



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



Governor's Office of Planning & Research

APR 27 2020

STATE CLEARINGHOUSE

April 27, 2020
Sent via email

Loralee Farris
Principal Planner
City of Redlands Development Services Department
35 Cajon Street, Suite 20 PO Box 3005
Redlands, CA, 92373

Subject: Initial Study and Mitigated Negative Declaration
Redlands Heritage Specific Plan Project
State Clearinghouse No. 2020031164

Dear Ms. Farris:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from City of Redlands (City) for the Redlands Heritage Specific Plan Project (Project) pursuant 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

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.

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

PROJECT DESCRIPTION SUMMARY

The Project proposes construction of 207 single-family residences in the City of Redlands. The Project is located west of Texas Street, north of West San Bernardino Avenue and south of Pioneer Avenue in the City of Redlands. Project construction will include associated utilities, infrastructure, open space, and recreational areas on approximately 37.2 acres.

COMMENTS AND RECOMMENDATIONS

Following review of the MND, the CDFW is concerned by the lack of appropriate mitigation measures to avoid potentially significant impacts to species of special concern within the City of Redlands's sphere of influence. We offer the comments and recommendations presented below to assist the City in adequately identifying and mitigating the project's potentially significant impacts on biological resources.

Southern California Legless Lizard (*Anniella stebbins*)

Based on review of CNDDDB, CDFW is aware of known occurrence of Southern California legless lizard, a species of special concern, in the vicinity of the Project and recommends a qualified biologist visually survey the Project area prior to construction to identify any feature/habitats suitable to support special-status reptiles (i.e., burrows, dens, cavities, debris, dead vegetation, rocks, loose soil, leaf litter, etc.). Any individuals discovered should be allowed to move out of harm's way.

Nesting Birds

CDFW appreciates the City's efforts to minimize impacts to nesting birds by avoiding work within the peak breeding season. However, the nesting season is not static and can vary widely year-to-year. As such, CDFW recommends the City revise Mitigation Measure (MM) BIO-1 to account for variability in the nesting season and to further reduce the potential for impacts (edits are in ~~striketrough~~ and **bold**):

BIO- 1 **To the extent feasible, Any** grubbing, brush clearing, or tree removal shall be conducted outside of the ~~state-identified peak~~ **peak** nesting season for migratory birds, which is typically ~~March 15~~ **February 1** through September 1. ~~If work cannot be conducted outside of nesting season-~~**To ensure direct and indirect impacts to nesting birds are avoided,** a migratory nesting bird survey within and adjacent to the project site shall be conducted by a qualified **avian** biologist within 3 days prior to initiating the construction activities. **If any areas are left fallow after initial ground clearing, these areas shall be resurveyed for the presence of nesting**

birds within three days of any ground-disturbing activities. If active nests are found during the pre-construction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, monitoring, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, nesting sage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity.

Burrowing Owl (*Athene cunicularia*)

The MND identifies potentially suitable habitat for burrowing owl and recognizes the potential to impact burrowing owl individuals; however, no surveys were undertaken to determine presence/absence and the extent of impacts to the species. CDFW is concerned that without protocol burrowing owl surveys, CDFW cannot determine if the MND has adequately disclosed and mitigated impacts, including that the impacts can be reduced to less than significant with the incorporation of MM BIO-2. CDFW recommends that breeding season surveys be conducted, and a report be provided, and the resulting information be provided in the MND prior to adoption. If the City does not require this occur before adoption of the MND, it should be conditioned to occur before the start of project activities.

Surveys should be consistent with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) or other similarly accepted protocol. If burrowing owls are identified on the site, the Applicant should contact CDFW and conduct an impact assessment, in accordance with Staff Report on Burrowing Owl Mitigation prior to commencing project activities, to assist in the development of avoidance, minimization, and mitigation measures. Depending on the level of impacts, CDFW would likely recommend permanent conservation, enhancement, and management of existing burrowing owl habitat and measures to minimize impacts to burrowing owls on the Project site.

Mitigation Measure BIO-2 states that “If the species is present on-site and/or within 500 feet of the site, the biologist shall prepare and submit a passive relocation plan to the CDFW for review/approval and shall implement the approved plan to allow commencement of disturbance activities on-site.” Please note that CDFW does not recommend the exclusion of owls using passive relocation unless there are suitable burrows available within 100 meters of the closed burrows (Trulio 1995, CDFG 2012) and the relocation area is protected through a long-term conservation mechanism (e.g., conservation easement). CDFW recommends that the City notify CDFW if owls are found to be present onsite and develop a conservation strategy in cooperation with CDFW, in accordance with CDFW’s Staff Report on Burrowing Owl Mitigation.

CDFW offers the following recommended measure (BIO-2A) and revisions to MM BIO-2 (edit are in ~~strikethrough~~ and **bold**):

BIO-2A **No more than 12 months prior to the start of the Project, a qualified biologist shall perform a breeding season survey according to the California Department of Fish and Wildlife’s (CDFW) Staff Report on Burrowing Owl Mitigation. As outlined in the Staff Report on Burrowing Owl Mitigation, three or more surveys shall be conducted three weeks apart during the peak of the breeding season (April 15 to July 15). The information gained from the breeding survey shall inform avoidance, minimization, and mitigation measures.**

BIO-2B To avoid construction-level impacts to burrowing owl, not more than ~~45~~ **14** days prior to project disturbance activities, ~~a qualified personnel a~~ **biologist** shall perform a preconstruction clearance survey for burrowing owl in accordance with California Department of Fish and Wildlife (CDFW) **Staff Report on Burrowing Owl Mitigation** guidelines. If the species is present on-site and/or within 500 feet of the site, the biologist shall prepare and submit a passive relocation plan to the CDFW for review/approval and shall implement the approved plan to allow commencement of disturbance activities on-site. **Passive Relocation should not occur during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) breeding behavior has not been observed and the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.**

- Fencing or flagging shall be installed at a ~~250~~**500**-foot radius from occupied burrows to create a non-disturbance buffer area where no work activities may be conducted. ~~Through consultation with the CDFW, the non-disturbance buffers/fence lines may be reduced to 160 feet at the discretion of the qualified biologist. Following a buffer reduction, the qualified biologist shall monitor the efficacy of the reduced buffer and take appropriate action if adverse effects are observed, if all project-related activities that might disturb burrowing owls would be conducted during the nonbreeding season (i.e., September 1 through January 31).~~ If avoidance of an **onsite**, occupied burrow is infeasible, the owls may be passively relocated by a qualified biologist during the non-breeding season, in accordance with the **CDFW-approved** passive relocation plan. (Note: Occupied burrows may not be disturbed during the breeding season [February 1 to August 31].) At a minimum, the plan shall include the following performance standards:

- ~~Excavation shall require hand tools. Sections of flexible plastic pipe or burlap bag shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. One-way doors shall be installed at the entrance to the active burrow and other potentially active burrows within 160 feet of the active burrow and monitored for at least 48 hours after installation. If burrows will not be directly impacted by the project, one-way doors shall be installed to prevent use and shall be removed after ground-disturbing activities have concluded in the area. Only burrows that will be directly impacted by the project shall be excavated and filled.~~
- ~~Detailed methods and guidance shall be adhered to for passive relocation of burrowing owls to off-site~~ **Prior to disturbance of the occupied burrows, "suitable replacement burrows site(s)" shall be provided at a ratio of 2:1 and permanent conservation and management of burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owl impacts are replaced consistent with the Staff Report on Burrowing Owl Mitigation including its Appendix A within designated adjacent conserved lands identified through coordination with CDFW and the City of Redlands. A qualified biologist shall confirm the natural or artificial burrow on the conservation lands are suitable for use by the owls.** ~~consisting of a minimum of two suitable, unoccupied burrows for every burrowing owl or pair to be passively relocated.~~
- Monitoring and management of the replacement burrow site(s) shall be conducted and a reporting plan shall be prepared. The objective shall be to manage the replacement burrow sites for the benefit of burrowing owls (e.g., minimizing weed cover), with the specific goal of maintaining the functionality of the burrows for a minimum of 2 years.
- If preconstruction surveys indicate construction activities would occur within 500 feet of off-site-occupied burrows during the breeding season (February 1 through August 31), **a qualified biologist** ~~personnel~~ shall monitor project disturbance activities and the off-site active burrows to ensure they are not being adversely affected. If so, the biologist in consultation with the CDFW shall implement additional measures to avoid such disturbances of active nesting efforts.

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.)

CONCLUSION

CDFW appreciates the opportunity to comment on the MND for the Redlands Heritage Specific Plan (SCH No. 2020031164) and hopes our comments assist the City of Redlands in identifying and mitigating Project impacts on biological resources. If you should have any questions pertaining to the comments provided in this letter, please contact Cindy Castaneda, Environmental Scientist, at 909-484-3979 or at cindy.castaneda@wildlife.ca.gov.

Sincerely,



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Environmental Program Manager

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HCPB CEQA Coordinator
Habitat Conservation Planning Branch

REFERENCES

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

Trulio, L.A. 1995. Passive Relocation: A Method to Preserve Burrowing Owls on Disturbed Sites. *Journal of Field Ornithology* 66:99-106.