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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

NOV 03 2020

STATE CLEARINGHOUSE

October 26, 2020
Sent via email

Dakota Smith
Senior Environmental Planner
Department of General Services
707 3rd Street, 4th Floor
West Sacramento, CA 95605

Subject: Initial Study and Mitigated Negative Declaration
Cal Fire Prado Helitack Base Replacement Project
State Clearinghouse No. 2020100055

Dear Dakota Smith:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (ISMND) from the Department of General Services (Department) for the Cal Fire Prado Helitack Base Replacement 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.

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 site is in the City of Chino, San Bernardino County, California; Latitude 33.990482 N and -117.688121 W. The Project site is located at the southeast corner of the intersection of Central Avenue and Eucalyptus Avenue. The Project proposes the construction of a helitack base and associated facilities and structures, such as barracks, a warehouse, a garage, a training tower, a vehicle wash rack, storage, a hangar, an electrical building, a trash enclosure, a jet fuel tank, a generator, a hose rack, and vehicle fuel tanks.

COMMENTS AND RECOMMENDATIONS

CDFW is concerned that no focused botanical or avian field surveys were conducted. Instead, based on literature review and reconnaissance surveys, the ISMND presumes absence/presence of special-status species. Nonetheless, the ISMND recognizes the high potential for burrowing owl (*Athene cunicularia*), a species of special concern, and nesting birds to occur within and surrounding the Project area. Likewise, the ISMND recognizes the potential for forty-three special-status plants to occur on site. However, without botanical or avian field surveys completed according to standard and accepted protocols, the ISMND cannot disclose the level of impacts anticipated. Thus, CDFW believes the Department is unable to substantiate the conclusions drawn by this document, and CDFW is unable to determine if the ISMND has adequately disclosed and mitigated impacts to burrowing owl, nesting birds, and special-status plants. CDFW offers the comments and recommendations presented below to assist the Department in adequately mitigating the Project's potentially significant impacts on biological resources and requests that the Department revise the following mitigation measures prior to finalizing the ISMND.

Special-status Plant Species

The California Natural Diversity Database (CNDDDB) identifies the occurrence of lucky morning-glory (*Calystegia felix*), a state ranked S1- critically imperiled species (CDFW, 2020), within the Project site. However, the ISMND states that no special-status plant species have been documented on the Project site. Additionally, the ISMND identifies four plant species with moderate potential to occur on site: Braunton's milkvetch, Smooth Tarplant, Robinson's pepper-grass, and San Bernardino aster. Meanwhile, thirty-nine special-status plant species were determined to have a low potential to occur and/or are unlikely to occur on the site. Because reconnaissance surveys are not considered floristic in nature and are not adequate to identify all plants in a project area to the level necessary to determine if there are special-status plants, CDFW recommends botanical field surveys be conducted following the 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities prior to construction.

CDFW appreciates the incorporation of Mitigation Measure (MM) BIO-1, which proposes pre-construction sensitive plant surveys and transplantation. Please note that CDFW does not recommend transplantation of established native plants as an avoidance or minimization measure given the low survival rate of transplants. As such, CDFW is concerned that the approach is not appropriate for mitigation. To adequately offset impacts, CDFW recommends the Department considers purchasing credits from a mitigation bank or acquiring and conserving in perpetuity lands with the target resources, if species are documented onsite during surveys. Thus, CDFW offers the following revisions to MM BIO-1 (edits are in ~~strike through~~ and **bold**):

BIO-1: Pre-Construction Sensitive Plant Surveys. The following shall be conducted prior to initiation of Project construction:

Perform focused plant surveys according to USFWS, CDFW's **2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities**, and CNPS protocols. Surveys should be timed according to the blooming period for target species and known reference populations, if available, and/or local herbaria should be visited prior to surveys to confirm the appropriate phenological state of the target species. **If no special-status plants are found on the Project Site, no further measures pertaining to special-status plants are necessary.**

If special-status plant species are found during surveys within the Project site and **100% of the area with the species cannot be** ~~avoidance of the species is not possible, seed collection, transplantation, and/or other conservation approaches may be developed,~~ **then mitigation, in the form of mitigation credits or land acquisition and conservation, will be required. Agency-approved habitat mitigation credits or occupied replacement lands shall be purchased at a minimum 2:1 ratio (acres mitigated to acres impacted) depending on species impacted** ~~in consultation with~~

~~appropriate resource agencies to reduce impacts to special-status plant populations. If no special-status plants are found on the Project Site, no further measures pertaining to special-status plants are necessary.~~

Nesting Birds

The ISMND highly regards the Project site as potential nesting habitat for raptors, migratory birds, and passerines due to the presence of scrub habitat, mature pine trees, and shrubs. CDFW appreciates the inclusion of MM-BIO- 2 to mitigate impacts to nesting birds; however, MM BIO-2 lacks specificity related to timing of vegetation removal and does not attempt to avoid the nesting season. Thus, CDFW offers the following revisions to MM BIO-2 (edits are in ~~striketrough~~ and **bold**):

BIO-2: Pre-Construction Bird Nesting Surveys. The following shall be conducted prior to initiation of Project construction:

Any grubbing, brushing or tree removal shall be conducted outside of the nesting season (generally, raptor nesting season is January 1 through September 15; and passerine bird nesting season is February 1 through September 1). If nesting season cannot be avoided, the applicant shall conduct a pre-construction nesting raptor and bird survey of all suitable habitat on and adjacent to the Project Site as described below within ~~443~~ days of commencement of construction ~~during the nesting season (February 1—September 15)~~. Surveys should be conducted within 300 feet of the Project Site for nesting raptors, including sharp-shinned hawk (***Accipiter striatus***), and 100 feet of the Project Site for **passerine** nesting birds. A no-disturbance buffer around the nest shall be established if active nests are found. The buffer distance shall be established by a qualified biologist and is recommended to be 300 feet for raptors and **1050** feet for non-raptor songbirds. If an active sharp-shinned hawk, yellow-breasted chat (***Icteria virens***), or yellow warbler (***Setophaga petechia***) nest is found, the no-disturbance buffer shall be determined ~~through consultation with CDFW~~ **by the qualified biologist and set to a distance that will prevent project-related disturbances**. The buffer shall be maintained, **and no activity shall occur within the buffer** until the fledglings are capable of flight and become independent of the nest tree, ~~to be determined~~ **as confirmed** by a qualified biologist. No further measures are necessary once the young are independent of the nest. ~~Pre-construction nesting surveys are not required for construction activity outside the nesting season.~~

Burrowing Owl (*Athene cunicularia*)

CDFW appreciates the Department's willingness to coordinate with CDFW if burrowing owl or sign thereof is detected during pre-construction surveys. However, because no protocol surveys were undertaken to determine presence/absence and the extent of impacts to the species, CDFW cannot determine if the ISMND has adequately disclosed

and mitigated impacts, including with the incorporation of MM BIO-3. CDFW recommends that a habitat assessment be conducted prior to the start of Project activities as outlined in Appendix C of the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012). Please note that habitat assessments dated more than one year prior to the construction date are considered outdated and should be updated.

If the habitat assessment determines suitable habitat for burrowing owl, protocol surveys should be conducted prior to commencement of Project activities. Surveys should be consistent with the Staff Report on Burrowing Owl Mitigation. 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, occupied burrowing owl habitat and measures to minimize impacts to burrowing owls on the Project site. Considering all the above, CDFW offers the following revisions to MM BIO-3 (edits are in ~~strikethrough~~ and **bold**):

BIO-3: Pre-Construction Burrowing Owl Surveys. The following shall be conducted prior to initiation of Project construction:

Prior to grading or any other ground-disturbing activity, a qualified biologist shall conduct a habitat assessment for burrowing owls to determine if suitable burrowing owl habitat is present in and adjacent to the Project site. Surveys shall be conducted consistent with the procedures outlined in the “California Department of Fish and Wildlife 2012 Staff Report on Burrowing Owl Mitigation.”

If there is suitable habitat for burrowing owl, then focused breeding season surveys as described in the Staff Report on Burrowing Owl Mitigation (CDFG 2012) shall be conducted by a qualified biologist. If presence of burrowing owl is determined, the applicant 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.

Pre-construction surveys for burrowing owl shall be conducted prior to the start of construction. The surveys shall follow the methods described in the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012). Two surveys shall be conducted, with the first survey being conducted between 30 and 14 days before initial ground disturbance (e.g., grading, grubbing, construction), and the second survey being conducted no more than 24 hours prior to initial ground disturbance. **If no burrowing owl(s) are observed on site during the pre-construction survey, a letter shall be prepared by the qualified biologist documenting the results of the survey. The**

letter shall be submitted to CDFW prior to construction. If burrowing owl(s) or signs thereof are observed on site during the pre-construction clearance survey, area occupied by burrowing owls shall be avoided. No ground-disturbing activities shall be permitted within 500 meters of an occupied burrow during the nesting season. A smaller buffer may be established if the qualified biologist determines a reduced buffer would not adversely affect the burrowing owl(s). If burrowing owls and/or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are identified on the Project site during the survey and impacts to those features are unavoidable, ~~consultation with the CDFW,~~ shall require a qualified biologist to prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) ~~be conducted and the methods described in~~ of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite ~~avoidance and/or passive relocation shall be followed.~~

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 and the Department. 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. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may continue. 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.

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and or/candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA incidental Take Permit (ITP) be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture or kill') of State-listed CESA species (i.e., SBKR), either through construction or over the life of the Project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats.

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

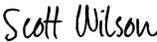
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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 recommends that the Department adopt the recommended revised and new mitigation measures offered by CDFW prior to finalizing the ISMND to reduce project impacts.

CDFW appreciates the opportunity to comment on the ISMND for the Cal Fire Prado Helitack Base Replacement Project (SCH No. 2020100055) and hopes our comments assist the Department of General Services 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,

DocuSigned by:

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Scott Wilson
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October 26, 2020
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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

California Department of Fish and Wildlife, Natural Diversity Database. January 2020. Special Vascular Plants, Bryophytes, and Lichens List. Quarterly publication. 140 pp

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