



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 www.wildlife.ca.gov

GAVIN NEWSOM, Governor
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October 3, 2022

Jay Paul
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 City of Escondido
 201 N. Broadway
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 jpaul@escondido.org

Subject: Solaris Business Park Project (Project) Notice of Preparation of a Draft Environmental Impact Report (NOP), SCH #2022080546

Dear Mr. Paul,

The California Department of Fish and Wildlife (CDFW) received a NOP of an Environmental Impact Report from the County of San Diego 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.

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.), the project proponent may seek related take authorization as provided by the Fish and Game Code. CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The County of San Diego (County) participates in the NCCP program by implementing its approved Subarea Plan (SAP) under the County Multiple Species Conservation Plan (MSCP) and the draft North County Plan (NCMSCP). The City of Escondido (City) previously participated in the NCCP program and prepared a draft Subarea Plan (SAP) under the Subregional Multiple Habitat Conservation Program (MHCP). However, the SAP was not finalized or adopted by the City council and permits have not been issued by CDFW or the US Fish and Wildlife Service.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Escondido

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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Objective: The objective of the Project is to build an industrial business park consisting of 500,000 square feet of building space with a range of allowable uses, including light industrial, indoor manufacturing, storage, office, medical office, and new automobile sales. Currently, the 45.4-acre site contains two vacant homes, and foundations for four additional homes.

Location: The Project site is located in unincorporated San Diego County, adjacent to the Escondido City limits, and annexation to the City of Escondido is proposed. The Project site is located on the south and east sides of Country Club Drive, approximately one mile west of the I-15/SR-78 freeway interchange.

Biological Setting: Regionally, the Project site is within the County's NCMSCP area. The Project site itself is surrounded by development on all sides, and it has been previously cleared/grubbed in conjunction with a prior project. The prior clearing occurred under a Habitat Loss Permit (HLP; County of San Diego HLP-15-002). Compensatory mitigation of 53.6 acres was purchased in conjunction with the HLP. Currently, per the Initial Study, the site contains 20.1 acres of Diegan coastal sage scrub, 14.6 acres of non-native grassland, 7.6 acres of disturbed habitat, and 0.5 acre of developed land. Special-status animal species known to occur within the Project area include coastal California gnatcatcher (*Polioptila californica californica*, federal Endangered Species Act listed-threatened, CDFW Species of Special Concern) and coastal whiptail (*Aspidoscelis tigris stejnegeri*, CDFW Species of Special Concern).

COMMENTS AND RECOMMENDATIONS

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

Specific Comments

1. **Open Space Easement:** The Initial Study states, '[m]itigation was provided in the form of purchasing mitigation bank credits (Open Space Easement, DOC# 2017-0531742). The history of the parcel which the Biological Open Space Easement describes is unclear to CDFW. The Center for Natural Lands Management (CNLM) granted the 53.6-acre easement to the County in 2017. CNLM obtained the Copper Creek property, which includes the 53.6 acres, from The Conservation Fund in 2011, and The Conservation Fund obtained the fee title from Cielo Del Norte, LLC in 2010. Given this, it is possible that the 53.6-acre parcel described in the easement has already been used as mitigation for the Cielo Del Norte project. If this is the case, then additional mitigation may be necessary to bring impacts to on-site habitats below significance thresholds. We request that a thorough discussion of the history of the mitigation parcel be included in the draft EIR to ensure that any mitigation proposed for impacts of the Project were not used as mitigation for other projects.
2. **Habitat Loss Permit:** The HLP with which the City proposes to mitigate was executed by the County in 2017. Given that HLPs expire after one year, we encourage the City to re-engage with the United States Fish and Wildlife Service (USFWS) and CDFW regarding the HLP to ensure the mitigation obligations have been fully met.
3. **Mitigation for Temporal Impacts:** While the above-referenced HLP was issued to mitigate for clearing associated with a prior project, the NOP does not account for temporal impacts which could occur in the interim between previous grading/grubbing and new development. Given that the site contained over 20.1 acres of Diegan coastal sage scrub and 14.6 acres of non-native grassland, and the site was cleared over 5 years ago, CDFW recommends that the draft EIR should take into account the direct, indirect, and cumulative impacts to biological resources which will take place given the site will be cleared a second time after a gap of several years. CDFW recommends that the discussion of the temporal impacts include but not be limited to impacts to gnatcatchers and the impacts associated with removal of raptor foraging habitat.

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4. **Coastal California Gnatcatcher:** The Initial Study states that coastal California gnatcatcher has been observed on site on multiple occasions. This species occurs in or near coastal sage scrub, which is present within the Project area. While we appreciate that all clearing and grading activities will occur outside of the nesting season for gnatcatcher, per Project Design Feature 1, we encourage the City to coordinate with the USFWS to ensure that avoidance and mitigation measures to reduce impacts to gnatcatchers are adequate.

General Comments

5. **Biological Resource Inventory:** The document should contain a complete description of the Project, including purpose and need, that describes all habitats within or adjacent to the Project area, including all staging areas and access routes to the construction and staging areas. The Project area is described as the area in which potential effects may occur.

The document should also provide a complete assessment of the flora and fauna within and adjacent to the Project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. This should include a complete floral and faunal species compendium of the entire Project site, undertaken at the appropriate time of year. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive wildlife species. Seasonal variations in use of the Project area by wildlife should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service (USFWS).

6. **Biological Impacts:** To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the EIR:

a) Please provide a discussion of potential adverse impacts from lighting, noise, human activity, exotic species, recreational uses, and drainage. Mitigation measures proposed to alleviate such impacts should be included.

b) Please provide a discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands.

c) CDFW also recommends that a habitat gain/loss table be included, which calculates the expected net habitat losses and gains of each type of habitat area lost, restored, enhanced, and created.

7. **Cumulative Effects Analysis:** A cumulative effects analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address:

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CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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 in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Escondido in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Brigid Moran, Environmental Scientist, at Brigid.Moran@wildlife.ca.gov

Sincerely,

DocuSigned by:


David Mayer

Environmental Program Manager
South Coast Region

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REFERENCES

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).