



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Ave  
Fresno, California 93710  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

**May 24 2021**

May 24<sup>th</sup>, 2021

## STATE CLEARINGHOUSE

Shawana Scott  
Senior Planner  
City of San Luis Obispo, Community Development Department  
919 Palm Street  
San Luis Obispo, California 93401

**Subject: SLO Airport Hotel Project**  
**MITIGATED NEGATIVE DECLARATION (MND)**  
**SCH No.: 2021040586**

Dear Ms. Scott:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from City of San Luis Obispo, Community Development Department for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

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<sup>1</sup> 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.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Sunsmitt, LLC

**Objective:** The objective of the Project is to construct a dual-branded hotel in the vicinity of the San Luis Obispo Airport, with a total disturbance size of 5.04 acres. Primary Project activities include construction of the hotel which is approximately 125,000 square feet, 214 parking spaces, and 219,570 square feet of landscaping.

**Location:** 950 and 990 Aero Drive, San Luis Obispo, California 93401. APN 053-412-010 & 053-412-011

**Timeframe:** Work will begin March 2022, for 20 months.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist City of San Luis Obispo, Community Development Department 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.

Oct 3, 2019

The unnamed ephemeral drainage and associated wetland habitat has the potential to support species of special concern. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes. The MND indicates there is potentially significant impact unless mitigation measures are taken but the measures listed are general and non-specific and/or may be inadequate to reduce impacts to less than significant. CDFW is

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concerned regarding potential impacts to special-status species including, but not limited to: California Rare Plant Ranked (CRPR) 1B.1 Hoover's button-celery (*Eryngium aristulatum* var. *hooveri*), and the state rare and CRPR 1B.1 Adobe sanicle (*Sanicula maritima*). In order to adequately assess any potential impacts to biological resources, focused biological surveys should be conducted by a qualified wildlife botanist during the appropriate survey period(s) in order to determine whether any special-status species and/or suitable habitat features may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, especially in the areas not in irrigated agriculture, and to identify any Project-related impacts under CESA and other species of concern.

## **I. Environmental Setting and Related Impact**

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?**

### **COMMENT 1: Special-Status plants**

**Issue:** The Project site contains habitat suitable to support special-status plant species meeting the definition of rare or endangered under CEQA Guidelines Section 15380 including, but not limited to, CRPR 1B.1 Hoover's button-celery (*Eryngium aristulatum* var. *hooveri*), and the State designated rare and CRPR 1B.1 Adobe sanicle (*Sanicula maritima*). Although there was a preliminary field study done on October 3<sup>rd</sup>, 2019 that did not find any rare plants, that study was outside of the blooming period where the plants could have been identified.

**Specific impact:** Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project construction include inability to reproduce and direct mortality.

**Evidence impact would be significant:** Special-status plant species known to occur in the vicinity of the Project site are threatened by residential development, road maintenance, vehicles, grazing, trampling, and invasive, non-native plants (CNPS 2021).

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to special-status plant species associated with the Project, CDFW recommends conducting the following evaluation of the Project area,

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editing the MND to include the following additional measures, and including the following mitigation measures as conditions of approval.

**Recommended Mitigation Measure 1: Special-Status Plant Surveys**

If suitable habitat is present, CDFW recommends that the Project site be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities” (CDFW 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

**Recommended Mitigation Measure 2: Special-Status Plant Avoidance**

CDFW recommends that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

**Recommended Mitigation Measure 3: State-listed Plant Take Authorization**

If a plant species listed pursuant to CESA or State designated as rare is identified during botanical 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 issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b) for State listed threatened or endangered plants or pursuant to the Native Plant Protection Act and Fish and Game Code section 1900 et seq. for State designated rare plants.

**II. Editorial Comments and/or Suggestions**

**Lake and Streambed Alteration:** The Project contains activities that may result in the Project site being subject to CDFW’s regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. “Any river, stream, or lake” includes those that are ephemeral or intermittent, such as the unnamed stream within the Project site, as well as those that are perennial in nature.

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For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement (LSAA). If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays.

## **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, § 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](mailto: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. 4 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**

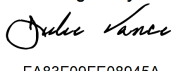
CDFW appreciates the opportunity to comment on the MND to assist City of San Luis Obispo, Community Development Department in identifying and mitigating Project impacts on biological resources.

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 Aimee

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Braddock, Environmental Scientist at (559) 243-4014 extension 243 or  
aimee.braddock@wildlife.ca.gov.

Sincerely,

DocuSigned by:  


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Julie A. Vance  
Regional Manager

#### Attachments

A. MMMRP for CDFW Recommended Mitigation Measures

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

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## **REFERENCES**

CDFW, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. California Department of Fish and Wildlife. March 20, 2018.

CDFW. 2021. Biogeographic Information and Observation System (BIOS).  
<https://www.wildlife.ca.gov/Data/BIOS>. Accessed May 17, 2021.

California Native Plant Society (CNPS), Rare Plant Program. 2021. Inventory of Rare and Endangered Plants of California (online edition, v8-03 0.39). Website  
<http://www.rareplants.cnps.org>

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**Attachment 1**

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

**PROJECT: SLO Airport Hotel Project**

**SCH No.: 2021040586**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Special-Status Plant Surveys	
Mitigation Measure 3: State-listed Plant Take Authorization	
<i>During Construction</i>	
Mitigation Measure 2: Special-Status Plant Avoidance	