

DATE: 8/10/2022

**DEVELOPER'S STATEMENT & MITIGATION MONITORING PROGRAM
FOR SARA STREET LLC TRACT 3138 TRACT MAP AND CUP
(SUB2020-00027)**

The applicant agrees to incorporate the following measures into the project. These measures become a part of the project description and therefore become a part of the record of action upon which the environmental determination is based. All development activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

Per Public Resources Code Section 21081.6, the following measures also constitute the mitigation monitoring and/or reporting program that will reduce potentially significant impacts to less-than-significant levels. These measures will become conditions of approval (COAs) should the project be approved. The Lead Agency (County) or other Responsible Agencies, as specified in the following measures, are responsible to verify compliance with these COAs.

Note: The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

Air Quality (AQ)

AQ-1 Prior to approval of tract map improvements, the following San Luis Obispo County Air Pollution Control District-recommended *Standard Mitigation Measures* shall be detailed on project building and grading plans and implemented to reduce construction-generated nitrogen oxides, reactive organic gases, and diesel particulate matter:

- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
- b. Fuel all off-road and portable diesel-powered equipment with California Air Resources Board-certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Diesel-fueled construction equipment shall meet, at a minimum, California Air Resources Board's Tier 2-certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the California Air Resources Board's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g., captive or nitrogen oxide-exempt area fleets) may be eligible by proving alternative compliance;
- f. All on- and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5-minute idling limit;
- g. Diesel idling while equipment is not in use is not permitted. Signs shall be posted in the designated queuing areas to remind drivers and operators of the idling restrictions;

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- h. Staging and queuing areas shall not be located at the maximum distance feasible from sensitive receptor locations. Signs shall be posted identifying these areas;;
- i. Electrify equipment, when feasible;
- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and
- k. Use alternative-fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel.

AQ-2 **Prior to approval of tract map improvements**, the following San Luis Obispo County Air Pollution Control District-recommended mitigation measures shall be shown on grading and building plans and be implemented throughout site disturbance activities to reduce construction-generated fugitive dust:

- a. Reduce the amount of disturbed area, where possible.
- b. Use water trucks, San Luis Obispo County Air Pollution Control District-approved dust suppressants (see Section 4.3 in the CEQA Air Quality Handbook), or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site and from exceeding the San Luis Obispo County Air Pollution Control District's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour (mph). Reclaimed (non-potable) water should be used whenever possible. Please note that since water use is a concern due to drought conditions, the contractor or builder shall consider the use of a San Luis Obispo County Air Pollution Control District-approved dust suppressant where feasible to reduce the amount of water used for dust control. For a list of suppressants, see Section 4.3 of the CEQA Air Quality Handbook.
- c. All dirt stockpile areas should be sprayed and covered daily, as needed.
- d. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil-disturbing activities;
- e. Exposed ground areas that are planned to be reworked at dates greater than 1 month after initial grading should be sown with a fast-germinating, non-invasive grass seed and watered until vegetation is established.
- f. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the San Luis Obispo County Air Pollution Control District.
- g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
- i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or shall maintain at least 2 feet of freeboard (minimum vertical distance between the top of load and top of trailer) in accordance with California Vehicle Code (CVC) Section 23114.

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- j. Install wheel washers at the construction site entrance/exit, wash off the tires or tracks of all trucks and equipment leaving the site, or implement other San Luis Obispo County Air Pollution Control District-approved track-out prevention devices sufficient to minimize the track-out of soil onto paved roadways.
- k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.
- l. The burning of vegetative material shall be prohibited. Effective February 25, 2000, the San Luis Obispo County Air Pollution Control District prohibited developmental burning of vegetative material within San Luis Obispo County. If you have any questions regarding these requirements, contact the San Luis Obispo County Air Pollution Control District Engineering and Compliance Division at (805) 781-5912.
- m. The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20% opacity, and to prevent the transport of dust off-site. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the San Luis Obispo County Air Pollution Control District Compliance Division prior to the start of any grading, earthwork, or demolition.
- n. When applicable, portable equipment, 50 horsepower (hp) or greater, used during construction activities shall be registered with the California statewide portable equipment registration program (issued by the California Air Resources Board) or be permitted by the San Luis Obispo County Air Pollution Control District. Such equipment may include power screens, conveyors, internal combustion engines, crushers, portable generators, tub grinders, trammel screens, and portable plants (e.g., aggregate plant, asphalt plant, concrete plant). For more information, contact the San Luis Obispo County Air Pollution Control District Engineering and Compliance Division at (805) 781-5912.
- o. Construction of the proposed project shall use low volatile organic compound-content paints not exceeding 50 grams per liter.
- p. To the extent locally available, use prefinished building materials or materials that do not require the application of architectural coatings.

AQ-3 **Prior to approval of tract map improvements**, the following measures shall be shown on grading and building plans and implemented throughout project site preparation and construction activities to reduce construction emissions from on- and off-road construction equipment (nitrogen oxides, reactive organic gases, and diesel particulate matter):

- a. Idling Restrictions Near Sensitive Receptors for Both On- and Off-Road Equipment.
 - 1. Staging and queuing areas shall be located at the greatest distance feasible from sensitive receptor locations;
 - 2. Diesel idling while equipment is not in use is not permitted;

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3. Use of alternative-fueled equipment is recommended whenever possible; and
 4. Signs that specify the no-idling requirements must be posted and enforced at the construction site.
- b. Idling Restrictions for On-Road Vehicles. California Code of Regulations (CCR) Title 13, Section 2485 limits diesel-fueled commercial motor vehicles that operate in the state of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California-based vehicles. In general, the regulation specifies that drivers of said vehicles:
1. Shall not idle the vehicle's primary diesel engine when the vehicle is not in use, except as noted in Subsection (d) of the regulation; and
 2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, an air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation.
- Signs must be posted in the designated queuing areas and job sites to remind drivers of the idling restrictions. The specific requirements and exceptions in the regulation can be reviewed at the following website: www.arb.ca.gov/msprog/truck-idling/2485.pdf.
- c. Idling Restrictions for Off-Road Equipment. Off-road diesel equipment shall comply with the idling restrictions identified in Section 2449(d)(3) of the California Air Resources Board's In-Use Off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf.
- d. Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the idling restrictions.

Monitoring: Measures shall be included on all project plans prior to approval of tract map improvements. All measures shall be implemented at appropriate times during construction activities. Compliance will be verified by the County Department of Planning and Building.

Biological Resources (BIO)

- BIO-1** **Prior to approval of tract map improvements**, the applicant shall provide evidence to the County of San Luis Obispo that they have retained a County of San Luis Obispo-approved qualified biologist. The scope of work shall include preconstruction surveys, training, monitoring, and reporting, as detailed in the mitigation measures listed below.
- BIO-2** **Prior to initiation of site preparation activities**, an environmental awareness training shall be presented to all project personnel by a qualified biologist prior to the start of any project activities. The training shall include color photographs and a description of the ecology of all special-status species known or determined to have potential to occur, as well as other sensitive resources requiring avoidance near project impact areas. The training shall also include a description of protection measures required by the project's discretionary permits, an overview of the Federal Endangered Species Act and California Endangered Species Act, and

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implications of noncompliance with these regulations, as well as an overview of the required avoidance and minimization measures. A sign-in sheet with the name and signature of the qualified biologist who presented the training and the names and signatures of the trainees will be kept and provided to the County of San Luis Obispo Planning and Building Department. If new project personnel join the project after the initial training period, they will receive the environmental awareness training from a designated crew member on-site before beginning work. A qualified biologist will provide refresher trainings during site visits or other monitoring events as deemed necessary by the biologist.

BIO-3 **Prior to initiation of any site preparation/construction activities**, if work is planned to occur between February 1 and September 15, a County of San Luis Obispo-qualified biologist shall survey the area for nesting birds within 1 week prior to initial project activity beginning, including ground disturbance and/or vegetation removal/trimming. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active, as detailed below:

- a. A 50-foot exclusion zone shall be placed around non-listed, passerine species, and a 250-foot exclusion zone will be implemented for raptor species. Each exclusion zone shall encircle the nest and have a radius of 50 feet (non-listed passerine species) or 250 feet (raptor species). All project activities, including foot and vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the young have fledged or that proposed project activities would not cause adverse impacts to the nest, adults, eggs, or young.
- b. If special-status avian species are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County of San Luis Obispo and any relevant resource agencies.
- c. The results of the survey shall be provided to the County of San Luis Obispo prior to initial project activities. The results shall detail appropriate fencing or flagging of exclusion zones and include recommendations for additional monitoring requirements. A map of the project site and nest locations shall be included with the results. The qualified biologist conducting the nesting survey shall have the authority to reduce or increase the recommended exclusion zone depending on site conditions and species (if non-listed).

If 2 weeks lapse between different phases of project activities (e.g., vegetation trimming, the start of grading), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

BIO-4 **Prior to and during any site preparation activities associated with the proposed project**, the applicant shall retain a County of San Luis Obispo-approved qualified biologist to conduct preconstruction survey(s) for Crotch and obscure bumblebee within suitable habitat areas (e.g., small mammal burrows, thatched/bunch grasses, upland scrubs, brush piles, unmowed/overgrown areas, dead trees, hollow logs, etc.) within the proposed disturbance areas and areas within 50 feet of the proposed disturbance area. At a minimum, the survey effort shall include visual search methods targeting colonies or individuals. Surveys shall

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be conducted over an extended period of time to document and establish the presence of bees within the areas of disturbance. Upon completion of the surveys, the biologist shall prepare a survey report summarizing the findings and submit it to the County of San Luis Obispo Planning and Building Department.

- a. If the survey(s) establishes presence of Crotch or obscure bumblebee within the areas of disturbance, the applicant shall retain a County of San Luis Obispo-qualified biologist to prepare a Biological Resources Management Plan (Management Plan) subject to review and approval of the County of San Luis Obispo Planning and Building Department in consultation with the California Department of Fish and Wildlife. The Management Plan shall include the following, at a minimum:
 1. Avoidance measures to conduct project activities in such a manner that avoids physical disturbances to the colony/nest site, including a minimum 50-foot no-disturbance buffer from the documented location(s) of Crotch or obscure bumblebee to avoid take and potentially significant impacts;
 2. If ground-disturbing activities would occur during the overwintering period (October–February), the applicant, in coordination with the County of San Luis Obispo Planning and Building Department, shall consult with the California Department of Fish and Wildlife to identify specific measures to be undertaken to avoid take as defined by the California Endangered Species Act.
- b. If, prior to site disturbances, the California Fish and Game Commission determines that the conservation status of Crotch and/or obscure bumblebee does not warrant California Endangered Species Act protections or litigation changes the conservation status and the species are removed from the list of candidate species, the applicant will not need to obtain a Section 2081 Incidental Take Permit to disturb the colony(s).

BIO-5 **Prior to approval of tract map improvements**, a County of San Luis Obispo-approved qualified biologist shall prepare an Oak Tree Replacement Plan that provides for the installation and maintenance of replacement oak trees on the project parcel and surrounding parcels owned by the applicant and shall be reviewed and approved by the County of San Luis Obispo Planning and Building Department. Mitigation replacement plantings for each oak tree removed shall be at a 4:1 ratio (e.g., if four mature oak trees are removed, the applicant must plant 16 replacement juveniles), and at a 2:1 ratio for each oak tree impacted. The Oak Tree Replacement Plan shall include the following components:

- a. A brief narrative of the project location, description, and purpose;
- b. Clearly identified parties responsible for the mitigation program and their contact information;
- c. A landscape map showing and quantifying all oak tree planting areas;
- d. A detailed discussion of the methods for implementing the Oak Tree Replacement Plan, including invasive species removal, sources of plant materials, and supplemental watering regimes;
- e. Provisions for the collection of oak propagules from the disturbance area, replacement planting propagation, and reintroduction into the parcel;

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- f. Identification of locations, amounts, species, and sizes of the oak trees to be planted. For each individual of a species removed, the same species shall be planted;
- g. Identification of necessary components (e.g., temporary irrigation, amendments, etc.) to ensure successful plant re-establishment;
- h. A program schedule and established success criteria for a 5-year maintenance, monitoring, and reporting program that is structured to ensure the success of the mitigation plantings; and
- i. Methods for removing nonnative species from the replanting areas.

Monitoring: The included measures shall be implemented at appropriate times during the construction of the project. Compliance shall be verified by the County Department of Planning and Building.

Geology and Soils (GEO)

GEO-1 **Prior to approval of tract map improvements,** a County of San Luis Obispo-approved paleontologist shall be retained to prepare a Paleontological Monitoring and Treatment Plan for the project and submit the Paleontological Monitoring and Treatment Plan to the County of San Luis Obispo Planning and Building Department for review and approval. The Paleontological Monitoring and Treatment Plan shall be consistent with the standards of the Society of Vertebrate Paleontology (SVP) and meet all regulatory requirements. The County of San Luis Obispo-approved paleontologist shall have a master's degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques. The Paleontological Monitoring and Treatment Plan shall identify construction impact areas of moderate to high sensitivity for encountering potential paleontological resources and the shallowest depths at which those resources may be encountered. The Paleontological Monitoring and Treatment Plan shall detail the criteria to be used to determine whether an encountered resource is significant, and if it should be avoided or recovered for its data potential. The Paleontological Monitoring and Treatment Plan shall also detail methods of recovery, preparation, and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.

The Paleontological Monitoring and Treatment Plan shall outline a coordination strategy to ensure that a County of San Luis Obispo-approved paleontological monitor will conduct full-time monitoring of earthwork activities that have the potential to impact previously undisturbed old surficial sediments, which have a high paleontological sensitivity, mapped at the surface or present at depth at shallow or unknown depths below unmapped Artificial Fill, which has no paleontological sensitivity. The Paleontological Monitoring and Treatment Plan shall incorporate the results of geotechnical or subsurface data to determine the depth threshold for full-time monitoring. If the depth threshold cannot be established, then initial full-time monitoring regardless of depth shall be conducted to determine the depth to the previously undisturbed old surficial sediments, and monitoring efforts shall be adjusted accordingly.

The Paleontological Monitoring and Treatment Plan shall define specific conditions in which monitoring of earthwork activities could be reduced and/or depth criteria established to trigger monitoring. These factors shall be defined by the project paleontological resource specialist, following examination of sufficient, representative excavations. As specified in the Paleontological Monitoring and Treatment Plan, approved measures shall be implemented **during ground-disturbing activities.**

GEO-2 **During project earthwork activities,** based on Mitigation Measure GEO-1 above, the applicant shall conduct full-time monitoring by a County of San Luis Obispo-approved paleontological monitor as specified in the Paleontological Monitoring and Treatment Plan. This shall include monitoring during rough grading and trenching in areas determined to have moderate to high paleontological sensitivity and that have the potential to be deep enough to be adversely affected by such earthwork. Sediments of low, marginal, undetermined sensitivity shall be monitored by a County of San Luis Obispo-approved paleontological monitor on a part-time basis (as determined by the County of San Luis Obispo-approved Paleontologist).

The paleontological monitor shall have a bachelor's degree in Geology, Paleontology, or Biology with relevant coursework in paleontology and a minimum of 1 year of paleontological monitoring experience in local or similar sediments. Construction activities shall be diverted when data recovery of significant fossils is warranted, as determined by the County of San Luis Obispo-approved Paleontologist.

GEO-3 **During paleontological field evaluations,** if avoidance of significant paleontological resources is not feasible during grading, treatment (including recovery, specimen preparation, data analysis, curation, and reporting) shall be carried out by the applicant, in accordance with the approved Paleontological Monitoring and Treatment Plan, per Mitigation Measure GEO-1.

GEO-4 **Prior to the Initiation of project ground-disturbing activities,** all construction personnel conducting earthwork activities shall be trained regarding the recognition of possible subsurface paleontological resources and protection of all paleontological resources during improvement grading and earthwork activities. The applicant shall complete training for all applicable personnel. Training shall inform all applicable personnel of the procedures to be followed upon the discovery of paleontological materials.

All personnel shall be instructed that unauthorized collection or disturbance of protected fossils on- or off-site by the applicant, its representatives, or employees will not be allowed. Violators shall be subject to prosecution under the appropriate federal and state laws. Unauthorized resource collection or disturbance may constitute grounds for the issuance of a stop work order. The following issues shall be addressed in training or in preparation for construction:

- a. All construction contracts shall include clauses that require grading personnel to attend training so that they are aware of the potential for inadvertently exposing subsurface paleontological resources, their responsibility to avoid and protect all such resources, and the penalties for collection, vandalism, or inadvertent destruction of paleontological resources.

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- b. A County of San Luis Obispo-approved paleontologist shall provide a background briefing for supervisory personnel describing the potential for exposing paleontological resources, the location of any potential paleontological resources, and procedures and notifications required in the event of discoveries by project personnel or paleontological monitors. Supervisory personnel shall enforce restrictions on collection or disturbance of fossils.
- c. Upon discovery of paleontological resources by paleontologists or construction personnel, work in the immediate area of the find shall be diverted until cleared by the project paleontologist. Once the find has been inspected and a preliminary assessment made by the paleontologist, the County of San Luis Obispo will be notified. The applicant shall then proceed with data recovery in accordance with the approved Paleontological Monitoring and Treatment Plan.
- d. Prior to finalization of map recordation, the paleontologist shall prepare a final report to be submitted to the County of San Luis Obispo that summarizes impacts to paleontological resources, describes impact minimization efforts, and provides the results of all data recovery efforts.

Monitoring: The Paleontological Monitoring and Treatment Plan prepared for the project shall be submitted to the County of San Luis Obispo Planning and Building Department for review and approval prior to approval of Tract Map Improvements. If paleontological resources are discovered on-site, the final report shall be submitted to the County of San Luis Obispo Planning and Building Department. Compliance with these measures will be verified by the County of San Luis Obispo Department of Planning and Building.

Hazards and Hazardous Materials (HAZ)

- HAZ-1** **Prior to any lane/road closures**, the project applicant shall provide notice to all residents, business owners, public facilities, and emergency response providers likely to be affected by the closure and detours, including, but not limited to, the California Department of Forestry and Fire Protection, County of San Luis Obispo Public Works Department, and San Luis Obispo County Sheriff's Office. The notice shall include the following information: dates of construction, dates and times of proposed temporary lane/road closures and detours, and contact information, including the phone number and email address of the County of San Luis Obispo staff person responsible for responding to and addressing public complaints regarding access. The notice shall be provided at least 2 weeks prior to any planned road closure.

Monitoring: Compliance will be verified by the County of San Luis Obispo Public Works Department.

Noise (N)

- N-1** **Prior to issuance of grading permits and during project site preparation and construction activities**, the project contractor shall detail the following measures on project construction plans and implement the following measures during

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construction of the project to minimize noise impacts to nearby sensitive receptors:

- a. Equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with the manufacturer's standards.
- b. Place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest to the active project site.
- c. Locate equipment staging in areas that would create the greatest possible distance between construction-related noise sources and noise-sensitive receptors nearest the active project site during all project construction.
- d. Prohibit extended idling time of internal combustion engines.
- e. Where feasible, all noise-producing construction activities should be limited to between the hours of 8:00 a.m. and 5:30 p.m.
- f. Coordinate with the County of San Luis Obispo Planning and Building Department to identify the contact at the County of San Luis Obispo who would be responsible for responding to any local complaints about construction noise. The contact would be responsible for determining the cause of the noise complaint(s) (e.g., starting too early, bad muffler, etc.) and would determine and implement reasonable measures warranted to correct the problem.

Monitoring: Compliance will be verified by the County of San Luis Obispo Planning and Building Department.

The applicant understands that any changes made to the project description subsequent to this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.

Javad N. Sani JAVAD N. SANI 08, 11, 2022
Signature of Applicant Name (Print) Date