



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

April 12, 2021

Apr 12 2021

Mr. Jeff Steichen
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910
JSteichen@chulavistaca.gov

STATE CLEARINGHOUSE

Subject: City of Chula Vista Encompass Health (PROJECT) Mitigated Negative Declaration (MND), SCH #2021030287

Dear Mr. Steichen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Chula Vista (City) 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.

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.

CDFW administers the Natural Community Conservation Planning (NCCP) program (Fish and Game Code 2800, *et seq.*). In November 2003, CDFW issued their permit for the City's Multiple Species Conservation Program (MSCP) Subarea Plan (SAP). The City's SAP is the mechanism by which the City has obligated to assemble a preserve consistent with the goals of the MSCP Subregional Plan.

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.

Jeff Steichen
City of Chula Vista
April 12, 2021
Page 2 of 8

PROJECT DESCRIPTION SUMMARY

Proponent: Encompass Health California

Objective: The Project will construct an 80-bed inpatient rehabilitation facility with supporting amenities on the 9.79-acre site in two phases: phase 1 consists of up to 50 beds and phase 2 provides an additional 30 beds. Site access will be provided through Shinohara Lane. The Project also contains minor off-site improvements, including utility connections.

Location: The Encompass Health Project is located at 517 Shinohara Lane, east of Interstate 805 (I-805), west of Brandywine Avenue, and north of Main Street, within the City.

Biological Setting: The Project lies north of the Otay River and the Project site contains coastal sage scrub (CSS, 0.14 acre), *Eucalyptus* woodland (0.02 acre), disturbed habitat (9.38 acres), and developed land including a concrete-lined v-ditch (0.49 acre). The Project will permanently impact 9.38 acres of disturbed habitat and 0.06 acre of CSS, and the City will mitigate for impacts to CSS through the Habitat Loss and Incidental Take (HLIT) process at a ratio of 1:1 or 1.5:1. The mitigation ratio will depend upon the mitigation location. While the MND identifies a number of options for mitigation including both on-site and off-site preservation and restoration, the location of mitigation was not specified.

Sensitive species with potential presence to occur on site include burrowing owl (*Athene cunicularia*) and Otay tarplant (*Deinandra conjugens*). Both are Covered Species under the Chula Vista SAP and the Otay tarplant is further considered a Narrow Endemic species under the Chula Vista MSCP.

Timeframe: A timeframe was not provided for the Project.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City 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. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

I. Potential Impacts to Tier III Uplands

Potential Impacts to Non-native Grassland

COMMENT #1:

Section: Biology Letter Report for Encompass Health Chula Vista, City of Chula Vista, California (BLR), Flora, Page: 2

Issue: The Project will impact land that has been classified as disturbed, but CDFW is concerned that this habitat exhibits characteristics of a Non-native Grassland (NNG), which is a Tier III upland habitat in the City's SAP. Aerial imagery suggests that the Project contains areas that are regularly mowed and maintained. The evidence suggests much of the ongoing disturbance is occurring

Jeff Steichen
City of Chula Vista
April 12, 2021
Page 3 of 8

outside of requisite buffer areas to nearby development; therefore, CDFW recommends the City carefully reconsider if some or all of the areas presently shown as Disturbed should be more appropriately designated as NNG, and mitigated as such consistent with the SAP requirements. To be consistent with the SAP, NNG impacts outside of the preserve need to be mitigated at a ratio of 0.5 to 1.0 acre per acre of impact, dependent on the location of mitigation.

Specific impacts: Most of the Project site (9.38 acres) has been classified as disturbed. The BLR indicates on page 2 that the site has been previously graded. Historic aerials of the site show that only the northern portion of the site was graded sometime between 1991 to 1993 (historicalaerials.com 2021), recent satellite imagery shows that majority of the site has been mowed periodically over the last several years (Google Earth Pro 2021). The BLR notes that two of the predominant species on site are non-native grass species, *Avena barbata* and *Bromus madritensis*, and also states that the site contains potential suitable habitat for burrowing owls, which are primarily a grasslands species. These factors indicate that the disturbed habitat could alternatively be characterized as disturbed non-native grassland.

Why impact would occur: The Project has the potential to impact disturbed non-native grassland but does not provide appropriate mitigation for these impacts due to the characterization of the land as disturbed.

Evidence impact would be significant: Potential impacts to non-native grassland would be considered significant without mitigation.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #CDFW-REC-1a:

To reduce impacts to less than significant: The MND should reassess the Project site for potential impacts to non-native grassland. Areas that are dominated by grass species and/or require periodic mowing should be considered for designation as NNG and mitigated appropriately.

Mitigation Measure #CDFW-BIO-1b:

To reduce impacts to less than significant: Any impacts to non-native grassland outside of the preserve shall be included in the HLIT permit and shall be mitigated at a ratio of 0.5 to 1.0 acre per one acre of impact, dependent on the location of mitigation.

II. Potential Impacts to Covered and Narrow Endemic Species

COMMENT #2:

Otay Tarplant

Section: BLR Special Status Plants and Attachment C: Special-Status Plant Species Potentially Occurring within the Project Study Area, Page: 6

Issue: The BLR concludes that there is low suitability for Otay tarplant presence due to a lack of suitable clay soils required for the species; however, alternative information available indicates that a part of the site may be suitable for Otay tarplant. Additionally, the BLR did not provide the dates of rare plant or vegetation surveys. Periodic mowing of the site may further complicate the

Jeff Steichen
City of Chula Vista
April 12, 2021
Page 4 of 8

evaluation of presence of rare plants. For these reasons, potential impacts to Otay tarplant could occur.

Specific impacts: The information provided does not note the dates of vegetation or rare plant surveys, so it is uncertain if surveys were conducted during the appropriate blooming season for Otay tarplant, which is May through June (Calflora 2021). Periodic mowing of the site may have also complicated survey efforts. Therefore, it is not certain that Otay tarplant is absent from the site.

Why impact would occur: The BLR notes that Otay tarplant requires suitable clay soils and that these soils are not present on site, but it does not provide the soil types that are present. The southeastern portion of the site is characterized as Salinas clay loam, 2 to 9 percent slopes, which indicates that clay is the predominant soil type (United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Web Soil Survey 2021). Additionally, there are occurrences of Otay tarplant approximately 670 feet from the site (California Natural Diversity Database (CNDDDB 2021). The NCCP Local Assistance Grant (LAG) study, *Enhancing the Resilience of Edaphic Endemic Plants*, characterizes the area near the Project as moderate to high suitability for Otay tarplant (Conservation Biology Institute (CBI) et al 2018).

Evidence impact would be significant: Potential impacts to Otay tarplant would be significant without avoidance and mitigation since it is both a covered species and narrow endemic species under the SAP.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure # CDFW-BIO-2a:

To reduce impacts to less than significant: Prior to construction, focused rare plant surveys shall be conducted within suitable habitat for Otay tarplant during the appropriate blooming season (May 1 through June 30). Mowing shall cease on site for the growing season prior to rare plant surveys, with the exception of mowing allowed adjacent to existing, adjacent development for fire fuel reduction purposes at the direction of the local fire authority.

Mitigation Measure # CDFW-BIO-2b:

To reduce impacts to less than significant: Any Otay tarplant identified on site during rare plant surveys shall be mitigated according to the SAP and in consultation with CDFW and the United States Fish and Wildlife Service (USFWS), collectively known as the Wildlife Agencies.

III. Mitigation

COMMENT #3:

Burrowing Owl

Section: BRL Survey Methods and Fauna, Pages: 1 and 3

Issue: The MND and BRL note that burrowing owls were not detected on site, although suitable habitat is present. The survey methods used, and the mitigation measure provided to detect and minimize impacts to burrowing owls, are not consistent with the most effective methods of

Jeff Steichen
City of Chula Vista
April 12, 2021
Page 5 of 8

detecting the species as described in CDFW's Staff Report on Burrowing Owl Mitigation (CDFW Staff Report), Appendix D: Breeding and Non-breeding Season Surveys and Reports (2012).

Specific impacts: The BRL notes that survey results indicate signs of occupation by burrowing owls, but then concludes from the habitat assessment that the suitable burrow habitat is marginal. One focused survey was conducted in January, which is outside the typical nesting season for burrowing owls. These methods are not consistent with the guidance in the CDFW Staff Report and breeding owls may have not been detected during survey efforts.

Why impact would occur: The CDFW Staff Report (2012) recommends 4 surveys to detect the presence of burrowing owls: 1) at least one site visit between 15 February and 15 April and 2) a minimum of three survey visits at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. As noted above, the January survey conducted for the Project and the proposed mitigation measure are not consistent with the current guidance for the species.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #CDFW-BIO-3a:

To reduce impacts to less than significant: Pre-construction surveys for burrowing owls shall be conducted consistent with the CDFW Staff Report recommendations: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June.

Mitigation Measure #CDFW-REC-3b:

Early coordination with the Wildlife Agencies is recommended if burrowing owls are identified during any survey.

COMMENT #4:

Mitigation Options

Section: MND, Mitigation Necessary to Avoid Significant Impacts, Page: 22

Issue: Both the MND and the BRL note several mitigation options available for the Project. CDFW recommends that off-site mitigation options be employed due to the isolated nature of the on-site habitat that will remain after Project completion.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #CDFW-REC-4: CDFW recommends the mitigation bank option for compensatory mitigation of impacts to sensitive habitat. As suggested in the MND, use of the San Diego County Water Authority's San Miguel Conservation Bank is appropriate; other banks may be determined to be appropriate by the City through the HLIT process.

Editorial Comments and Suggestions

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).)

Jeff Steichen
City of Chula Vista
April 12, 2021
Page 6 of 8

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:
http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. 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:
http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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 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 MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Elyse Levy, Senior Environmental Scientist, at Elyse.Levy@wildlife.ca.gov.

Sincerely,

DocuSigned by:


D700B4520375406...

David A. Mayer
Environmental Program Manager I
South Coast Region

Attachments:

Attachment A: Recommended Mitigation Measures

ec: CDFW

Jennifer Turner, San Diego – Jennifer.Turner@wildlife.ca.gov
Jennifer Ludovissy, San Diego – Jennifer.Ludovissy@wildlife.ca.gov
Susan Howell, San Diego – Susan.Howell@wildlife.ca.gov
CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov

Jonathan Snyder, USFWS – Jonathan_d_Snyder@fws.gov
State Clearinghouse, Sacramento – State.Clearinghouse@opr.ca.gov

Jeff Steichen
City of Chula Vista
April 12, 2021
Page 7 of 8

REFERENCES

Calflora: Information on California plants for education, research and conservation, with data contributed by public and private institutions and individuals, including the Consortium of California Herbaria. [web application]. 2021. Berkeley, California: The Calflora Database [a non-profit organization]. Available: <https://www.calflora.org/> [Accessed: April 6, 2021].

California Department of Fish and Game. 2012. Staff Report on Burrowing Owl Mitigation. California Natural Resources Agency. Appendix D.

California Fish and Game Code §2080, §2800, §3503

California Natural Diversity Database (01/04/21). [ds45]. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System (BIOS). Retrieved April 6, 2021 from <https://apps.wildlife.ca.gov/bios/>

California Office of Planning and Research. 2019 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, CEQA Guidelines Appendix G.

Conservation Biology Institute (CBI), U.S. Geological Survey (USGS), and San Diego Management and Monitoring Program (SDMMP). 2018. Enhancing the Resilience of Edaphic Endemic Plants. Prepared for the California Department of Fish and Wildlife Natural Community Conservation Planning Local Assistance Grant P1582108-01.

Google Earth Pro. 2021, Project area map. 32° 35'51.51.12 N, 117° 01'53.57. eye alt. 1,352 ft. Maxar Technologies 2021. earth.google.com/web/. [Accessed: April 6, 2021].

historicaerials.com 2021 <https://www.historicaerials.com/viewer> [Accessed: April 6, 2021].

United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS). 2018. Web Soil Survey. <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Jeff Steichen
 City of Chula Vista
 April 12, 2021
 Page 8 of 8

Attachment A: Recommendations and Mitigation Measures

Biological Resources			
	Mitigation Measures	Timing	Responsible Party
CDFW-BIO-1b	Impacts to non-native grassland shall be included in the HLIT permit and shall be mitigated at a ratio of 0.5 to 1.0 acre per one acre of impact outside of the preserve, dependent on the location of mitigation.	Prior to and During Construction	City/Project Proponent
CDFW-BIO-2a	Prior to construction, focused rare plant surveys shall be conducted within suitable NNG or CSS habitat for Otay tarplant during the appropriate blooming season (May 1 through June 30). Mowing shall cease on site for the growing season prior to rare plant surveys.	Prior to and During Construction	City/Project Proponent
CDFW-BIO-2b	Any Otay tarplant identified on site during rare plant surveys shall be mitigated according to the SAP and in consultation with CDFW and the United States Fish and Wildlife Service (USFWS).	Prior to and During Construction	Project Proponent
CDFW-BIO-3a	Pre-construction surveys for burrowing owls shall be conducted consistent with the CDFW Staff Report recommendations: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June.	Prior to and During Construction	Project Proponent
	Recommendations	Timing	Responsible Party
CDFW-REC-1a	The MND should reassess the Project site for potential impacts to non-native grassland. Areas that are dominated by grass species and/or require periodic mowing should be included in this habitat category.	Prior to and During Construction	Project Proponent
CDFW-REC-3b	Early coordination with the Wildlife Agencies is recommended if burrowing owls are identified during any survey.	Prior to, during construction, and after	Project Proponent
CDFW-REC-4a	CDFW recommends the mitigation bank option for compensatory mitigation of impacts to sensitive habitat. As suggested in the MND, use of the San Diego County Water Authority's San Miguel Conservation Bank is appropriate; other banks may be determined to be	Prior to, during construction, and after	Project Proponent

Jeff Steichen
City of Chula Vista
April 12, 2021
Page 9 of 8

	appropriate by the City through the HLIT process.		
--	---	--	--