



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

July 29, 2022

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Mr. Joe Pearson
City of Oxnard
214 South C St.
Oxnard, CA 93030
Joe.Pearson@Oxnard.org

STATE CLEARINGHOUSE

Subject: Venture Road Electronic Billboard, Mitigated Negative Declaration, SCH No. 2022060700; City of Oxnard, Ventura County

Dear Mr. Pearson:

The California Department of Fish and Wildlife (CDFW) has reviewed the City of Oxnard's (City) Mitigated Negative Declaration (MND) for the Ventura Road Electronic Billboard (Project). The City, as Lead Agency, prepared a MND pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 *et seq.*) with the purpose of informing decision-makers and the public regarding potential environmental effects related to the Project. Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife or be subject to Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust for the people of the state [Fish & Game Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, [§ 15386, subdivision (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). CDFW is also directed to provide biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 *et seq.*). To the extent implementation of the Project as proposed may result in "take" of any species protected under the California Endangered Species Act (CESA; Fish & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description and Summary

Objective: The City of Oxnard has proposed to erect an electronic billboard on a 1,000 square foot site adjacent to the State-Rout 101. The Billboard will extend 40 feet underground, 65.5 feet above the ground, and be illuminated on both sides. Light-emitting diodes (LEDs) will be used and will include components to block light from emitting towards the sky. Construction would occur over four days over a two-week period.

Location: The Project is located within bank and levee of the Santa Clara River, upstream of State-Rout 101 in the City of Oxnard. Surrounding land use includes office, commercial, and natural (Santa Clara River).

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating significant, or potentially significant, direct and indirect impacts on fish and wildlife biological resources based on the planned activities of this proposed Project. CDFW recommends the measures below be included in a science-based monitoring program with adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097). Additional comments or other suggestions may also be included to improve the document.

Specific Comments

Comment #1: Impacts to Aquatic and Riparian Resources, Lake and Streambed Alteration Agreement (LSA)

Issue: The Project may result in direct or indirect impacts to Santa Clara River and associated riparian and wetland vegetation.

Specific Impacts: Within the MND it states, "[t]he Project site is located on the southeast side of the Santa Clara River southbank levee along Ventura Road..." CDFW is concerned that project activities within and surrounding Santa Paula River may result in changes to the stream and/or the associated sensitive riparian vegetation communities which are subject to Fish and Game Code.

Why impacts would occur: Project implementation includes grading, excavating, material staging, grubbing, and vegetation clearing which may result in direct mortality and loss of sensitive vegetation communities and special status wildlife.

Moreover, S3 ranked willow riparian forest and woodland and red willow riparian woodland are present within close proximity to the Project site. Riparian habitats provide important food, nesting habitat, cover, and migration corridors for wildlife. Only 5 to 10% of California's original riparian habitat exists today and much of the remaining habitat is in a degraded condition. Increased sediment deposition can bury seedlings and saplings of riparian trees, resulting in increased mortality of new recruits (Kui and Stella 2016). Construction equipment, vehicles, import of fill material, disposal piles, and staging areas can introduce and spread non-native,

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invasive plants. Invasive plant seeds, rhizomes, or stolons can be transported along streams and spread upstream and downstream. Impacts to sensitive vegetation communities should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive plant communities will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any special status species or sensitive vegetation community.

Evidence Impact Would Be Significant: Debris, soil, silt, sawdust, rubbish, raw cement/concrete, or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous or deleterious to aquatic life, wildlife, or riparian habitat resulting from Project related activities may enter the stream.

Mitigation Measure #1: The Project applicant (or “entity”) should provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW shall determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW’s web site at <https://www.wildlife.ca.gov/conservation/lisa>.

If necessary, CDFW’s issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to streams or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

Mitigation Measure #2: Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: avoidance of resources, on-site or off-site creation, enhancement, or restoration, and/or protection and management of mitigation lands in perpetuity.

Mitigation Measure #3: If impacts to riparian habitat, such as arroyo willow thicket, mulefat thicket, and cattail marshes cannot be avoided, CDFW suggests mitigation should be achieved entirely on site if possible. CDFW recommends that impacts be mitigated at no less than 3:1. CDFW recommends that an on-site Habitat Mitigation and Monitoring Plan (HMMP) be developed. An HMMP should provide specific, detailed, and enforceable measures.

Comment #2: Potential Impacts to California Species of Special Concern due to Project Design

Issue: CDFW is concerned that Project-related activities may result in significant impacts to the following Species of Special Concern (SSC):

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- Birds: Yellow warbler (*Setophaga petechia*) and;
- Reptiles: Coast horned lizard (*Phrynosoma blainvillii*), and western pond turtle (*Emys marmorata*)

Specific impact: Project construction and related activities, directly or through indirect effects, may result in direct injury or mortality of SSC. The MND acknowledged the potential for these species to occur in and around the Project site.

Why impact would occur: Project implementation includes staging and using heavy equipment within and adjacent to the active river channel. These activities include increased ambient noise and vibration, night lighting, and other activities. These effects may result in direct mortality, population declines, or local extirpation of SSC fish, reptile, and mammal species.

Lights on elevated structures have been found to attract bird species causing them to veer off migration routes or cause avian collisions that result in mortality (Gehring 2009). Likewise, increased ambient lighting levels can increase predation risks and disorientation. This would disrupt normal behaviors of birds in adjacent feeding, breeding, and roosting habitat (Longcore and Rich 2004). The light emitted from the billboard may impact species which utilize the coastal sage scrub directly below the structure along the Santa Clara River.

Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise has also been shown to reduce the density of nesting birds (Francis 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011). Substantial noise may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55-60 dB (Barber 2009). For reference, normal conversation is approximately 60 dB, and natural ambient noise levels (e.g., forest habitat) are generally measured at less than 50dB.

Evidence impact would be significant: Project construction and activities, directly or through habitat modification, may result in direct mortality, reduced reproductive capacity, population declines, or local extirpation of SSC. CEQA provides protection not only for State and federally listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the City (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Pursuant to the California Code of Regulations, title 14, section 650, the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's [Scientific Collection Permits](#) webpage for information. A LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.

CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & Game Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is

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required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650).

Mitigation Measure #2: CDFW recommends including shields for the bottom of the billboard to further mitigate illumination of sensitive habitats directly below the structure. Within the MND it states, "Louvers will be located above each row of lights to prevent light from projecting upward into the sky." It is recommended that a component which will further shield light from the ground be included within the Project design. Additionally, the Project plans on using LEDs to light the billboard. CDFW suggests the Applicant avoids blue-light emitting and ultraviolet LEDs. Studies have found that LEDs emitting these spectrums of light attract a greater number of species (Longcore 2016). Birds have also been found to be especially attracted to solid full spectrum white lights and solid red lights (Gehring 2009).

Mitigation Measure #3: CDFW recommends monitoring noise generated by the Project operations during construction and post-construction operations to ensure noise from the Project does not affect wildlife in the adjacent river habitat. The MND should set acceptable noise thresholds that would be part of a daily monitoring and reporting program to ensure impact to adjacent habitat is below a threshold that would have an adverse effect.

Mitigation Measure #4: Construction equipment should use noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer. Stationary noise sources (e.g., generators, pumps) at staging areas within 1,400 feet of sensitive receptors should be shielded at the source by an enclosure, temporary sound walls, or acoustic blankets. Where feasible, sound walls or acoustic blankets should have a height of no less than 8 feet, a Sound Transmission Class (STC) of 27 or greater, and a surface with a solid face from top to bottom without any openings or cutouts. Unnecessary construction vehicle use and idling time should be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously for safe construction activities, its engine should be shut off.

Mitigation Measure #5: The City should retain a qualified biologist(s) with experience surveying for or is familiar with the life history of each of the species mentioned above. The qualified biologist should conduct focused surveys for SSC and suitable habitat within the appropriate season to detect presence, and again no more than one month from the start of any ground-disturbing activities or vegetation removal where there may be impacts to SSC. In addition, the qualified biologist should conduct daily biological monitoring during any activities involving vegetation clearing (including ruderal areas), open ditches or pits, or modification of natural habitat. Positive detections of SSC and suitable habitat at the detection location should be mapped and photographed and reported to the California Natural Diversity Database. The qualified biologist should provide a summary report of SSC surveys to the City prior to implementing any Project-related ground-disturbing activities and vegetation removal. Depending on the survey results, a qualified biologist should develop species-specific mitigation measures for implementation during the Project.

Mitigation Measure #6: Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC should be captured only by a qualified biologist with

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proper handling permits. The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan should be submitted to the City prior to implementing any Project-related ground-disturbing activities and vegetation removal.

Mitigation Measure #7: The City, in consultation with a qualified biologist, should prepare a worker environmental awareness training. The qualified biologist should communicate to workers that upon encounter with an SSC (e.g., during construction or equipment inspections), work must stop, a qualified biologist must be notified, and work may only resume once a qualified biologist has determined that it is safe to do so.

Mitigation Measure #8: If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented. A formal report should be sent to CDFW and the City within three calendar days of the incident or finding. Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

Comment #3: Special Status Species Survey Protocols

Issue: The MND only offers protocol surveys for nesting birds and least Bell's vireo (*Vireo bellii pusillus*) though there are multiple special status species with the potential to occur on or near the Project site.

Specific impacts: Project activities may also impact other special status species in and around the Project site.

Why impacts would occur: A lack of protocol surveys will likely result in avoidable impacts to a variety of sensitive species. Protocol surveys are necessary to sensitive listed species and supporting habitat necessary for their survival. Within the MND the Applicant suggested protocol surveys only for nesting birds and least Bell's vireo. CDFW recommends standardized protocol surveys be conducted for other special status species which may be present and impacted by Project activities.

Evidence impact would be significant: Ground clearing and construction activities could lead to the direct mortality of a listed species or SSC. The loss of occupied habitat could yield a loss of foraging potential, nesting sites, roosting sites, or refugia and would constitute a significant impact absent appropriate mitigation.

Recommended Potentially Feasible Mitigation Measure(s) For Coast Horned Lizard (*Phrynosoma blainvillii*):

Mitigation Measure #1: To disclose impacts to special-status reptiles within the MND, CDFW recommends focused surveys for species likely to occur within a Project(s) area. Surveys should typically be scheduled during the summer months (June and July) when these animals are most likely to be encountered. To achieve 100 percent visual coverage, CDFW recommends surveys be conducted with parallel transects at approximately 20 feet apart and walked on-site in appropriate habitat suitable for each species. Suitable habitat consists of

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areas of sandy, loose, and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.

Mitigation Measure #2: Prior to any Project activities, a relocation plan (Plan) should be developed by a qualified biologist familiar with the respective reptile in consultation with CDFW. The Plan should include, but not be limited to, the timing and location of the surveys that will be conducted for the species, identify the locations where more intensive survey efforts will be conducted (based on high habitat suitability); identify the habitat and conditions in any proposed relocation site(s); the methods that will be utilized for trapping and relocating the individuals; and the District coordinate with CDFW and/or the U.S. Fish and Wildlife Service (USFWS) prior to any ground disturbing activities within potentially occupied habitat.

Recommended Potentially Feasible Mitigation Measure(s) For Raptors:

Mitigation Measure #1: To protect nesting birds of prey that may occur on site, CDFW recommends that construction activities be avoided from January 1 through September 15. If construction is unavoidable during January 1 through September 15, a qualified biologist should complete surveys for nesting bird activity the orders *Falconiformes* and *Strigiformes* (raptors and owls) within a 500-foot radius of the construction site. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. If any nests of birds of prey are observed, these nests should be designated an ecologically sensitive area and protected (while occupied) by a minimum 500-foot radius during project construction. Pursuant to FGC Sections 3503 and 3503.5, it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird or bird-of-prey.

Mitigation Measure #2: State-fully-protected species may not be taken or possessed at any time and no licenses or permits may be issued for its take except for collecting those species for necessary scientific research and relocation of the bird species for protection of livestock (Fish & G. Code, §§ 3511, 4700, 5050, 5515). CDFW recognizes that certain fully protected species are documented to occur on, or in, the vicinity of the Project area, or that such species have some potential to occur on, or in, the vicinity of Project, due to the presence of suitable habitat CDFW cannot authorize the take of any fully protected species as defined by state law.

Comment #4: Impacts to Rare Plants including White Rabbit-Tobacco (*Pseudognaphalium leucocephalum*)

Issue: It is unclear if the Project will impact rare plants including California Rare Plant Ranked (CRPR) 2B.2 white rabbit-tobacco that is known to occur on site.

Specific impacts: Project activities may directly impact white rabbit-tobacco during project construction if it occurs within the Project site.

Why impacts would occur: Within the MND it states, “Dominant vegetation around the Project site and surrounding property includes...sporadic cover of native mulefat (*Baccharis salicifolia*) saplings and rabbit tobacco (*Pseudognaphalium sp.*)” Likewise, a review of the California Natural Diversity Database (CNDDB) revealed white rabbit-tobacco has potential to occur in the area. Project implementation includes grading, vegetation clearing, soil compaction, utilities construction, site staging, and the movement of work equipment and vehicles. These and other

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activities that may result in direct mortality, population declines, or local extirpation of vegetation communities.

Evidence impact would be significant: Impacts to special status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative 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 USFWS. Likewise, plants that have a California Native Plant Society (CNPS) CRPR of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS [Rare Plant Ranks](#) page for additional rank definitions.

Mitigation Measure #1: If rare or sensitive plants including white rabbit-tobacco are found on or near the footprint of the Project, the MND should provide species-specific measures to fully avoid impacts. This may include flagging all plants and/or perimeter of populations; no work buffers around plants and/or populations (e.g., flagged perimeter plus 50 feet); restrictions on ground disturbing activities within protected areas; relocation of staging and other material piling areas away from protected areas; restrictions on herbicide use and/or type of herbicide and/or application method within 100 feet of sensitive plants; and worker education and training.

Mitigation Measure #2: If rare or sensitive plants including white rabbit-tobacco are found on or near the footprint of the Project, CDFW recommends the MND provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat.

1. CDFW recommends the MND be conditioned to provide a minimum mitigation ratio above 1:1 for sensitive plant species. CDFW recommends a replacement ratio of 3:1 to 10:1 depending on the population and occurrence status of the species (i.e., generally 5:1 for CRPR 3 and 4 species; 7:1 for CRPR 2; and 10:1 for CRPR 1). This should be for the number of plants replaced to number impacted, including acres of habitat created to acres of habitat impacted. Rare plants are habitat specialists that require specific conditions to persist such as vegetation composition (species abundance, diversity, cover), soils, substrate, slope, hydrology, and pollinators. Accordingly, mitigation for impacts to rare plants should also include habitat.
2. The MND should provide species-specific measures for on-site mitigation. Each species-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum: 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of on-site mitigation and adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [Genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and

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success criteria for establishing self-sustaining populations (e.g. percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques.

Please note that CDFW generally does not support the use of salvaging, translocation, or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant species.

Comment #5: Impacts to Non-Game Mammals and Wildlife

Issue: Riparian and riverine areas often act as movement corridors for wildlife. As such, CDFW is concerned wildlife may still move through the Project site during the daytime or nighttime. CDFW is concerned that any wildlife potentially moving through or seeking temporary refuge on the Project site may be directly impacted during Project activities and construction.

Specific impacts: Project activities and construction equipment may directly impact wildlife and birds moving through or seeking temporary refuge on site. This could result in wildlife and bird mortality. Furthermore, depending on the final fencing design, the Project may cumulatively restrict wildlife movement opportunity.

Why impacts would occur: Direct impacts to wildlife may occur from: ground disturbing activities (e.g., staging, access, excavation, grading); wildlife being trapped or entangled in construction materials and erection of restrictive fencing; and wildlife could be trampled by heavy equipment operating in the Project site.

Evidence impact would be significant: Mammals occurring naturally in California are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & Game Code, § 4150; Cal. Code of Regs, § 251.1).

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the following four mitigation measures to avoid and minimize direct impacts to wildlife during Project construction and activities.

Mitigation Measure #1: If fencing is proposed for use during construction or during the life of the Project, fences should be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. Fencing should also be minimized so as not to restrict free wildlife movement through habitat areas. CDFW recommends the City consider permeable fencing as part of its mitigation for Project-related impacts. Wildlife impermeable fencing is fencing that prevents or creates a barrier for the passage of wildlife from one side to the other. Los Angeles County's Significant Ecological Areas Ordinance Implementation Guide (<https://planning.lacounty.gov/site/sea/wp-content/uploads/2020/02/SEA-IG-2-6-20.pdf>) offers additional information on permeable fencing as well as design standards. CDFW recommends reviewing those design standards.

Mitigation Measure #2: To avoid direct mortality, a qualified biological monitor should be on site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grubbing or Project-related construction activities. Salvaged wildlife of low mobility should be removed and placed onto adjacent and suitable (i.e., species appropriate) habitat out of harm's way.

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It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Program impacts associated with habitat loss.

Mitigation Measure #3: Grubbing and grading should be done to avoid islands of habitat where wildlife may take refuge and later be killed by heavy equipment. Grubbing and grading should be done from the center of the Project site, working outward towards adjacent habitat off site where wildlife may safely escape.

Additional Recommendations

Mitigation and Monitoring Reporting Plan. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan. A final MMRP should reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

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 County and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying Project approval to be operative, vested, and final (Cal. Code Regs., tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Angela Castanon, Environmental Scientist, at Angela.Castanon@wildlife.ca.gov

Sincerely,

DocuSigned by:



B6E58CFE24724F5
Erinn Wilson-Olgin

Environmental Program Manager I

EC: CDFW
Steve Gibson – Los Alamitos – Steve.Gibson@wildlife.ca.gov
Emily Galli – Fillmore – Emily.Galli@wildlife.ca.gov
Susan Howell – San Diego – Susan.Howell@wildlife.ca.gov
CEQA Program Coordinator – Sacramento – CEQACommentLetters@wildlife.ca.gov

State Clearinghouse - state.clearinghouse@opr.ca.gov

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 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
www.wildlife.ca.gov

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP should reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1-LSA	<p>The Project applicant (or "entity") should provide written notification to CDFW pursuant to section 1600 <i>et seq.</i> of the Fish and Game Code. Based on this notification and other information, CDFW shall determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW's web site at https://www.wildlife.ca.gov/conservation/lsa.</p> <p>If necessary, CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for the Project. To minimize additional requirements by CDFW pursuant to section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document should fully identify the potential impacts to streams or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.</p>	Prior to Project construction and activities	City of Oxnard/ Applicant

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MM-BIO-2-LSA	Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: avoidance of resources, on-site or off-site creation, enhancement, or restoration, and/or protection and management of mitigation lands in perpetuity.	Prior to Project construction and activities	City of Oxnard/ Applicant
MM-BIO-3-LSA	If impacts to riparian habitat, such as arroyo willow thicket, mulefat thicket, and cattail marshes cannot be avoided, CDFW suggests mitigation should be achieved entirely on site if possible. CDFW recommends that impacts be mitigated at no less than 3:1. CDFW recommends that an on-site Habitat Mitigation and Monitoring Plan (HMMP) be developed. An HMMP should provide specific, detailed, and enforceable measures.	Prior to Project construction and activities	City of Oxnard/ Applicant
MM-BIO-4-Scientific Collection Permit	<p>Pursuant to the California Code of Regulations, title 14, section 650, the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2020d). A LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.</p> <p>CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650).</p>	Prior to Project construction and activities	City of Oxnard/ Applicant

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<p>MM-BIO-5- Impacts due to Lighting</p>	<p>CDFW recommends including shields for the bottom of the billboard to further mitigate illumination of the sensitive habitats directly below the structure. Within the MND it states, “Louvers will be located above each row of lights to prevent light from projecting upward into the sky.” It is recommended that a component that will further shield light from the ground be included within the Project design. Additionally, the Project plans on using LEDs to light the billboard. CDFW suggests the Applicant avoids blue-light emitting and ultraviolet LEDs. Studies have found that LEDs emitting these spectrums of light attract a greater number of species (Longcore 2016). Birds have also been found to be especially attracted to solid full spectrum white lights and solid red lights (Gehring 2009).</p>	<p>Prior to Project construction and activities</p>	<p>City of Oxnard/ Applicant</p>
<p>MM-BIO-6- Impacts due to Noise</p>	<p>CDFW recommends monitoring noise generated by the Project operations during construction and post-construction operations to ensure noise from the Project does not affect wildlife in the adjacent river habitat. The MND should set acceptable noise thresholds that would be part of a daily monitoring and reporting program to ensure impact to adjacent habitat is below a threshold that would have an adverse effect.</p>	<p>Prior to/ During Project construction and activities</p>	<p>City of Oxnard/ Applicant</p>
<p>MM-BIO-7- Impacts due to Noise</p>	<p>Construction equipment should use noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer. Stationary noise sources (e.g., generators, pumps) at staging areas within 1,400 feet of sensitive receptors should be shielded at the source by an enclosure, temporary sound walls, or acoustic blankets. Where feasible, sound walls or acoustic blankets should have a height of no less than 8 feet, a Sound Transmission Class (STC) of 27 or greater, and a surface with a solid face from top to bottom without any openings or cutouts. Unnecessary construction vehicle use and idling time should be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously for safe construction activities, its engine should be shut off.</p>	<p>During Project construction and activities</p>	<p>City of Oxnard/ Applicant</p>

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MM-BIO-8-SSC	The City should retain a qualified biologist(s) with experience surveying for or is familiar with the life history of each of the species mentioned above. The qualified biologist should conduct focused surveys for SSC and suitable habitat within the appropriate season to detect presence, and again no more than one month from the start of any ground-disturbing activities or vegetation removal where there may be impacts to SSC. In addition, the qualified biologist should conduct daily biological monitoring during any activities involving vegetation clearing (including ruderal areas), open ditches or pits, or modification of natural habitat. Positive detections of SSC and suitable habitat at the detection location should be mapped and photographed and reported to the California Natural Diversity Database. The qualified biologist should provide a summary report of SSC surveys to the City prior to implementing any Project-related ground-disturbing activities and vegetation removal. Depending on the survey results, a qualified biologist should develop species-specific mitigation measures for implementation during the Project.	Prior to/ During Project construction and activities	City of Oxnard/ Applicant
MM-BIO-9-Relocation	Wildlife should be protected, allowed to move away on its own (non- invasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC should be captured only by a qualified biologist with proper handling permits. The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan should be submitted to the City prior to implementing any Project-related ground- disturbing activities and vegetation removal.	Prior to/ During Project construction and activities	City of Oxnard/ Applicant
MM-BIO-10-Awareness Training	The City, in consultation with a qualified biologist, should prepare a worker environmental awareness training. The qualified biologist should communicate to workers that upon encounter with an SSC (e.g., during construction or equipment inspections), work must stop, a qualified biologist must be notified, and work may only	Prior to/ During Project construction and activities	City of Oxnard/ Applicant

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	resume once a qualified biologist has determined that it is safe to do so.		
MM-BIO-11-Reporting	If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented. A formal report should be sent to CDFW and the City within three calendar days of the incident or finding. Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.	During Project construction and activities	City of Oxnard/ Applicant
MM-BIO-12- Impacts to Coast Horned Lizard	To disclose impacts to special-status reptiles within the MND, CDFW recommends focused surveys for species likely to occur within a Project(s) area. Surveys should typically be scheduled during the summer months (June and July) when these animals are most likely to be encountered. To achieve 100 percent visual coverage, CDFW recommends surveys be conducted with parallel transects at approximately 20 feet apart and walked on-site in appropriate habitat suitable for each species. Suitable habitat consists of areas of sandy, loose, and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.	Prior to Project construction and activities	City of Oxnard/ Applicant
MM-BIO-13- Impacts to Coast Horned Lizard	Prior to any Project activities, a relocation plan (Plan) should be developed by a qualified biologist familiar with the respective reptile in consultation with CDFW. The Plan should include, but not be limited to, the timing and location of the surveys that will be conducted for the species, identify the locations where more intensive survey efforts will be conducted (based on high habitat suitability); identify the habitat and conditions in any proposed relocation site(s); the methods that will be utilized for trapping and relocating the individuals; and the District coordinate with CDFW	Prior to Project construction and activities	City of Oxnard/ Applicant

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	and/or the USFWS prior to any ground disturbing activities within potentially occupied habitat.		
MM-BIO-14- Impacts to Raptors	To protect nesting birds of prey that may occur on-site, CDFW recommends that no construction should occur from January 1 through September 15. If construction is unavoidable during January 1 through September 15, a qualified biologist should complete surveys for nesting bird activity the orders <i>Falconiformes</i> and <i>Strigiformes</i> (raptors and owls) within a 500-foot radius of the construction site. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. If any nests of birds of prey are observed, these nests should be designated an ecologically sensitive area and protected (while occupied) by a minimum 500-foot radius during project construction. Pursuant to FGC Sections 3503 and 3503.5, it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird or bird-of-prey.	Prior to/ During Project construction and activities	City of Oxnard/ Applicant
MM-BIO-15- Impacts to Raptors	State-fully-protected species may not be taken or possessed at any time and no licenses or permits may be issued for its take except for collecting those species for necessary scientific research and relocation of the bird species for protection of livestock (Fish & G. Code, §§ 3511, 4700, 5050, 5515). CDFW recognizes that certain fully protected species are documented to occur on, or in, the vicinity of the Project area, or that such species have some potential to occur on, or in, the vicinity of Project, due to the presence of suitable habitat CDFW cannot authorize the take of any fully protected species as defined by state law.	Prior to Project construction and activities	City of Oxnard/ Applicant
MM-BIO-16- Impacts to White Rabbit- Tobacco	If rare or sensitive plants including white rabbit-tobacco are found on or near the footprint of the Project, the MND should provide species-specific measures to fully avoid impacts. This may include flagging all plants and/or perimeter of populations; no work buffers around plants and/or populations (e.g., flagged perimeter plus 50 feet); restrictions on ground disturbing activities within protected	Prior to/ During/ After Project construction and activities	City of Oxnard/ Applicant

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	<p>areas; relocation of staging and other material piling areas away from protected areas; restrictions on herbicide use and/or type of herbicide and/or application method within 100 feet of sensitive plants; and worker education and training.</p>		
<p>MM-BIO-17- Impacts to Special-status Plants</p>	<p>If rare or sensitive plants including white rabbit-tobacco are found on or near the footprint of the Project, CDFW recommends the MND provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat.</p> <ol style="list-style-type: none"> 1. CDFW recommends the MND be conditioned to provide a minimum mitigation ratio above 1:1 for sensitive plant species. CDFW recommends a replacement ratio of 3:1 to 10:1 depending on the population and occurrence status of the species (i.e., generally 5:1 for CRPR 3 and 4 species; 7:1 for CRPR 2; and 10:1 for CRPR 1). This should be for the number of plants replaced to number impacted, including acres of habitat created to acres of habitat impacted. Rare plants are habitat specialists that require specific conditions to persist such as vegetation composition (species abundance, diversity, cover), soils, substrate, slope, hydrology, and pollinators. Accordingly, mitigation for impacts to rare plants should also include habitat. 2. The MND should provide species-specific measures for on-site mitigation. Each species-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum: 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of on-site mitigation and adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [Genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) 	<p>Prior to/ During Project construction and activities</p>	<p>City of Oxnard/ Applicant</p>

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	<p>location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and success criteria for establishing self-sustaining populations (e.g. percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques.</p> <p>Please note that CDFW generally does not support the use of salvaging, translocation, or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant species.</p>		
<p>MM-BIO-18- Impacts to Non- Game Mammals and Wildlife</p>	<p>If fencing is proposed for use during construction or during the life of the Project, fences should be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. Fencing should also be minimized so as not to restrict free wildlife movement through habitat areas. Los Angeles County's Significant Ecological Areas Ordinance Implementation Guide (https://planning.lacounty.gov/site/sea/wp-content/uploads/2020/02/SEA-IG-2-6-20.pdf) offers additional information on permeable fencing as well as design standards. CDFW recommends reviewing those design standards.</p>	<p>Prior to Project construction and activities</p>	<p>City of Oxnard/ Applicant</p>
<p>MM-BIO-19- Impacts to Non- Game Mammals and Wildlife</p>	<p>To avoid direct mortality, a qualified biological monitor should be on site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grubbing or Project-related construction activities. Salvaged wildlife of low mobility should be removed and placed onto adjacent and suitable (i.e., species appropriate) habitat out of harm's way.</p> <p>It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Program impacts associated with habitat loss.</p>	<p>Prior to Project construction and activities</p>	<p>City of Oxnard/ Applicant</p>

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MM-BIO-20- Impacts to Non- Game Mammals and Wildlife	Grubbing and grading should be done to avoid islands of habitat where wildlife may take refuge and later be killed by heavy equipment. Grubbing and grading should be done from the center of the Project site, working outward towards adjacent habitat off site where wildlife may safely escape.	Prior to Project construction and activities	City of Oxnard/ Applicant
REC-1- Mitigation and Monitoring Reporting Plan	Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan. A final MMRP should reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.	Prior to Project construction and activities	City of Oxnard/ Applicant