical Hospital would not result in any significant adverse impacts to the Alameda whipsnake or permanent impacts to Alameda whipsnake habitat. As explained in my report attached as Exhibit A, this is so based on the high level of disturbance and/or complete lack of suitable habitat within the proposed site, the small size combined with the location immediately adjacent to developed parking lots, and the results of my extensive surveys for the Alameda whipsnake.*
Due to this testimony, the USFWS issued an informal biological opinion which allowed the vet hospital to immediately begin grading without further biological review. Now the Zoo seems to be contradicting itself by claiming the area surrounding the vet hospital could be mitigation for the expansion. It is also important to note that the land in question will be surrounded by development on most sides (residences on the south side, zoo on the west side, expansion on the east) and it therefore has the potential to become an ecological trap. Not only is this area degraded, but AWS wandering into it have nowhere to go and therefore the area’s potential as new habitat as a result of restoration or “enhancement” is extremely limited.

In a letter to Dr. Joel Parrott dated April 30, 2012, Scott Wilson, Acting Regional Manager for the CDFW Bay Delta Region writes:

*DFG [CDFW] recommends relocating the Interpretive Center and any other wooden structures to another location, keeping the chaparral outside of the defensible space boundaries, such as the grassland area which is approximately 200 yards south of the current proposed Project location. This effort would leave the rare and high quality maritime chaparral habitat intact, better conserve the Alameda whipsnake population and its habitat, and further eliminate the need for fuels management due to locating structures within and over chaparral. Also, the Project footprint could be further reduced by locating other facilities within the current Zoo footprint.*

This recommendation was made two years ago in an attempt to help the Zoo avoid project impacts that would be very challenging to mitigate. Instead of moving the buildings and locating certain facilities within open areas of the current Zoo footprint, the Zoo chose to ignore the advice of CDFW and is instead attempting to force through weak mitigation in the form of protections for already protected park land. The result is that the plants and wildlife of Knowland Park will be irreparably harmed without consequence for the entity doing the damage.

Now that the Zoo has made maps of the extent and locations of its proposed mitigation areas, we request the opportunity to review these areas on-site at Knowland Park with you. The California Native Plant Society and the Friends of Knowland Park are the true park stewards of this site, and no one is more qualified to speak to the potential issues with the proposed plan than we are.

At this point, we have received three maps from the Oakland Zoo of their California Trails Project, but there is no narrative to set in context the significance of these maps. Two of the maps show revisions from a previous version (Figure 9 and an unnumbered figure) of the Temporary and Permanent Affects [sic] to Potential ASR Habitat. Along with this letter, we will also be submitting an updated FOIA and PRA request for information that would provide context for the maps we received on April 16th 2014. We respectfully request that agency personnel respond to the following questions as part of this FOIA/PRA, the answers to which cannot be captured thus far in previous FOIA and PRA requests:

1. Is the term affect or effect considered to be synonymous with impact? If not, what is the difference and is there a legal significance?

2. Could you please tell us what calculations the agencies have made/ agreed to for acres of impacts of the project and for acres of mitigations required?

3. Does the zoo’s Figure 11 (Conservation Easement Area for ASR Habitat Mitigation) represent a counter proposal by the Zoo in terms of the number of acres of mitigation or have the agencies settled upon the total figure of 52.737 as the number required?

4. Have the agencies determined whether they will accept the double-dipping proposed by the zoo in attempting to place easements upon already protected park land? Have other forms of mitigation (such as purchase of mitigation credits at a mitigation bank) been proposed?
5. Our understanding is that, in general, mitigations require the value of mitigation habitat equal to or greater than that destroyed in terms of quality. How do the agencies view the fact that the zoo is attempting to replace a large area of unfragmented high quality habitat of maritime chaparral, native grasslands, and coastal scrub with 4 separate fragments of habitat (that are separated by development, roads, and fences), much of which is of inferior quality to what is being destroyed or isn’t even comparable, such as oak woodlands? Will the agencies consider the fact that most of the acreage proposed for mitigation is sandwiched between the zoo’s existing development and the planned expansion, rather than being located in the east where it would be far more likely to provide connectivity to the known AWS populations to the east?

7. To what extent has recovery of the AWS been discussed as a goal of the mitigations of this project and how has that goal been advanced by the proposed mitigations? We ask this particularly in light of the recent research showing that Unit 6 is an important genetic base for recovery of the species, as it can provide linkage with units on either side.

8. How are the agencies factoring into their consideration the fact that the Oakland Zoo currently holds the management agreement for Knowland Park, and that basic weed and habitat management is already part of their legal duty as the park managers. How can performing duties that they are already obligated to perform – with or without the expansion – on parkland that is already being conserved as wildland habitat, be considered mitigation?

Sincerely,

Mack Casterman
East Bay Chapter California Native Plant Society

Ruth Malone
Friends of Knowland Park