



State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



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Sent via email

Governor's Office of Planning & Research

FEB 10 2020

STATE CLEARINGHOUSE

Mr. Damaris Abraham
Senior Planner
City of Lake Elsinore
130 South Main Street
Lake Elsinore, CA 92530
dabraham@lake-elsinore.org

Subject: Initial Study with Mitigated Negative Declaration
Lake Street Storage Project
State Clearinghouse No. 2020010164

Dear Mr. Abraham:

The California Department of Fish and Wildlife (CDFW) received the Initial Study and Mitigated Negative Declaration (IS/MND) on January 14, 2020, from the City of Lake Elsinore (City) for the Lake Street Storage Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

¹ 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.

review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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, the Project 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 14.44-acre Project site is located east of Lake Street, south of Interstate 15, and north of Temescal Wash within the City of Lake Elsinore, Riverside County, California; within assessor parcel number 390-130-018. The Project proposes to subdivide the site into four lots and construct a service station with convenience store, an indoor/outdoor recreational vehicle and boat storage facility, parking and vehicle access routes. Three of the four lots are currently proposed for development; no development is currently proposed on the fourth lot.

WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN AND PERMITTEE OBLIGATIONS

CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) per Section 2800, *et seq.*, of the California Fish and Game Code on June 22, 2004. The MSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit.

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements. To obtain additional information regarding the MSHCP please go to:
<http://rctlma.org/epd/WR-MSHCP>.

The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP. In order to be considered a covered activity, Permittees must demonstrate that proposed actions are consistent with the MSHCP and its associated Implementing Agreement. The City of Lake Elsinore is the Lead Agency and is signatory to the Implementing Agreement of

the MSHCP. The Project is located within the Estelle Mountain/Indian Canyon Subunit (SU1) of the Elsinore Area Plan and occurs entirely within MSHCP Criteria Cells 3751 and 3752 of Cell Group J. The MSHCP states that conservation within Cell Group J will contribute to assembly of Proposed Core 1, with conservation ranging from 75 to 85 percent focusing on the western and northern portions of Cell Group J.

CDFW and the United States Fish and Wildlife Service (Service) submitted a joint comment letter to the City on April 23, 2019, in response to Joint Project Review (JPR) 18-08-29-01, which was prepared by the City to evaluate the Project's consistency with the MSHCP. In the letter CDFW and Service expressed concerns about potential edge effects related to the proposed Project, given that the Project will be constructed immediately north and west of mitigation lands, and directly north of Temescal Wash, which is a movement corridor for wildlife, and supports riparian habitat suitable for riparian bird species, including least Bell's vireo, yellow warbler, and yellow-breasted chat. The Western Riverside County Regional Conservation Authority (RCA) also expressed concerns pertaining to potential edge effects and recommended that the City condition the project to construct a physical barrier (e.g., solid masonry wall) along the southern and eastern Project boundary to attenuate potential noise and light impacts to the adjacent conservation/mitigation/riparian habitat lands. The RCA also recommended that the City condition the project to conduct a noise study to confirm "...the type and dimensions of the barrier needed to ensure project-generated noise levels reaching adjacent conservation lands do not exceed residential noise standards." (RCA Joint Project Review, page 5). For lighting, the RCA stated: "The City will condition the project to perform the necessary lighting study to confirm the proposed project does not increase existing ambient lighting reaching the conservation lands."

CDFW and the Service agreed with the RCAs recommendations and conditions: that the design of the physical barrier (i.e., fence) should be driven by data through the completion of a noise study, and that a lighting study be performed. CDFW's review of the MND identified that a noise study was completed, as requested by the RCA, CDFW, and Service, but CDFW was unable to find reference to a lighting study. Lighting is however conditioned by the City in Mitigation Measure BIO-2 as follows: "Comply with Lake Elsinore Municipal Code Section 17.112.040 Lighting (for Nonresidential Development) that all outdoor lighting fixtures in excess of 60 watts are oriented and shielded to prevent glare or direct illumination on adjacent properties. All exterior lighting shall be shielded away from the MSHCP Conservation Area to protect species within the MSHCP Conservation Area from direct night lighting. Shielding shall be incorporated in project designs to ensure ambient lighting in the MSHCP Conservation Area is not increased." (IS/MND, page 71).

CDFW appreciates that the City completed the noise study, and that the subsequent fencing design plan was informed by the noise study to reduce ambient noise in adjacent mitigation/conservation lands to less than residential standards. Though CDFW was unable to locate a light study, we appreciate that the City has conditioned the Project to comply with the City's non-residential development Lighting Code (Municipal Code section 17.112.040) and required that all external lighting be shielded away from adjacent mitigation/conservation lands. CDFW's understanding of the lighting and noise conditions identified in Mitigation Measure (MM) BIO-2 is that the Project Applicant will demonstrate compliance with these measures via incorporation of lighting and noise commitments on Project design plans submitted to the City prior to Project construction. CDFW agrees with the inclusion of MM BIO-2, but we are concerned that as proposed, the City has no mechanism to ensure that the Project will not exceed pre-project ambient light conditions or be implemented as stated. To ensure that the Project does not exceed pre-project ambient light conditions pre- and post-project light data would need to be collected and compared, and CDFW did not identify a commitment to collect and compare this data in the IS/MND.

Given that the Project site is proposed immediately adjacent to mitigation/conservation lands, CDFW requests that the City include a new mitigation measure in the IS/MND conditioning the Project to demonstrate implementation of the lighting and noise requirements as described in MM BIO-2. To ensure implementation, CDFW recommends that the City condition the Project to provide as-built plans, and a post-construction lighting and noise plan. CDFW also recommends that the City complete a site visit to verify the implementation of the lighting and noise conditions. CDFW recommends the inclusion of the following new mitigation measure in the IS/MND:

MM BIO-5: Following Project construction Project Applicant shall demonstrate to the City compliance with the Lighting and Noise requirements of MM BIO-2 via the provision of as-built plans and a noise and lighting report, comparing pre- and post-construction data, for review and approval by the Western Riverside County Regional Conservation Authority and the City. The lighting report will include sufficient pre-project data to confirm the proposed project does not exceed pre-project ambient lighting on adjacent conservation lands. Following receipt of the as-built plans and noise and lighting report, the City shall conduct a site visit to verify lighting and noise conditions are consistent with MM BIO-2.

Pursuant to CEQA Guidelines section 15097(f) CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for proposed MM BIO-5. The draft MMRP for MM BIO-5 is enclosed at the end of this letter.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the CNDDDB field survey form at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

CDFW CONCLUSIONS AND FURTHER COORDINATION

CDFW appreciates the opportunity to comment on the IS/MND for the City of Lake Elsinore's Lake Street Storage Project (SCH No. 2020010164) and recommends that the City address CDFW's comments and concerns prior to adoption of the MND.

If you should have any questions pertaining to the comments provided in this letter, please contact Joanna Gibson at (909) 987-7449 or at Joanna.Gibson@wildlife.ca.gov.

Sincerely,



Scott Wilson
Environmental Program Manager

Attachment: Draft Mitigation Monitoring and Reporting Program for CDFW-
 proposed Mitigation Measure BIO-5.

ec: HCPB CEQA Coordinator
 Habitat Conservation Planning Branch

Office of Planning and Research
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Mitigation Monitoring and Reporting Program for the City of Lake Elsinore’s Lake Street
 Storage Project

Mitigation Measure	Timing and Methods	Responsible Parties
Biological Resources		
<p>BIO-5: Demonstrate implementation of Lighting and Noise conditions. The Project occurs adjacent to mitigation/conservation lands and has the potential to impact these areas via project-generated lighting and noise. To reduce impacts to adjacent mitigation/conservation lands the Project agreed to implement lighting and noise conditions, including a lighting plan that would not exceed ambient light conditions on adjacent mitigation/conserved lands post-project when compared to pre-project data, and fencing designed specifically to reduce noise to residential standards. The lighting plan will identify baseline pre-project ambient lighting conditions in the adjacent Conservation Area.</p>	<p>Timing: Pre- and Post-construction. Methods: Prior to issuance of a Grading Permit, Project Applicant shall submit to the City of Lake Elsinore and Western Riverside County Regional Conservation Authority a pre-project lighting plan that identifies ambient light conditions on adjacent mitigation/conservation lands. Post-construction, Project Applicant shall submit to the City as-built plans and a noise and lighting report to verify implementation of lighting and noise requirements (including data to verify that post-project ambient light conditions on adjacent mitigation/conservation lands do not exceed pre-project conditions). City of Lake Elsinore shall conduct a site visit to verify implementation.</p>	<p>Implementation: Project Applicant Monitoring and Reporting: City of Lake Elsinore and Western Riverside County Regional Conservation Authority.</p>