



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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Fresno, California 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 3, 2021

Governor's Office of Planning & Research

Dec 03 2021

STATE CLEARINGHOUSE

Charles Pooler
City Planner
Sand City Community Development Department
1 Pendergrass Way
Sand City, California 93955

**Subject: SAND CITY SUSTAINABLE TRANSPORTATION PLAN (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH No.: 2021110061**

Dear Mr. Pooler:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Sand City for the 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 agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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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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: Sand City Community Development Department

Objective: The objective of the Project is to propose conceptual improvements within and adjacent to Sand City. Primary Project activities include improve circulation for pedestrians, bicyclists, persons that are mobility challenged, and improve access to transit. The Sustainable Transportation Plan will guide future investments in non-motorized transportation facilities.

Location: The entire area of Sand City.

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Sand City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

The MND indicates there is potential for significant impact to multiple special status species that have the potential to present in and adjacent to the Project area unless mitigation measures are taken, including special-status plants, American badger (*Taxidea taxus*), burrowing owl (*Athene cunicularia*), western snowy plover, Northern California legless lizard (*Anniella pulchra*), monarch butterfly (*Danaus plexippus*), Smith's blue butterfly (*Euphilotes enoptes smithi*), hoary bat (*Lasiurus cinereus*), and Townsend's big-eared bat (*Corynorhinus townsendii*). However, the MND does not consider potential impacts to the rare and endemic western bumble bee (*Bombus occidentalis*) or the State species of special concern Monterey shrew (*Sorex ornatus salaries*). Both species have the potential to occur in the Project area based upon documented occurrences in the California Natural Diversity Database and/or their historic range.

While CDFW cannot provide substantive comments without additional information, CDFW recommends that western bumble bee and Monterey shrew be added to the education program required in Mitigation Measure BIO-2 and that additional measures to evaluate, avoid, and minimize impacts to individual Project sites be added to the MND,

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including a habitat assessment in advance of project implementation, to determine if Project areas or their immediate vicinity contain suitable habitat for these species. If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance and develop and potential mitigation measures. For western bumble bee specifically, CDFW recommends that all small mammal burrows and thatched/bunch grasses be surveyed for the species during the optimal flight period (April 1-July 31) during peak blooming period of preferred plant species prior to Project implementation. Avoidance of detected queens or workers is encouraged to allow individuals to leave the Project site on their own volition. Avoidance and protection of a detected nests prior to or during Project implementation is encouraged with delineation and observance of a 50-foot no-disturbance buffer.

In regard to Mitigation Measure BIO-1, CDFW advises that some requirements of this measure require take authorization from CDFW to comply if with Fish and Game Code if the plants are listed pursuant to the CESA or the Native Plant Protection Act (NPPA). If plant species listed pursuant to CESA or NPPA are detected at a Project site, CDFW strongly recommends consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

CDFW appreciates the opportunity to comment on the MND to assist Sand City Community Development Department in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to R4CEQA@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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Annee Ferranti for Julie A. Vance
Regional Manager

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