



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
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GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

Sep 06 2022

STATE CLEARINGHOUSE

September 6, 2022

Robert Hingtgen
 San Diego County, Planning & Development Services
 5510 Overland Ave., Suite 310
 San Diego, CA 92123
Robert.Hingtgen@sdcounty.ca.gov

**Subject: Dollar General (Project), Mitigated Negative Declaration (MND),
 SCH #2022080083**

Dear Mr. Hingtgen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Mitigated Negative Declaration (MND) from the County of San Diego (County) for the Dollar General Store pursuant to 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's 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, 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). 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 state fish and wildlife resources.

CDFW also administers the Natural Community Conservation Planning (NCCP) program (Fish & G. Code, § 2800 *et seq.*). The County of San Diego participates in the NCCP Program through the implementation of the finalized South County Subarea Plan of the County of San Diego Multiple Species Conservation Program (MSCP) and development of the North and East County MSCP Plans.

CDFW, the United States Fish and Wildlife Service (USFWS), and the County signed the Third Restated and Amended Planning Agreement for the development of the North and East County Multiple Species Conservation Program Plans in March of 2021. The Proposed Project occurs within the plan boundary of the draft East County MSCP Plan. The Planning Agreement

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 1500.

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includes an interim process to review projects within the Planning Areas to ensure that preliminary conservation objectives and preserve options for establishing a viable reserve system are not precluded and that project impacts are adequately mitigated. Our comments on the proposed Project are provided to assist the County in meeting this objective.

PROJECT DESCRIPTION SUMMARY

The proposed Project consists of the construction of a new commercial building (Dollar General retail store) that will include a new parking lot, landscaping, and minor road improvements to Palm Canyon Drive. The proposed project is located north of Palm Canyon Drive and approximately 0.35 mile east of Christmas Circle Community Park, on Assessor Parcel Number (APN) 141-370-17. Projects that occur within this planning area must comply with the draft EC MSCP Plan and be consistent with the County's Guidelines for Determining Significance for Biological Resources (County of San Diego, 2010). Specifically, the site is mapped by the Draft EC MSCP as Agriculture or Natural Upland Outside of a Focused Conservation Area (FCA) and Developed Lands.

Per Klutz Biological Consulting's 2022 Biological Resource Letter Report (BRL), the Project's 3.8-acre site and off-site improvement area consist of developed land (0.3 acre) and Sonoran mixed woody scrub (3.5 acres). Project construction activities will result in impacts to 1.9 acres of Sonoran mixed woody scrub, which will be mitigated at a 1.5:1 ratio via purchase of offsite mitigation credits. The Project applicant proposes to purchase chaparral credits from the Cleveland Corridor Mitigation Bank, as in-kind Sonoran Mixed Woody Scrub mitigation credits are not available to be purchased within the County.

General biological surveys were conducted in the Project study area in April 2020 and January 2021. Focused surveys for flat-tailed horned lizard (*Phrynosoma mcallii*) were conducted on April 25, 2022. During these surveys, no sensitive species were detected onsite.

COMMENTS AND RECOMMENDATIONS

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

COMMENT #1: Offsite Mitigation Option 2

Page 2 of the MND, Section BIO#1—OFFSITE MITIGATION, states that if habitat credit cannot be purchased at an approved mitigation bank, then the applicant may pursue Mitigation Option 2. Option 2 requires the applicant to provide conservation habitat of the same amount and type located in San Diego County, with several provisions regarding the location, Resource Management Plan (RMP), and conservation easement instrument. Per Exhibit B of the signed Third Restated and Amended Planning Agreement for the North and East County MSCP planning areas, mitigation proposals associated with interim projects shall be brought to CDFW and USFWS (jointly, the Wildlife Agencies) for early review and consideration. While CDFW appreciates that the Project was brought to us for early review, Mitigation Option 2 was not provided to the Wildlife Agencies as alternative mitigation. CDFW requests that if the Project moves forward with Mitigation Option 2, the new proposed mitigation package be brought back to the Wildlife Agencies for review and consideration. Without the opportunity to review the

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proposed mitigation, it is possible that offsite conservation may be inappropriate or inadequate to satisfactorily offset Project impacts to less than significant.

Mitigation Measure #1:

To reduce impacts to less than significant: Specifically, CDFW requests that Option 2 be conditioned as follows, additions indicated in **bold**:

Option 2: If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in San Diego County as indicated below:

1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS] **in coordination with the Wildlife Agencies.**
2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR. **The draft RMP and associated Property Assessment Record (PAR) shall be provided to the Wildlife Agencies with adequate time to review and provide comments before final approval.**
3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity **for conservation values.**
4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state, or local government agency with the primary mission of resource management to take fee title and manage the mitigation land. Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat; and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

DOCUMENTATION: The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC] for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING]. **The Wildlife Agencies shall be notified when the mitigation condition has been met and evidence of completion shall be provided demonstrating compliance with mitigation requirements.** TIMING: Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. MONITORING: The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses Option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR,

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GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

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 Forms](#) can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: [CNDDDB Plants and Animals Information](#).

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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 the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Melanie Burlaza, Senior Environmental Scientist (Specialist), by email at Melanie.Burlaza@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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David Mayer
Environmental Program Manager
South Coast Region

ec: CDFW

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References

California Department of Fish and Wildlife. 2022. California Natural Diversity Database (CNDDDB). Available from: <https://wildlife.ca.gov/Data/CNDDDB>.

California Department of Fish and Wildlife. 2022. CNDDDB – Plants and Animals. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

California Department of Fish and Wildlife. 2022. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

California Environmental Quality Act (CEQA). 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.

California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, §15097, §15126.4(2).

County of San Diego, California Department of Fish and Wildlife, and United States Fish and Wildlife Service. March 2021. Planning Agreement regarding the North and East County Multiple Species Conservation Program Plans: Natural Community Conservation Program Plans and Habitat Conservation Plans. Third Restated and Amended.

Klutz Biological Consulting. June 2022. Biological Resource Letter Report for the Dollar General Borrego Springs Commercial Project.