



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



July 30, 2020

Mike Strong  
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City of Escondido  
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**Governor's Office of Planning & Research**

**Jul 30 2020**

**STATE CLEARINGHOUSE**

**Subject: Climate Action Plan Update Project**  
**MITIGATED NEGATIVE DECLARATION (MND)**  
**SCH#2020079003, City of Escondido**

Dear Mr. Strong:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Draft Mitigated Negative Declaration (MND) for the City of Escondido Climate Action Plan Update (Project). The Project's supporting documentation includes *the Draft Climate Action Plan Update and Public Review Documents (posted June 25, 2020)*.

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's 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources. The Department also administers the Natural Community Conservation Planning program (NCCP).

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game 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

Mike Strong  
City of Escondido  
Page 2 of 7  
July 30, 2020

species protected under the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

## PROJECT DESCRIPTION AND SUMMARY

**Proponent:** The City of Escondido (City)

**Objective:** The City proposes to adopt the Climate Action Plan Update (CAP). The CAP was originally created and adopted by the City in 2013 in response to the California Global Warming Solutions Act (Assembly Bill ["AB"] 32) of 2006, which established the state's first target to reduce GHG emissions and set a goal of lowering emissions to 1990 levels by 2020. The CAP established a comprehensive framework to reduce greenhouse gas (GHG) emissions in the City. In 2016, Governor Brown signed Senate Bill ("SB") 32 into law, which established a new mid-term GHG reduction target of 40 percent below 1990 levels by 2030.

The proposed CAP update identifies the following nine strategies and measures to reduce GHG emissions citywide from a variety of emissions categories: 1) Increase the Use of Zero-Emission or Alternative Fuel Vehicles; 2) Reduce Fossil Fuel Use; 3) Reduce Vehicle Miles Traveled; 4) Increase Building Energy Efficiency Strategy; 5) Increase Renewable and Zero-Carbon Energy; 6) Increase Water Efficiency; 7) Diversify Local Water Supply; 8) Reduce and Recycle Solid Waste; and 9) Carbon Sequestration and Land Conservation. The CAP update does not include any development proposals and would not directly result in physical environmental effects from the construction or operation of facilities. Future projects resulting from implementation of GHG reduction measures might involve minor grading, excavation, and other ground disturbance and would primarily occur in already disturbed or developed areas such as roadways and parking lots.

**Location:** The City is in northern San Diego County ("North County"), approximately 30 miles north of Downtown San Diego and 18 miles east of the Pacific Ocean. The City includes approximately 37.5 square miles within the incorporated boundary, and approximately 68 square miles within the city's sphere of influence. Escondido is bounded on the north by the unincorporated communities of Valley Center and Hidden Meadows, on the west by the City of San Marcos, on the south by Lake Hodges and the City of San Diego, and on the east by unincorporated San Diego County. Interstate 15 bisects Escondido in a north-south direction and State Route 78 transitions from freeway to surface streets in an east-west direction through the community. The planning area for the CAP includes the portion within the incorporated area only.

**Biological Setting:** The Multiple Habitat Conservation Program (MHCP), adopted by San Diego Association of Governments (SANDAG) in 2003, is a comprehensive, multiple jurisdictional sub-regional habitat planning program designed for north western San Diego County. The City of Escondido is included in the MHCP study area for which SANDAG, in cooperation with the City of Escondido, created a Draft Escondido Subarea Plan (SAP). The subarea plans describe specific biological conservation policies each city agrees to institute to implement the MHCP. The public review draft of the Escondido SAP was released in 2001; however, the subarea plan was not adopted by the City. The subarea plan covers the entire City

Mike Strong  
City of Escondido  
Page 3 of 7  
July 30, 2020

boundary and approximately 3,000 acres of unincorporated County land within the City's sphere of influence. Though the Draft SAP has not been adopted, the City complies with the conservation policies identified in the MHCP through use of the Draft SAP as an implementation tool.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

### I. Mitigation Measure or Alternative and Related Impact Shortcoming

#### Comment #1: Impacts to nesting birds

**Issue:** Impacts to nesting birds.

**Specific Impact:** Impacts to nesting birds could result from construction and ground disturbing activities. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable foraging habitats.

**Why the Impact Would Occur:** Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable foraging habitats.

**Evidence the Impact Would be Significant:** Construction during the breeding season of nesting birds could result in the incidental loss of breeding success or otherwise lead to nest abandonment.

#### **Recommended Potentially Feasible Mitigation Measure**

**Mitigation Measure #1:** To protect nesting birds that may occur on site or adjacent to the Project boundary, no construction shall occur from February 15 through August 31 (January 1 for raptors). If Project activities cannot be voided from February 15 through August 31 a qualified biologist shall complete a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. Surveys shall be conducted by a qualified biologist no more than 14 days prior to the beginning of any Project-related activity likely to impact raptors and migratory songbirds, for the entire Project site. If Project activities are delayed or suspended for more than 14 days during the breeding season, the surveys will be repeated. If nesting raptors and migratory songbirds are identified, CDFW recommends the following minimum no-disturbance buffers be implemented 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests or active

Mike Strong  
City of Escondido  
Page 4 of 7  
July 30, 2020

listed bird nests. These buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Buffers shall be increased if needed to protect active nests.

## **II. Editorial Comments and/or Suggestions**

### **Comment #2: Future Projects – Environmental Review**

The draft CAP outlines guidelines and strategies for reduction of GHG emissions, but the plan itself does not include any development proposals or directly result in any projects with physical impacts to the environment. Future implementation of the strategies in the updated CAP is anticipated to include projects that would involve ground disturbing activities, including minor grading, excavation, and other ground disturbance that would occur during the construction of new electric vehicle (EV) charging infrastructure, photovoltaic systems, roundabouts, bicycle and pedestrian infrastructure, and transit stop shelters, as well as tree planting at new developments, city facilities, public parks, and along rights-of-way.

Future implementation of the strategies in the updated CAP is anticipated to include projects that would involve ground disturbing activities, including minor grading, excavation, and other ground disturbance that would occur during the construction of new electric vehicle (EV) charging infrastructure, photovoltaic systems, roundabouts, bicycle and pedestrian infrastructure, and transit stop shelters, as well as tree planting at new developments, city facilities, public parks, and along rights-of-way.

As stated in the draft MND, implementation of GHG reduction measures that would involve ground disturbing activities, including grading and excavation, could, depending on their location, result in substantial adverse direct and indirect effects to special-status species, including injury, mortality, habitat modification, and disturbance. However, given the nature of the GHG reduction measures, construction activities associated with their implementation are anticipated to occur in already disturbed or developed areas such as roadways and parking lots.

CDFW concurs with the process described in the draft MND for review of subsequent projects that would occur under implementation of the updated CAP. As outlined in the draft MND:

- a) future projects would be required to comply with General Plan Policy 1.5, which directs the City to require that a qualified professional conduct a survey for proposed development projects located in areas potentially containing significant biological resources;
- b) projects would be required to comply with existing federal and State regulations that protect conserve, protect, and preserve special-status species, and their habitat, and undergo the City's discretionary review process, where applicable, including completion of subsequent project-level planning and environmental review under CEQA;
- c) compliance with the federal Endangered Species Act (ESA), the California Endangered Species Act (CESA), and California Fish and Game Codes would minimize project

Mike Strong  
City of Escondido  
Page 5 of 7  
July 30, 2020

- d) specific impacts and protect special-status species and their habitats;
- d) projects would be required to comply with state and local regulations that protect wetlands, including section 1600 *et seq.* of the Fish and Game Code. As per section 1600, if avoidance is not feasible the Project applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW’s web site at [www.wildlife.ca.gov/habcon/1600](http://www.wildlife.ca.gov/habcon/1600); and,
- e) though the MHCP Draft San Escondido SAP has not been adopted, the City complies with the conservation policies identified in the MHCP through use of the as an implementation tool. The SAP covers the entire City boundary and approximately 3,000 acres of unincorporated County land within the City’s sphere of influence. The planning area for the CAP includes the portion within the incorporated area only. Further, implementation of GHG reduction measures that would involve ground disturbing activities, including grading and excavation, would occur in already disturbed, developed areas such as roadways and parking lots. Therefore, GHG reduction measures are not anticipated to conflict with provisions of the MHCP.

## 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). The CNDDDB field survey form can be found at the following link:  
[http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). 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: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

## 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 to assist the County in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project. Questions regarding this letter and further

Mike Strong  
City of Escondido  
Page **6** of 7  
July 30, 2020

coordination on these issues should be directed to Meredith Osborne, Environmental Scientist, at [Meredith.Osborne@wildlife.ca.gov](mailto:Meredith.Osborne@wildlife.ca.gov) or (858) 636-3163.

Sincerely,

DocuSigned by:

*Erinn Wilson*

B6E58CFE24724F5...

Erinn Wilson  
Environmental Program Manager I

cc: CDFW

Susan Howell – San Diego  
CEQA Program Coordinator - Sacramento

State Clearinghouse

Attachments:

Attachment A: Recommended Mitigation Measures

Mike Strong  
City of Escondido  
Page 7 of 7  
July 30, 2020

Attachment A: Recommended Mitigation Measures

Impact to nesting birds	Mitigation Measure #1	To protect nesting birds that may occur on site or adjacent to the Project boundary, no construction shall occur from February 15 through August 31 (January 1 for raptors). If Project activities cannot be voided from February 15 through August 31 a qualified biologist shall complete a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. Surveys shall be conducted by a qualified biologist no more than 14 days prior to the beginning of any Project-related activity likely to impact raptors and migratory songbirds, for the entire Project site. If Project activities are delayed or suspended for more than 14 days during the breeding season, the surveys will be repeated. If nesting raptors and migratory songbirds are identified, CDFW recommends the following minimum no-disturbance buffers be implemented 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests or active listed bird nests. These buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Buffers shall be increased if needed to protect active nests
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