



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

April 26, 2021
Sent via email

April 26, 2021

STATE CLEARINGHOUSE

Anthony DeLuca
Senior Planner
San Bernardino County
385 N. Arrowhead Ave., First Floor
San Bernardino, CA 92415

Subject: Initial Study and Mitigated Negative Declaration
Maple Hill Community Fields Project
Sate Clearinghouse No. 2021030560

Dear Anthony DeLuca:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (ISMND) from San Bernardino County (County) for the Maple Hill Community Fields 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.

PROJECT DESCRIPTION SUMMARY

The Project site is in the City of Big Bear Lake, San Bernardino County, California; Latitude 34.251581 N and Longitude -116.830680 W. The Project site is located north of Baldwin Lane and west of Maple Lane within the unincorporated community of Sugarloaf on Assessor's Parcel Numbers (APNs) 0312-311-13 and 0312-311-25. The Project proposes the construction of a field multi-use sports complex on 15 acres and includes the installation of a soccer, baseball, and softball field (250,000 square feet), 140 parking spaces and access road (80,000 square feet), and restroom, snack bar, and equipment storage buildings (1,000 square foot).

COMMENTS AND RECOMMENDATIONS

CDFW is concerned that no focused field surveys were conducted for threatened southern rubber boa (*Charina umbratica*) and species of concern: California spotted owl (*Strix occidentalis occidentalis*) and San Bernardino flying squirrel (*Glaucomys sabrinus californicus*). Instead, based on literature review and reconnaissance surveys, the ISMND presumes absence of these special status species. CDFW appreciates that botanical field surveys were conducted; however, surveys were not completed according to standard and accepted protocols, such as the 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Thus, CDFW believes the County is unable to substantiate the conclusions drawn by the ISMND, and CDFW is unable to determine if the ISMND has adequately disclosed and mitigated impacts. CDFW offers the comments and recommendations below to assist the County in adequately identifying and mitigating, if necessary, biological resources.

Special Status Wildlife

The ISMND concludes that due to environmental conditions on site and adjacent disturbances, no special status wildlife species are expected to occur or were observed during the reconnaissance survey. However, CDFW recognizes the known occurrence of southern rubber boa (SRB), California spotted owl (SPOW), and San Bernardino flying squirrel in the vicinity of the Project. Because no protocol surveys were undertaken to determine presence/absence and the extent of impacts to these species, CDFW recommends the below surveys and mitigation measures.

Southern Rubber Boa

The ISMND concluded that southern rubber boa is unlikely to be impacted by the Project and provided no mitigation measures to address the potential presence of the species. The ISMND states that the conditions on site are not suitable to support SRB

as the site is very open and dry, lacks the moist conifer-oak forest and woodland habitat that SRB is typically associated with, there is little to no ground cover (i.e. rotting stumps/logs, duff layer), and is devoid of rock outcrops. Although SRB is typically found in moist, cool coniferous forests and commonly lives near streams or other moist areas, several SRB in the San Bernardino Mountains have been found on dry, south facing slopes where little or no forest canopy is available (Keasler 1981). Also, SRB have been found to prefer smaller clumped and scattered rocks, versus larger rock outcrops once spring emergence is underway (CDFW 1987). Thus, SRB may not be exclusively dependent on cool and moist forests or rock outcrops. Access to hibernation sites below the frost line are of most importance to SRB (Keasler 1981). Nonetheless, Figure X-1: Existing Hydrology, depicts a hydrology on site that could provide areas of damp soil for SRB. In addition, habitat within the Project site is dominated by single leaf pinyon pine (*Pinus monophylla*), Sierra juniper (*Juniperus grandis*) and Jeffrey pine (*Pinus jeffreyi*), and SRB has been reported to occur in Jeffrey pine forest type in southern California (Cunningham 1966).

Considering all of the above, CDFW disagrees that SRB is unlikely to occur on the Project site. The County has not provided a proper analysis (i.e., focused surveys) or basis to support the determination that the Project's impacts on SRB would be less than significant, therefore CDFW recommends the following mitigation measures be included in the ISMND prior to adoption:

BIO-2: The County shall designate a southern rubber boa biologist (Designated Biologist), approved by California Department of Fish and Wildlife (CDFW), that is knowledgeable about the southern rubber boa, including its natural history, habitat requirements, seasonal movements and range, to survey and monitor for southern rubber boa prior to and during Project activities. Prior to Project implementation, and at the appropriate times, the Designated Biologist shall survey for southern rubber boa, using standard, accepted protocol, within all areas proposed for disturbance, including a 100-foot buffer from the Project area. The Designated Biologist(s) shall focus on moveable surface materials such as rocks, logs, and manmade debris that may provide shelter for the southern rubber boa.

If suitable habitat for southern rubber boa is identified, the County shall implement the following:

1. The Designated Biologist shall be on-site when all ground disturbing activities are conducted.
2. The Designated Biologist shall conduct preconstruction surveys ending no more than 3 days prior to the start of construction. During the survey, all moveable surface materials such as rocks, logs and

manmade debris that may provide shelter for southern rubber boa shall be removed by hand.

3. If a southern rubber boa is found, all Project activities shall be halted, CDFW shall be contacted, and a California Endangered Species Act Incidental Take Permit obtained from CDFW prior to reinitiating project activities.

If southern rubber boa are found within the Project site, the County shall implement the following:

1. The County shall apply for an Incidental Take Permit from CDFW for take of southern rubber boa.

2. The Project proponent shall conserve southern rubber boa habitat as mitigation for project impacts to the species at a minimum ratio of 3:1 (replacement-to-impact) for all permanent loss of habitat. Note that a higher ratio may be warranted if the proposed mitigation site is located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.

Additionally, CDFW recommends that the County apply for a CESA Incidental Take Permit to reduce the potential for Project delays should a southern rubber boa be discovered onsite.

San Bernardino Flying Squirrel

The ISMND determined, “flying squirrel are not likely to occur within the Project Area and the Project is not likely to impact flying squirrel”, because the Project Area “is within an urban area consisting primarily of residential development and is subject to adjacent human disturbances” and “does not support the mixed conifer forests comprised of white fir, Jeffrey pine, and black oak this species typically inhabits” and “the closed canopy, downed woody debris, and riparian areas typically associated with suitable habitat for this species are absent from the Project Area”. Based on reconnaissance surveys and literature review, CDFW cannot agree that the species is unlikely to occur on the Project site and is concerned that the County has not provided a proper analysis or basis to support the determination that the Project’s impacts on San Bernardino flying squirrel would be less than significant. Therefore, CDFW recommends the following mitigation measures be included in the ISMND prior to adoption:

BIO-3: The County shall designate a San Bernardino flying squirrel biologist (Designated Biologist), approved by CDFW, that is knowledgeable about the natural history, habitat requirements (including nesting habitat), and range of the species, to survey and monitor for the species, prior to and during construction. The Designated Biologist shall survey the Project site,

including an appropriate buffer surrounding the site for habitat suitable to support San Bernardino flying squirrel, including dominant tree species present, canopy closure, duff layers, presence of large snags, presence of coarse woody debris (>10 cm), suitable cavity nesting sites and site proximity to annual or ephemeral water sources.

If San Bernardino flying squirrel are found on-site or suitable habitat exists for the species, the County shall implement the following:

1. Minimize the removal of large coarse woody debris, which provide microhabitat for the growth of hypogeous fungi, a food source for San Bernardino Flying squirrel.
2. Limit removal of standing snags (>25 cm DBH) and large trees (>25cm DBH), which provide both structural complexity and potential nesting habitat.
3. Prioritize the retention of large trees and snags with visible potential cavity nesting structures which are associated with high densities of flying squirrel.
4. Minimize the loss of continuous canopy closure, which provides protection from predators while foraging and may play an important role in maintaining habitat connectivity.
5. Retain a biologist on-site when all ground disturbing activities are conducted to identify and minimize potential impacts.
6. Conduct a preconstruction survey, no more than 3 days prior to the start of construction. During the survey, the Designated Biologist shall systematically survey the proposed Project site as well as 150-foot buffer, specifically searching for essential San Bernardino flying squirrel habitat features. If the species is identified, the Designated Biologist shall notify CDFW and develop a conservation strategy in cooperation with CDFW to establish appropriate avoidance and mitigation measures, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 (replacement-to-impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation site is located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.

California Spotted Owl

The ISMND determined that California spotted owl is not likely to occur within the Project area and is not likely to be impacted by the Project, because “the Project Area is within an urban area consisting primarily of residential development and is subject to adjacent human disturbances. Additionally, the Project Area does not support the montane hardwood and montane hardwood-conifer forests that SPOW occupy in the region”. However, CDFW recognizes that the Project site contains some suitable habitat for California spotted owl (i.e., large trees, connectivity to a large expanse of USFS lands) (Harvey and Associates 2015).

Considering the limited conclusion based on reconnaissance surveys and literature review, CDFW cannot agree that California spotted owl is unlikely to occur on the Project site and is concerned that the County has not provided a proper analysis or basis to support the determination that the Project’s impacts on California spotted owl would be less than significant. Therefore, CDFW recommends the following mitigation measures be included in the ISMND prior to adoption:

BIO-4: The County shall designate a California spotted owl biologist (Designated Biologist), approved by CDFW, in addition to other permitting agencies (e.g. USFWS), that is knowledgeable about the natural history, habitat requirements (including nesting habitat), and range of the species, to survey and monitor for the species, prior to and during construction.

The Designated Biologist shall conduct nighttime spot calling, ending no more than 3 days prior to the start of construction, for three nights between 9:00 pm. and midnight, during appropriate weather conditions (e.g., no rain or winds), to ensure responding owls are recorded. During the survey the Designated Biologist shall:

1. Set up a series of fixed calling points “calling stations” approximately 0.25 to 0.5 mile apart or as needed to account for local acoustical conditions, along roads, trails and/or transects. The Designated Biologist shall ensure sufficient overlap in calling coverage from point to point, whereby the Designated Biologist is able to hear responding owls and that all spotted owl habitat within the entire survey area is adequately covered.
2. The Designated Biologist shall spend at least 12 minutes at each calling station during which digital recordings of a California spotted owl male’s four-note and barking calls, and of a female’s contact and agitation calls shall be broadcasted. The Designated Biologist shall play calls for 2 minutes, listen for 2 minutes, and then repeat the calling and listening.

3. The order of surveys at the calling stations shall vary among the three survey nights and California spotted owl agitation calls shall not be broadcasted until the end of each calling station survey to avoid agitating females that might be nearby.

If California spotted owls are detected onsite the County shall:

1. Notify CDFW and develop a conservation strategy in cooperation with CDFW to establish appropriate mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 (replacement-to-impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation site is located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.
2. Implement Mitigation Measure (MM) BIO-1, as revised by CDFW (edits are in ~~strikethrough~~ and **bold**):

BIO-1

Nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation clearing or ground disturbance activities. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the preconstruction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist **and reviewed and approved by CDFW**. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal ~~should~~ **shall** occur outside peak breeding season (typically February 1 through September 1).

3. The removal of mature trees and snags shall be minimized to the greatest extent practicable and occur outside the peak breeding season (typically February 1 through September 1). Mature trees and snags to be removed as part of the Project shall be more closely evaluated by the CDFW-approved California spotted owl biologist for their potential to support California spotted owl. Trees that are identified as suitable California spotted owl roost sites shall be removed using a two-step process that occurs over a 2-day period. On Day 1, branches and limbs that do not contain crevices or cavities shall

be removed using hand tools or chainsaws. The goal is to create a disturbance sufficient to cause any California spotted owl roosting in the tree to leave that night and not return, but not at a level of intensity that will cause owls to fly out of the tree during the disturbance itself (i.e., during the daytime, when leaving the roost will likely result in predation). On Day 2, the remainder of the tree may be removed.

Special Status Plant Species

Considering the presence of pebble plain habitat on-site, per aerial imagery and the Biological Resources Assessment, CDFW is concerned that several special status species (i.e., rare, sensitive, imperiled, state-listed) with the potential to occur on-site may have been overlooked during the July 2019 focused botanical survey. These species include southern mountain buckwheat (*Eriogonum kennedyi* var. *austromontanum*), Big Bear Valley sandwort (*Eremogone ursina*), San Bernardino Mountains bladderpod (*Physaria kingii* ssp. *Bernardina*), silver-haired ivesia (*Ivesia argyrocoma* var. *argyrocoma*), Parish's rockcress (*Boechera parishii*), Baldwin Lake linanthus (*Linanthus killipii*), and ash-gray paintbrush (*Castilleja cinerea*). CDFW believes that botanical field surveys were not floristic in nature and adequate to identify all plants in the Project area to the level necessary to determine if there are special status plants. In fact, every taxon that occurs in the Project area was not identified and instead, “focused surveys” were limited to habitats known to support special status plants and restricted to a list of likely potential special status plants. For each botanical field survey conducted, a list of all plants and natural communities detected in the Project area should be included.

Furthermore, *one* botanical field survey was conducted in July 2019 when botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project area. This usually involves multiple visits to the Project area (e.g., in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present. Thus, the ISMND’s botanical survey is not adequate to identify all plants in the Project area to the level necessary to determine if there are special status plants. Therefore, CDFW recommends the following mitigation measures be included in the ISMND prior to adoption:

BIO-5: Prior to Project implementation, and during the appropriate season, the County shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related

to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status.

If any rare plants or sensitive vegetation communities are identified, the County shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the conservation of similar or higher-quality occupied habitat at a minimum 3:1 (replacement-to-impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation site is located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.

If the Project has the potential to impact a State-listed species, the County shall apply for a California Endangered Species Act Incidental Take Permit with the California Department of Fish and Wildlife.

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.)

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CONCLUSION

CDFW recommends that the County adopt the recommended 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 Maple Hill Community Fields Project and hopes our comments assist the County of San Bernardino 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:

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for

Scott Wilson
Environmental Program Manager

ec: HCPB CEQA Program
Habitat Conservation Planning Branch
CEQAcommentletters@wildlife.ca.gov

Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov

REFERENCES

California Department of Fish and Wildlife. 1987. Five Year Status Report on Southern Rubber Boa.

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California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.

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Cunningham, J. D. 1966. Observations on the taxonomy and natural history of the rubber boa (*Charina bottae*). Southwest Nat. 11:298-299.

Harvey H.T. and Associates. 2015. California Spotted Owl and Northern Goshawk Surveys for Tenaya Lodge Explorer Cabins. Unpubl. report to Blair, Church, and Flynn Consulting Engineers, 12 pp. and 2 maps.

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