



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

GAVIN NEWSOM, Governor
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November 1, 2022

Governor's Office of Planning & Research

NOV 2 2022

James Campbell, Manager of Programs
LOSSAN Rail Corridor Agency
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STATE CLEARING HOUSE

Subject: Central Coast Layover Facility Project (Project)
Draft Environmental Impact Report (DEIR)
SCH No.: 2021020444

Dear James Campbell:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (DEIR) from the County of San Luis Obispo Planning and Building Department for the Project pursuant to 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. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

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

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.

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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.), related authorization as provided by the Fish and Game Code may be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: LOSSAN Rail Corridor Agency

Objective: The Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor Agency is proposing the relocation and expansion of the existing Pacific Surfliner layover track and facility, located at the northern end of the LOSSAN rail corridor in San Luis Obispo, California. The proposed Central Coast Layover Facility (proposed Project or CCLF) would increase overnight layover and storage capacity to support the service goals and objectives outlined for the Pacific Surfliner in both the 2018 California State Rail Plan and the LOSSAN Rail Corridor Agency's Fiscal Year 2019-20 and 2020-21 Business Plan. The LOSSAN Rail Corridor Agency is proposing to construct a new rail yard, storage and servicing tracks, operations and maintenance buildings, landscape improvements, pedestrian improvements, and safety and security features on approximately 13 acres of relatively undeveloped land in the City of San Luis Obispo, California. The city is situated along the Central Coast region of California, approximately 190 miles north of Los Angeles.

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Since funding is not available to construct the entire facility at once, construction phasing for the Project is anticipated. This includes constructing the initial most critical portions of the facility, and the remaining components as need arises and funding becomes available.

Location: The existing Pacific Surfliner layover facility is located directly across from the San Luis Obispo Amtrak Station. The proposed Project is located approximately 0.3-mile south of the existing San Luis Obispo Amtrak Station (1011 Railroad Avenue). The Project site extends from south of the San Luis Obispo Railroad Museum's parking lot to east of Lawrence Drive. The Project site is between the Union Pacific Main Tracks and existing commercial and residential development to the west.

The Project site is located entirely within the City of San Luis Obispo's Railroad Historic District. The District includes the original yard, plus residential and commercial-zoned property on the west side of the railroad right-of-way.

The proposed Project location appears to be highly disturbed, and per Project information has been so for many years. Disturbances appear to include grading activities and soil compaction from previous activities at the site. (Google Earth, 2022.) Per Project information, the site supports two eucalyptus trees (*Eucalyptus* sp.) within proposed Project limits; however, they are isolated from any other vegetation, exposing them to high light intensity and solar radiation making the interior of the canopy warmer and drier than those sites where monarchs (*Danaus plexippus*) are known to overwinter nearby.

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County of San Luis Obispo 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 for this Project.

Special-Status Species: Based on aerial imagery, and species occurrence records from the California Natural Diversity Database (CNDDDB, 2022), the proposed Project site and/or surrounding area is known to and/or has the potential to support special-status species, and these resources may need to be evaluated and addressed prior to any approvals that would allow new ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State candidate listed as endangered Crotch bumble bee (*Bombus crotchii*).

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COMMENT 1: Crotch Bumble Bee (CBB)

CBB have a large range in California and may occur within or in the vicinity of the proposed Project area (CDFW 2022). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. Per Google aerial photography, there appears to be disturbed grassland to the east of the Project site. CBB primarily nest in late February through late October underground in abandoned small mammal burrows, but may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, potential ground disturbance and vegetation removal associated with Project implementation may significantly impact local CBB populations.

Without appropriate avoidance and minimization measures for CBB, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with implementation of the Project, and related future projects, could include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality in violation of Fish and Game Code.

Recommended Mitigation Measure 1: CBB Surveys

CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features as part of the biological technical studies conducted in support of the CEQA document prior to Project implementation to evaluate impacts resulting from potential ground- and vegetation-disturbing activities that may result from the approval of the DEIR.

Recommended Mitigation Measure 2: CBB Take Avoidance

If surveys cannot be completed, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 3: CBB Take Authorization

If CBB is identified during surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground-disturbing activities may be warranted. Take authorization would occur through

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issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b).

I. Editorial Comments and/or Suggestions

Nesting birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place 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 on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, §

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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: <https://www.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://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

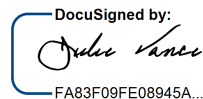
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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 appreciates the opportunity to comment on the DEIR to assist the County of San Luis Obispo Planning and Building Department in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Kelley Nelson, Environmental Scientist at (559) 580-3194 or Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

Attachments

ec: Office of Planning and Research, State Clearinghouse, Sacramento

Kelley Nelson, California Department of Fish and Wildlife

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REFERENCES

CBB Literature Citations

- CDFW. 2022. Biogeographic Information and Observation System (BIOS).
<https://www.wildlife.ca.gov/Data/BIOS>. Accessed October 18, 2022.
- Goulson, D. 2010. Bumblebees: behaviour, ecology, and conservation. Oxford University Press, New York. 317pp.
- Hatfield, R., Jepsen, S., Thorp, R., Richardson, L., Colla, S. & Foltz Jordan, S. 2015. *Bombus occidentalis*. The IUCN Red List of Threatened Species 2015.
- Williams, P. H., R. W. Thorp, L. L. Richardson, and S. R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Central Coast Layover Facility

SCH No.: 2021020444

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: CBB Surveys	
Mitigation Measure 3: CBB Take Authorization	
<i>During Construction</i>	
Mitigation Measure 2: CBB Avoidance	