



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
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www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 9, 2020

Governor's Office of Planning & Research

Sep 09 2020

STATE CLEARINGHOUSE

Ms. Leah Kohler
Port of Los Angeles
425 S. Palos Verdes St.
San Pedro, CA 90731
lkohler@portla.org

**Subject: Negative Declaration for the Innovative Barracuda Chassis Depot,
SCH #2020080336, Port of Los Angeles, Los Angeles County**

Dear Ms. Kohler:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Negative Declaration (ND) for the Innovative Barracuda Chassis Depot (Project). 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 & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. 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.

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, including 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.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Ms. Leah Kohler
Port of Los Angeles
September 9, 2020
Page 2 of 7

Project Description and Summary

Objective: The Port of Los Angeles is the Lead Agency for the Project. Activities include the expansion of the Innovative Barracuda Chassis Depot (Depot) by acquiring additional acreage on Terminal Island. The existing 7-acre Depot has been operated by Innovative Terminal Services, Inc. (Innovative, Project Applicant) since 2015 as a chassis storage, maintenance, and repair facility under Los Angeles Harbor Department Revocable Permits (RPs) and Space Assignments (SAs). The 7-acre Depot is comprised of six paved parcels, Parcels A through E, of approximately 1.6 acres of RPs and 5.4 acres of SAs. A metal building near the center of the Project site is used for chassis maintenance and repair, storage, and office space. No other buildings are located on these 7 acres.

The Project proposes to acquire three parcels, Parcels F, G, and H (approximately 6.2 acres combined) south of the six existing parcels, expanding the Depot to approximately 13.2 acres. The 6.2-acre area was previously developed and contained a now demolished building. The three parcels are currently vacant and consists of paved and unpaved surfaces. Construction would only occur in Parcel G and would include soil compaction, grading, paving, and removal of existing walls and fences.

The Project would optimize the use of existing land to support terminal operations by providing storage, maintenance, report, and stop/start functions of chassis on Terminal Island in the Port of Los Angeles. The Project also includes the issuance of a Term Permit for the Depot to operate for up to 10 years, which will combine all Innovative-operated parcels under one permit.

Location: The Project is located on 915 Earle Street, San Pedro, on Terminal Island at the Port of Los Angeles, which is 20 miles south of downtown Los Angeles. The Project is bounded by Cannery Street to the north; Barracuda Street to the west; Bass Street to the south; and Earle Street to the East.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

Comment: Potential Impacts to Nesting Birds

Issue: Table 2-2 on page 12 of the Initial Study/Negative Declaration (IS/ND) shows Project construction to occur from March 1 through March 19, 2021. Page 42 of the IS/ND states, "There is no suitable nesting habitat at the Project site due to lack of trees or brush [...] Due to the heavily disturbed nature of the Project site and similarity between existing operations and construction (i.e., use of a grader to compact the approximately 1.5 acres of unimproved dirt in Parcel G versus use of forklifts to stack chassis), impacts to nesting birds would be less than significant."

Google Imagery shows there are eucalyptus trees near Parcel G along Earle Street. The availability of eucalyptus trees around the Parcel G may attract water birds and raptors, especially because of the site's proximity to open water foraging habitat. CDFW is concerned

Ms. Leah Kohler
Port of Los Angeles
September 9, 2020
Page 3 of 7

that any birds and raptors potentially nesting in these trees could be impacted by construction scheduled for March 2021.

Specific Impacts: Project activities during the breeding season of nesting birds could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment in trees adjacent to Parcel G.

Why impacts would occur: Eucalyptus trees near Parcel G along Earle Street could provide nesting sites for some bird and raptor species.

Table 4.4-1 on page 42 of the IS/ND lists 18 sensitive and special-status bird species observed in the Port of Los Angeles, as well as additional species such as great blue heron (*Ardea herodias*) and snowy egret (*Egretta thula*). Of these 18 species, nine species nests in trees, four of which may nest in eucalyptus trees (*Eucalyptus* spp.). These nine species are black-crowned night heron (*Nycticorax nycticorax*); brown pelican (*Pelecanus occidentalis*); double-crested cormorant (*Phalacrocorax auratus*); loggerhead shrike (*Lanius ludovicianus*); merlin (*Falco columbarius*); osprey (*Pandion haliaetus*); peregrine falcon (*Falco peregrinus*); snowy egret; and great blue heron. The species that could nest in eucalyptus trees are black-crowned night heron, double-crested cormorant, snowy egret, and great blue heron (Crouch et al. 2002; Kelly et al. 1993; Rauzon et al. 2019). Red-shouldered and red-tailed hawks may also nest in eucalyptus trees (Moore and Coulson 2020; Rottenborn 2000; Wiley 1973; Wolf and DiTomaso 2016). Moreover, the Audubon Society identifies the waters off the Port of Los Angeles ("Palos Verdes", site ID 4685) as an [Important Bird Area](#) (National Audubon Society 2020). Accordingly, additional birds and raptor species not identified on Table 4.4-1 could transit over the Project site and may be attracted to the eucalyptus trees.

The IS/ND describes the Project site as "heavily disturbed" in nature and therefore not considered to be suitable for nesting birds. However, birds and raptors could use the eucalyptus trees as nesting sites. Some birds and raptors have adapted well to urban settings (some species thrive in urban settings) and may use non-native ornamental trees as nest sites (Cooper et al. 2020; Kettel et al. 2018; Poppleton 2016).

Impacts to nesting birds could result from activities such as soil compaction, grading, and paving at Parcel G. The IS/ND states that impacts to nesting birds would be less than significant because of the similarity between "existing operations and construction (i.e., use of a grader to compact the approximately 1.5 acres of unimproved dirt in Parcel G versus use of forklifts to stack chassis." However, Project-related increases in noise, dust, vehicles, and human presence and activity occurring near or under eucalyptus trees in March, if breeding and nesting birds are present, could lead to nest abandonment or otherwise result in the incidental loss of breeding success.

Evidence impacts would be significant: There has been a steady decline of nearly three billion North American birds since 1970, primarily as a result of habitat loss caused by human development. Because of this precipitous decline, State and Federal laws and regulations have been enacted to protect avian species. Nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918 (Code of Federal Regulations, Title 50, § 10.13) is prohibited under Fish and Game

Ms. Leah Kohler
Port of Los Angeles
September 9, 2020
Page 4 of 7

Code section 3513. Fully Protected status precludes CDFW from authorizing any amount of incidental take or intentional take to meet any project mitigation requirement (Fish & G. Code, § 3511). The loss of occupied habitat or reductions in the number of sensitive and special-status bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To protect nesting birds that may occur adjacent to the Project site, CDFW recommends that a qualified biologist survey eucalyptus trees for nesting bird activity. Eucalyptus trees adjacent to Parcel G on both sides of Earle Street should be surveyed, and any additional trees or structures that could be a potential nesting site to be determined by a qualified biologist. CDFW recommends the Port of Los Angeles require surveys be conducted no more than 7 days prior to the beginning of construction.

Mitigation Measure #2: If nesting birds or raptors are identified during the survey, CDFW recommends the Port of Los Angeles/Innovative avoid construction from January 1 to September 15 to avoid impacts to breeding and nesting birds.

Mitigation Measure #3: If nesting birds or raptors are not observed during the survey, CDFW recommends that if construction is delayed or suspended for more than 7 days between March 1 through March 19, or until construction is completed, surveys should be repeated before work can resume.

Per CEQA Guidelines, section 21081.6(a)(1), CDFW has provided the Port of Los Angeles with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

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 Port of Los Angeles and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

We appreciate the opportunity to comment on the Project to assist the Port of Los Angeles in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the Port of Los Angeles has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist, at Ruby.Kwan-Davis@wildlife.ca.gov.

Ms. Leah Kohler
Port of Los Angeles
September 9, 2020
Page 5 of 7

Sincerely,

DocuSigned by:
Erinn Wilson-Olgin
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Erinn Wilson
Environmental Program Manager I

ec: CDFW

Victoria Tang – Los Alamitos – Victoria.Tang@Wildlife.ca.gov
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Ms. Leah Kohler
Port of Los Angeles
September 9, 2020
Page 6 of 7

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
	Mitigation Measure (MM)	Timing	Responsible Party
MM-BIO-1- Avoiding potential impacts to breeding and nesting birds	A qualified biologist shall survey eucalyptus trees for nesting bird activity adjacent to Parcel G on both sides of Earle Street and any additional trees or structures that could be a potential nesting site. Surveys shall be conducted no more than 7 days prior to the beginning of construction.	Prior to Project construction and activities	Port of Los Angeles/ Innovative Terminal Services, Inc.
MM-BIO-2- Avoiding potential impacts to breeding and nesting birds	If nesting birds or raptors are identified during the survey, the Port of Los Angeles/Innovative shall avoid construction from January 1 to September 15 to avoid impacts to breeding and nesting birds.	Prior to Project construction and activities	Port of Los Angeles/ Innovative Terminal Services, Inc.
MM-BIO-3- Avoiding potential impacts to breeding and nesting birds	If nesting birds or raptors are not observed during the survey, and construction is delayed or suspended for more than 7 days between March 1 through March 19, or until construction is completed, surveys shall be repeated before work can resume.	Prior to/During Project construction and activities	Port of Los Angeles/ Innovative Terminal Services, Inc.