



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
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Governor's Office of Planning & Research

March 5, 2021

Mar 05 2021

STATE CLEARINGHOUSE

Jeffrey Szymanski
 City of San Diego
 1222 First Avenue, MS 501
 San Diego, CA 92101
JSzymanski@sandiego.gov

Subject: Comment on the Notice of Intent to Adopt a Mitigated Negative Declaration Preparation for the Kearny Mesa Logistics Project (SCH #2021020077)

Dear Mr. Szymanski:

The Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Intent to adopt a Mitigated Negative Declaration (MND) for the Kearny Mesa Logistics Project (Project) dated January 4, 2021. The City of San Diego (City) has an approved Subarea Plan (SAP) and Implementing Agreement (IA) under the Natural Community Conservation Planning program. The MND for the proposed project must ensure and verify that all requirements and conditions of the SAP and IA are met. The MND should also address biological issues that are not addressed in the SAP and IA, such as specific impacts to, and mitigation requirements for, wetlands or sensitive species and habitats that are not covered by the SAP and IA.

The proposed Project is the redevelopment of a 20.7-acre site located at 5650 and 5670 Kearny Mesa Road. The site is immediately northwest of State Route 163 and south of State Route 52. The objective is to demolish the existing three buildings and construct a 330,000 square foot warehouse/distribution center in the southwest portion of the site, along with road improvements to Magnatron Boulevard located directly west of the site.

The eastern portion of the Project falls within the boundaries of the City's Vernal Pool Habitat Conservation Plan (VPHCP) and Multi-Habitat Planning Area (MHPA). The portion within the VPHCP comprises approximately 5.8 acres of 100% hardline conserved habitat and is designated as the U19 vernal pool complex by the City (VPHCP, 2017). This same area also falls within U.S. Fish and Wildlife Service (USFWS)-designated critical habitat for the San Diego fairy shrimp (*Branchinecta sandiegonensis*). These 5.8 acres will not be directly impacted, and indirect effects will be minimized to less than significant following the City's Land Use Adjacency Guidelines in the SAP.

Per the Biological Technical Report (BTR), the 100-foot buffer area surrounding the Project site supports the Endangered Species Act (ESA)-listed coastal California gnatcatcher (*Polioptila californica californica*; gnatcatcher). A family group of two adults and one juvenile were observed foraging in 2019 directly north of the Project boundary. No direct impacts will occur to the Diegan coastal sage scrub within the 100-foot buffer area where the gnatcatchers were observed. Preconstruction surveys will be performed, and the City's Land Use Adjacency Guidelines will be followed to ensure there will be no direct or indirect impacts to these birds or other gnatcatchers nesting in the vicinity during construction.

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Direct impacts will occur to 0.5 acre of baccharis scrub, 0.3 acre of disturbed baccharis scrub, 1.1 acres of Diegan coastal sage scrub, 0.1 acre of disturbed Diegan coastal sage scrub, 0.2 acre of chamise chaparral, 0.1 acre of non-native grassland, 0.1 acre of eucalyptus woodland, 0.1 acre of non-native vegetation, 2.5 acres of disturbed habitat, and 10.8 acres of developed areas. Per Table 3 (Upland Mitigation Ratios) in the City's Biology Guidelines and consistent with the SAP, baccharis scrub and Diegan coastal sage scrub are both Tier II habitats and will be mitigated at a 1:1 ratio. Chamise chaparral and non-native grassland are Tier III habitats and will be mitigated at a 0.5:1 ratio. The total amount of mitigation required is 2.15 acres and the City proposes to pay into the Habitat Acquisition Fund for direct impacts to sensitive habitat.

The Department offers the following specific comments and recommendations to assist the City in avoiding, minimizing, and adequately mitigating Project-related impacts to biological resources, and to ensure that the Project is consistent with all applicable requirements of the SAP.

1. Mitigation measure BIO-2 addresses avian protection requirements by proposing to avoid direct impacts to nesting birds by avoiding construction during the general migratory breeding season (February 15 to September 15). Field surveys results in the BTR documented red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), and American kestrel (*Falco sparverius*) presence on-site. To protect nesting raptors that may occur within or adjacent to the Project boundary, the Department recommends that construction avoidance be expanded to include an earlier window beginning January 1 through September 15.
2. Mitigation measure BIO-2 does not indicate the size of the survey area for preconstruction surveys, nor the size of the no-disturbance buffers around possible nests. If Project activities cannot be avoided from January 1 through September 15, the Department recommends a qualified biologist complete a preconstruction survey no more than three days prior to the beginning of any Project-related activity for nesting bird activity within the limits of disturbance and 500 feet from the area of disturbance. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. If Project activities are delayed or suspended for more than five days during the breeding season, surveys should be repeated. If nesting raptors and migratory songbirds are identified, the Department recommends the following minimum no-disturbance buffers be implemented: 100 feet around non-listed active passerine (perching birds and songbirds) nests, 300 feet around any listed passerine nests (e.g., gnatcatchers), and 500 feet around active non-listed raptor nests. These buffers should 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.

The Department appreciates the opportunity to review and comment on the MND and assisting the City in identifying Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Melissa Stepek, Senior Environmental Scientist at (858) 637-5510 or Melissa.Stepek@wildlife.ca.gov.

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Sincerely,

DocuSigned by:

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ec: CDFW

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Reference

City of San Diego. 2017. Vernal Pool Habitat Conservation Plan. Vernal Pool Management and Monitoring Plan.