



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 6, 2022
Sent via email

Governor's Office of Planning & Research

Jun 06 2022

Christina Taylor
City of Beaumont
550 E. 6th Street
Beaumont, CA 92223

STATE CLEARINGHOUSE

Subject: Draft Environmental Impact Report, Beaumont Summit Station Project,
State Clearinghouse No. 2021090378

Dear Ms. Taylor:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Draft Environmental Impact Report (DEIR) for the Beaumont Summit Specific Plan Project (Project), State Clearinghouse No. 2021090378, pursuant to the California Environmental Quality Act (CEQA) statute and guidelines¹. Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, plants, and their habitats. Likewise, CDFW appreciates 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 (Fish & G. 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. (Fish & G. Code, § 1802.) Similarly, for purposes of CEQA, CDFW provides, 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 may also act as a Responsible Agency regarding any discretionary actions under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381, such as the issuance of a Lake or Streambed Alteration Agreement (Fish & G. Code Sections 1600

¹CEQA 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.

et seq.), a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (Fish & G. Code Sections 2080 and 2080.1) and/or for administering the Natural Community Conservation Planning Program (NCCP). CDFW also administers the Native Plant Protection Act, Natural Community Conservation Program, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the Western Riverside County MSHCP per Section 2800, *et seq.*, of the California Fish and Game Code on June 22, 2004. The MSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit. CDFW is providing the following comments as they relate to the Project's consistency with the MSHCP and the CEQA.

PROJECT DESCRIPTION SUMMARY

Project Location

The proposed Project site is in the northwestern portion of the City of Beaumont, California. The Project site is approximately 191 acres located south of Cherry Valley Boulevard, north of Brookside Avenue, and east of Interstate 10 (I-10). All proposed changes associated with the Project are located within areas previously annexed to the City of Beaumont by Local Agency Formation Commission (LAFCO). The following Assessor Parcel Numbers (APNs) are associated with the Project site: 407-230-22, -23, -24, -25, -26, -27, -28, 407-190-016, and 407-190-017. The Project is within the boundaries of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP).

Project Description

The proposed Project, a comprehensive amendment of the Sunny-Cal Specific Plan, includes a General Plan Amendment, Specific Plan Amendment, Tentative Parcel Map, Plot Plan Approval, and a Development Agreement. The Project site is divided into five parcels, with Parcels 1, 2, and 3 designated for e-commerce uses with supporting office. Parcel 4 would include the development of up to 150,000 square feet of commercial uses, including a four-story hotel, restaurant, and retail. Parcel 5, located in Planning Area 3 along the southern portion of the Project site, would remain as open space. The existing General Plan designation of Single Family Residential would be amended to Open Space in Parcel 5.

COMMENTS AND RECOMMENDATIONS

CDFW's comments and recommendations on the DEIR are explained below.

General Comments

MSHCP Implementation Concurrent with CEQA

The DEIR includes a Biological Resources and MSHCP Consistency Report that discusses, among other items, the Project's impacts to riparian/riverine areas and proposed mitigation to offset these impacts. However, the DEIR does not indicate if a Determination of Biologically Equivalent or Superior Preservation (DBESP) report will be sent to the Wildlife Agencies for review and response prior to the City's approval of the DBESP.

The City of Beaumont's Resolution No. 2004-58, which established procedures and requirements for implementation of the MSHCP, requires that upon the City's initiation of a project that is subject to CEQA, the City shall be required to comply with the procedures and requirements of the MSHCP. The proposed Project is a MSHCP Covered Activity and subject to MSHCP implementation procedures. Sections 6.1.2, 6.1.3, and 6.3.2 of the MSHCP require that if an avoidance alternative is not feasible and a practical alternative is instead selected, a DBESP shall be made by the Permittee and Wildlife Agencies shall be notified and be provided a 60-day review and response period prior to approval of the DBESP. The Wildlife Agencies request that the DEIR is revised to indicate that a DBESP will be sent to the Wildlife Agencies for a 60-day review and response period prior to the City approving the DBESP. Further, MSHCP implementation should be completed prior to adoption of the DEIR.

CDFW requests the following mitigation measure, highlighted in **bold**, is added to the DEIR.

MM BIO-X:

The proposed Project is an MSHCP Covered Activity and subject to the MSHCP implementation procedures. Prior to adoption and approval of the DEIR, the City of Beaumont will ensure full implementation of the Western Riverside County Multiple Species Habitat Conservation Plan for the Project, which includes, but is not limited to, sending a Determination of Biologically Equivalent or Superior Preservation to the California Department of Fish and Wildlife and the US Fish and Wildlife Service for a 60-day review and response period prior to the City approving the DBESP and finalizing the DEIR.

Mitigation Measures for Project Impacts to Biological Resources

On-site Avoided Riparian/Riverine Areas

The DEIR indicates that Planning Area 3, which includes approximately 6.07 acres of riparian/riverine areas, will be avoided by the Project and left as open space. However, Planning Area 3 is not proposed in the DEIR to be protected under any legal instrument

such as a conservation easement or deed restriction and therefore the area is subject to possible development in the future. MSHCP Section 6.1.2 requires that Permittees, through the CEQA process, ensure that project applicants develop project alternatives demonstrating efforts that first avoid, and then minimize direct and indirect effects to the wetlands. If an avoidance alternative is selected, measures shall be incorporated into the project design to ensure the long-term conservation of the areas to be avoided, and associated functions and values, through the use of deed restrictions, conservation easement, or other appropriate mechanism.

CDFW requests the following mitigation measure, highlighted in **bold**, is added to the DEIR.

MM BIO-Y:

Avoided riparian/riverine areas, and associated functions and values, will be conserved through the use of deed restrictions, conservation easement, or other appropriate mechanisms.

Mitigation for Impacts to Riparian/Riverine Areas

The DEIR also indicates that approximately 2.41 acres of riparian/riverine areas will be permanently impacted by the Project and that these impacts will be offset through the purchase of mitigation credits from Riverpark Mitigation Bank. The Biological Resources Assessment included with the DEIR indicates that Planning Area 3 contains riparian/riverine areas with native vegetation cover including mulefat scrub and documented observation of least Bell's vireo. Given the existing habitat value of onsite riparian/riverine areas and the potential to enhance the function of these onsite resources, the CDFW recommends that the City revise the Project's mitigation to identify the conservation and restoration of the riparian/riverine areas within Planning Area 3 as the preferred mitigation strategy. The conservation and restoration of riparian/riverine areas onsite would provide habitat value for local wildlife and benefit downstream riparian/riverine resources in San Timoteo Creek and the Santa Ana River. The conservation and restoration of riparian/riverine areas located within the proposed avoidance area onsite could provide mitigation that is biologically equivalent or superior to a Project strategy that avoids all impacts to riparian/riverine areas. The Riverpark Mitigation Bank is located in the San Jacinto River Watershed while Project impacts are located in the Santa Ana River Watershed. If mitigation credits were purchased at Riverpark Mitigation Bank as compensatory mitigating for the Project impacts, this mitigation strategy would result in a loss of riparian/riverine areas within the Santa Ana River watershed.

CDFW recommends the following revisions to Mitigation Measure (MM) BIO-4. Requested additions are identified in **bold** and requested removals are identified in ~~strikethrough~~.

MM BIO-4

[...]

~~A minimum 1:1 mitigation ratio (0.25 acre USACE/0.25 acre RWQCB/2.41 acres CDFW) is typically required, though ratios may be higher.~~ **The MSHCP requires that mitigation for impacts to riparian/riverine areas that cannot be avoided is biologically equivalent or superior to a strategy that avoids all impacts to riparian/riverine areas.** Compensatory mitigation to offset impacts to ~~jurisdictional aquatic fish and wildlife resources~~ may be implemented through **onsite or** offsite, permittee-responsible mitigation, in-lieu fee program or mitigation bank credit purchase (e.g., Riverpark Mitigation Bank), or a combination of these options depending on availability. **The proposed compensatory mitigation strategy is the onsite conservation and restoration of riparian/riverine areas in the avoided, open-space areas within Planning Area 3.** ~~The proposed mitigation strategy is the purchase of 4.82 re-establishment and/or rehabilitation credits (2:1 mitigation ratio) from the Riverpark Mitigation Bank.~~ The regulatory agencies will make the final determination of the final compensatory mitigation requirements during the permit evaluation process. Prior to issuance of a grading permit, the Project applicant will provide the City of Beaumont with ~~purchase confirmation~~ **of completion of the appropriate regulatory permits.**

Protecting Burrowing Owls

The DEIR indicates that suitable burrowing owl habitat was found throughout the Project site, but focused burrowing owl surveys did not identify any burrowing owls using the site. MM BIO-2 indicates that pre-construction surveys would be completed, and any burrowing owls identified onsite would be relocated/excluded outside of the breeding season.

There is the potential for burrowing owls to start using burrows on the Project site prior to initiation of Project activities or during Project construction activities. Burrowing Owl Species Objective 6 in Section 9.2 of the MSHCP states that take of active nests will be avoided; therefore, appropriate avoidance and minimization measures need to be identified in the DEIR to protect burrowing owls during burrowing owl nesting season.

To help the Project avoid the take of active nests, CDFW requests the following revisions to MM BIO-2. Requested additions are identified in **bold** and requested removals are identified in ~~strikethrough~~.

MM BIO-2

A qualified biologist will conduct a pre-construction presence/absence survey for burrowing owls ~~within~~ **between** ~~within~~ **30 and 60** days prior to site disturbance. **Additional pre-construction focused surveys for burrowing owls will be conducted within three days prior to site disturbance including vegetation clearing. If the pre-construction surveys confirm occupied burrowing owl**

habitat, or if burrowing owls are detected after the Project has started, then construction activities shall be halted immediately. If burrowing owls are documented on-site, **CDFW will be notified within 48-hours of detection and the take of active nests will be avoided.** To avoid take of active nests, a qualified biologist will develop a Burrowing Owl Plan that describes avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. ~~the owls will be relocated/excluded from the site outside of the breeding season following accepted protocols, as specified in the MSHCP.~~ **The Burrowing Owl Plan will be reviewed by the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the Western Riverside County Regional Conservation Authority.**

Protecting nesting birds

MM BIO-3 in the DEIR relates to avoidance and minimization measures to protect of nesting birds. The measure identifies specific dates for the nesting bird season. CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than the date range identified in these mitigation measures. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site.

To help the Project applicant avoid unlawfully taking nests and eggs, CDFW recommends that references to the date range of the nesting bird season are removed from MM BIO-3. CDFW requests the following revisions to MM BIO-3. Requested additions are identified in **bold** and requested removals are identified in ~~strikethrough~~.

MM BIO-3

To ensure compliance with California Fish and Game Code sections 3503, 3503.5, and 3513 and to avoid potential impacts to nesting birds,
~~Vegetation clearing and ground-disturbing activities should~~ **shall** be conducted outside of the **bird** nesting season (~~February 1 through August 31~~). If avoidance

of the nesting season is not feasible, then a qualified biologist will conduct a nesting bird survey within three days prior to any disturbance of the site, including **but not limited to vegetation clearing**, disking, demolition activities, and grading. If active nests are identified, the biologist shall establish suitable buffers around the nests depending on the level of activity within the buffer and species observed, and the buffer areas shall be avoided until the nests are no longer occupied, and the juvenile birds can survive independently from the nests. **During construction activities, the qualified biologist shall continue biological monitoring activities at a frequency recommended by the qualified biologist using their best professional judgment. If nesting birds are detected, avoidance and minimization measures may be adjusted and construction activities stopped or redirected by the qualified biologist using their best professional judgement to avoid Take of nesting birds.**

CDFW CONCLUSIONS AND FURTHER COORDINATION

CDFW appreciates the opportunity to comment on the Beaumont Summit Station Project to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that the City of Beaumont address CDFW's comments and concerns prior to adoption of the EIR.

Questions regarding this letter or further coordination should be directed to Jacob Skaggs at jacob.skaggs@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Heather Pert
Acting Environmental Program Manager

ec:

Carly Beck, Acting Senior Environmental Scientist Supervisor
Inland Deserts Region

Office of Planning and Research, State Clearinghouse, Sacramento
Rollie White, U.S. Fish and Wildlife Service

ATTACHMENT 1

Mitigation Monitoring and Reporting Program for the Beaumont Summit Station Project

Mitigation Measures	Timing and Methods	Responsible Parties
<p>MM BIO-4: [...]</p> <p>The Project applicant shall be obligated to implement/comply with the permit conditions and mitigation measures required by the resources agencies regarding impacts on their respective jurisdictions.</p> <p>The MSHCP requires that mitigation for impacts to riparian/riverine areas that cannot be avoided is biologically equivalent or superior to a strategy that avoids all impacts to riparian/riverine areas. Compensatory mitigation to offset impacts to fish and wildlife resources may be implemented through onsite or offsite, permittee-responsible mitigation, in-lieu fee program or mitigation bank credit purchase (e.g., Riverpark Mitigation Bank), or a combination of these options depending on availability. The proposed compensatory mitigation strategy is the onsite conservation and restoration of riparian/riverine areas in the avoided, open-space areas within Planning Area 3. The regulatory agencies will make the final determination of the final compensatory mitigation requirements during the permit evaluation process. Prior to issuance of a grading permit, the Project applicant will provide the City of Beaumont with confirmation of completion of the appropriate regulatory permits.</p>	<p>Timing: During pre-construction and construction phases of the Project</p> <p>Methods: As described in MM BIO-4</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: Project applicant</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p>MM BIO-2:</p> <p>A qualified biologist will conduct a pre-construction presence/absence survey for burrowing owls between 30 and 60 days prior to site disturbance. Additional pre-construction focused surveys for burrowing owls will be conducted within three days prior to site disturbance including vegetation clearing. If the pre-construction surveys confirm occupied burrowing owl habitat, or if burrowing owls are detected after the Project has started, then construction activities shall be halted immediately. If burrowing owls are documented on-site, CDFW will be notified within 48-hours of detection and the take of active nests will be avoided. To avoid take of active nests, a qualified biologist will develop a Burrowing Owl Plan that describes avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Burrowing Owl Plan will be reviewed by the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the Western Riverside County Regional Conservation Authority.</p>	<p>Timing: During pre-construction and construction phases of the Project</p> <p>Methods: As described in MM BIO-2</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: Project applicant</p>

Mitigation Measures	Timing and Methods	Responsible Parties
<p>MM BIO-3:</p> <p>To ensure compliance with California Fish and Game Code sections 3503, 3503.5, and 3513 and to avoid potential impacts to nesting birds, vegetation clearing, and ground-disturbing activities shall be conducted outside of the nesting season. If avoidance of the nesting season is not feasible, then a qualified biologist will conduct a nesting bird survey within three days prior to any disturbance of the site, including but not limited to vegetation clearing, disking, demolition activities, and grading. If active nests are identified, the biologist shall establish suitable buffers around the nests depending on the level of activity within the buffer and species observed, and the buffer areas shall be avoided until the nests are no longer occupied, and the juvenile birds can survive independently from the nests. During construction activities, the qualified biologist shall continue biological monitoring activities at a frequency recommended by the qualified biologist using their best professional judgment. If nesting birds are detected, avoidance and minimization measures may be adjusted and construction activities stopped or redirected by the qualified biologist using their best professional judgement to avoid Take of nesting birds.</p>	<p>Timing: During pre-construction and construction phases of the Project</p> <p>Methods: As described in MM BIO-3</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: Project applicant</p>
<p>MM BIO-X</p> <p>The proposed Project is an MSHCP Covered Activity and subject to the MSHCP implementation procedures. Prior to adoption and approval of the DEIR, the City of Beaumont will ensure full implementation of the Western Riverside County Multiple Species Habitat Conservation Plan for the Project, which includes, but is not limited to, sending a Determination of Biologically Equivalent or Superior Preservation to the California Department of Fish and Wildlife and the US Fish and Wildlife Service for a 60-day review and response period prior to the City approving the DBESP and finalizing the DEIR.</p>	<p>Timing: Prior to adoption and approval of the DEIR</p> <p>Methods: As described in MM BIO-X</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: Project applicant</p>

<p>MM BIO-Y</p> <p>Avoided riparian/riverine areas, and associated functions and values, will be conserved through the use of deed restrictions, conservation easement, or other appropriate mechanisms.</p>	<p>Timing: Prior to initiation of Project activities</p> <p>Methods: As described in MM BIO-Y</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: Project applicant</p>
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