



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Inland Deserts Region  
 3602 Inland Empire Boulevard, Suite C-220  
 Ontario, CA 91764  
 www.wildlife.ca.gov

GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



January 17, 2020  
 Sent via email

Governor's Office of Planning & Research

JAN 17 2020

STATE CLEARINGHOUSE

Mr. Michael Poland  
 City of Upland  
 460 North Euclid Avenue  
 Upland, CA 91786  
 (909) 931-4135

Subject: Initial Study and Mitigated Negative Declaration  
 Bridge Point Upland  
 State Clearinghouse No. 2019129066

Dear Mr. Michael Poland:

The California Department of Fish and Wildlife (CDFW) received the Mitigated Negative Declaration (MND) for Bridge Point Upland Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

---

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

## PROJECT DESCRIPTION SUMMARY

The proposed Project includes a warehouse/parcel delivery service building with an ancillary office/retail space on approximately 50.25 acres located between Central Avenue and Benson Avenue, north of Foothill Boulevard and south of Cable Airport, in the City of Upland, San Bernardino County: Assessor's Parcel No. 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-12, 1006-551-22, and 1006-574-10.

## COMMENTS AND RECOMMENDATIONS

CDFW is concerned about the adequacy of the MND to avoid potentially significant impacts, including cumulative impacts, and the ability of the City of Upland (City; the CEQA lead agency) to mitigate significant impacts to declining natural vegetation communities and species that rely on these habitats. CDFW's comments and recommendations are presented below.

### Burrowing Owl

According to the MND, a habitat assessment was prepared for the proposed project by ELMT Consulting Inc. (August 2019) that concluded "*the Project site does not provide suitable habitat for special-status wildlife species known to occur in the area since the Project site has been heavily disturbed from on-site disturbances and existing development*". CDFW does not agree that suitable foraging and nesting habitat may not occur within the project area or vicinity. Current known occurrences of burrowing owls (*Athene cunicularia*), a state species of special concern, have been documented recently within the immediate area. CEQA requires public agencies in California to analyze and disclose potential environmental impacts associated with a project that the agency will carry out, fund, or approve. Based on burrowing owl(s) being observed immediately adjacent to the project site, a habitat assessment should have been conducted and, if warranted based on the habitat assessment, focused surveys should have been completed such as described in the Staff Report on Burrowing Owl Mitigation (CDFW, March 2012) within the Project footprint and an appropriate buffer. CDFW recommends that the City advise the Project proponent to follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*, including habitat assessment and surveys, to provide the information needed to determine the potential effects of the proposed Project on burrowing owls, and to avoid take in accordance with FGC sections 86, 3503, and 3503.5. In addition, an impact assessment to evaluate the extent to which

burrowing owls and their habitat may be impacted, directly or indirectly, should be included in the MND.

Once the project is properly assessed for its' effects of burrowing owl, the MND should provide specific mitigation that is roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). Mitigation measures should be effective, specific, enforceable, and feasible actions that will improve environmental conditions. Current scientific literature supports the conclusion that mitigation for permanent burrowing owl habitat loss necessitates replacement with an equivalent or greater habitat area for breeding, foraging, wintering, and dispersal. This often includes the presence of burrows, burrow surrogates, fossorial mammal dens, well drained soils, and abundant and available prey within close proximity to the burrow.

#### Alluvial Fan Sage Scrub

The MND and habitat assessment identify Riversidean alluvial fan sage scrub (RAFSS) within the project. The MND describes the habitat as heavily disturbed, isolated, located outside of a floodplain, and cut off from the active stream channel, and because of that, determined that the impact "*is not considered a significant impact and requires no mitigation*". CDFW disagrees with the assertion that the impacts to this sensitive plant alliance are not significant and should not require mitigation. CDFW strongly encourages the City to include feasible mitigation measure into the MND that will compensate for loss to state sensitive alliances.

Please also note, CDFW recommends the City describe the vegetation communities using a standardized, systematic classification. The standard vegetation classification that has been adopted by CDFW is the 2008-second edition of the *Manual of California Vegetation* (Sawyer, Keeler-Wolf and Evens 2009). Although many reports and mapping continue to use the RAFSS classification system as described by Holland (1986), the *Manual of California Vegetation* categorizes scalebroom (*Lepidospartum squamatum*) into a series based on one or two dominant species, with the member rule being the presence of >1% cover of this indicator species.

#### **CONCLUSION**

CDFW appreciates the opportunity to comment on the MND and recommends that the City address CDFW's comments and concerns prior to approving the MND. If you should have any questions pertaining to the comments provided in this letter, please contact Kim Romich at (909) 980-3818 or at [Kimberly.Romich@wildlife.ca.gov](mailto:Kimberly.Romich@wildlife.ca.gov)

Sincerely,



Scott Wilson  
Environmental Program Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento  
ec: HCPB CEQA Coordinator

## LITERATURE CITED

California Department of Fish and Game (CDFG). 2012. Staff report of burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: [http://www.dfg.ca.gov/wildlife/nongame/survey\\_monitor.html](http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html)

Holland, R. F. 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California. State of California Department of Fish and Game, Nongame Heritage Program, Sacramento, CA.

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A Manual of California Vegetation. 2nd edition. California Native Plant Society Press, Sacramento, CA. Available for download at: <https://wildlife.ca.gov/Data/VegCAMP/Publications-and-Protocols/Vegetation-Manual>