



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

July 20, 2021
Sent via email

July 20 2021

STATE CLEARING HOUSE

Sean McPherson
Senior Planner
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91701

Subject: Draft Environmental Impact Report
Speedway Commerce Development Project
State Clearinghouse No. 2020090076

Dear Mr. McPherson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (DEIR) from City of Rancho Cucamonga (City; Lead Agency) for the Speedway Commerce Development 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 agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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.

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 Project proposes development of two warehouses totaling 655,878 square feet (sf) and associated parking on 34.61 acres, or as an alternative, the Project proposes development of a single warehouse building comprising of 500,648 sf and 10,000 sf of office space. The Project is largely located within the city limits of Rancho Cucamonga and outside of the City of Rancho Cucamonga's city limits within the unincorporated County of San Bernardino; located directly south of the Burlington Northern Santa Fe Railway, directly west of San Sevaine Channel, north of Napa Street, and east of the East Etiwanda Creek channel.

COMMENTS AND RECOMMENDATIONS

CDFW appreciates that recommendations provided in CDFW's September 29, 2020 comment letter on the Notice of Preparation were addressed in the DEIR. However, CDFW is concerned regarding the adequacy of the mitigation measures proposed by the City to mitigate impacts to less than significant considering declining populations of special-status species, such as burrowing owl (*Athene cunicularia*). CDFW offers the comments and recommendations presented below to assist the City in adequately mitigating the Project's potential impacts on biological resources and requests that the City revise the following mitigation measures prior to adoption of the Final EIR (FEIR):

1. Burrowing Owl. CDFW appreciates that focused breeding surveys for burrowing owl were performed and the incorporation of Mitigation Measure (MM) BIO-1, which considers burrowing owl preconstruction surveys as well as a passive relocation program. 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 (CDFG 2012). CDFW offers the following revisions to MM BIO-1 (edits are in ~~strikethrough~~ and **bold**):

MM BIO-1:

In accordance with the CDFG Staff Report on Burrowing Owl (2012), a qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls between 30 and 14 days prior to site disturbance. If burrowing owls are detected on-site, **the qualified biologist shall contact California Department of Fish and Wildlife (CDFW) and conduct an impact assessment in accordance with Staff Report on Burrowing Owl Mitigation prior to commencing project activities to determine appropriate mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio and the owls shall be relocated/excluded from the site outside of the breeding season following accepted protocols, and subject to approval by CDFW. A qualified biologist shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.**

Prior to passive relocation, suitable replacement burrows site(s) shall be provided within adjacent open space lands 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. A qualified biologist shall confirm the natural or artificial burrows on the conservation lands are suitable for use by the owls. 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.

2. Nesting Birds. CDFW appreciates the inclusion of MM BIO-2, which proposes pre-construction nesting bird surveys to verify absence of active nests. CDFW offers the following revisions to MM BIO-2 (edits are in ~~strike through~~ and **bold**) to ensure nests are properly searched:

MM BIO-2:

Vegetation clearing should be conducted outside of the nesting season (**typically** February 1 through August 31). If avoidance of the nesting season cannot be accomplished, then a qualified biologist shall conduct a nesting bird survey **in all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures, at the appropriate time of day/night, during appropriate weather conditions** within three days prior any disturbance of the site, including disking and grading. **Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors).** If active nests are identified, the biologist shall establish suitable buffers around the nests, and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Typically established buffers are greater for raptors than songbirds and depend upon the species, the nesting stage, and type of construction activity proposed. The buffer should generally be a minimum of 300 feet for raptors and 100 feet for songbirds; unless **a smaller buffer is** specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species.

3. Special-status mammals. The DEIR recognizes the presence of San Diego black-tailed jackrabbit (*Lepus californicus bennettii*) on the Project site on two separate occasions and its status as a California Species of Special Concern (CSSC). CDFW recommends that if San Diego black-tailed jackrabbit is encounter during construction, it be allowed to move out or harm's way to avoid direct mortality from construction.

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

Mr. Sean McPherson
Senior Planner
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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 requests that the City include in the FEIR the suggested revised mitigation measures and recommendations offered by CDFW to reduce project impacts.

CDFW appreciates the opportunity to comment on the DEIR for the Speedway Commerce Development Project (SCH No. 2020090076) and hopes our comments assist the City of Rancho Cucamonga 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 (805) 712-0346 or at Cindy.Castaneda@wildlife.ca.gov.

Sincerely,

DocuSigned by:
 for
84F92FFEEFD24C8...

Scott Wilson
Environmental Program Manager

ec: HCPB CEQA Program
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CEQAcommentletters@wildlife.ca.gov

Office of Planning and Research, State Clearinghouse, Sacramento
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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