



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



Governor's Office of Planning & Research

February 9, 2023

FEB 10 2023

STATE CLEARING HOUSE

Ms. Olivia Boo
County of San Mateo
455 County Center, 2nd Floor
Redwood City, CA 94063
oboo@smcgov.org

Subject: New AT&T Cell Facility, Mitigated Negative Declaration, SCH No.
2023010567, San Mateo County

Dear Ms. Boo:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) for the New AT&T Cell Facility (Project) prepared by the County of San Mateo (Lead Agency) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

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 (LSA) 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

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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(CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA or NPPA, either during construction or over the life of the Project. Under CESA, take is defined as “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill.” Issuance of an ITP is subject to CEQA documentation. If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. Fully protected species may not be taken or possessed at any time (Fish and Game Code, §§ 3511, 4700, 5050, and 5515).

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with Fish and Game Code, § 2080 et. seq.

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Any impacts to the mainstems, tributaries and floodplains or associated riparian habitat would likely require an LSA Notification. CDFW, as a responsible agency under CEQA, will consider the MND for the Project. CDFW may not execute a final LSA Agreement until it has complied with CEQA as the responsible agency.

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Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession, or destruction of any birds of prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT LOCATION

The Project is located along Alta Vista Road (adjacent to an existing Montara Water and Sanitary District water tank), north of 775 Alta Vista Road, in unincorporated Montara area of San Mateo County, Assessor's Parcel Number 036-180-030.

PROJECT DESCRIPTION

The Project will construct a new 75-foot-tall monopole with nine (9) antennas at the top of the pole, on a parcel developed with a water tank that is owned by Montara Water and Sanitary District. The facility will consist of one 75-foot-tall monopole to be erected on a new 441-square-foot (sq. ft.) concrete pad. The equipment area will include a diesel generator, battery backup unit, plant rack, hvac and global positioning system (gps), and will be enclosed by an 8-foot-tall chain link fence with privacy slats. The proposed facility will be accessed by an existing 12-foot-wide gravel road which will require grading to locate telco underground within the road. The cellular facility electrical power will come from a nearby existing electrical vault. The facility will require minor trenching to install and connect to underground telco power within the Alta Vista Road right-of-way. The grading work proposed is 646 cubic yards (cy), 343 cy of cut and 303 cy of fill. The cellular facility equipment area will be located approximately 13 feet north of the existing Montara Water and Sanitary District water tank. The proposed facility is located off of Alta Vista Road in the unincorporated Montara area of San Mateo County.

COMMENTS AND RECOMMENDATIONS

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

Comment 1: Review of CEQA documents

Issue: The Lead Agency did not circulate the MND to CDFW during the public comment period, even though the MND addressed biologic resource issues.

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Recommendation: CDFW respectfully requests the Lead Agency circulate all future CEQA projects that include biological resource issues to CDFW for review during the public comment period.

Comment 2. Vegetation removal and potential impacts to Mission blue (*Icaricia icarioides missionensis*) and San Bruno elfin (*Callophrys mossii bayensis*) butterfly

Issue: The MND does not include a botanical assessment to determine potential presence of special-status plant species or host plants for special-status butterfly species. The Mission blue butterfly and San Bruno elfin butterfly, both listed under the federal Endangered Species Act, have the potential to occur within the proposed work boundary (U.S. Fish and Wildlife Service, 2017). The Project has the potential to result in take of these species from clearing larval butterfly host plants.

Recommendations: The Project should avoid clearing Mission blue butterfly and San Bruno elfin butterfly larval host plants, including lupine species in the genus (*Lupinus*). To ensure host plants are avoided, CDFW recommends the MND include a detailed botanical assessment based on field surveys performed by a qualified botanist during seasonally appropriate times. The botanical assessment should include the estimated amount of vegetation that will be disturbed, what plant species will be impacted by the Project and a detailed map of any special-status plant species and/or larval butterfly host plant species mentioned above that exist within the Project footprint. CDFW recommends botanical assessments follow “Protocols for Surveying and Evaluating Special-Status Native Plant Populations and Sensitive Natural Communities,” available online at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

If Mission blue or San Bruno butterfly larval host plants cannot be avoided, vegetation clearing should be conducted during seasonally appropriate times to avoid butterfly larvae. In addition, the Project MND should develop mitigation measures such as planting and/or replanting to off-set any temporal loss of butterfly larval host plants.

Comment 3: Vague Project Information

Issue: The MND does not describe how long the proposed 12-foot-wide road is, what type of soil materials will be used for fill, or how long grading activities will occur for.

Recommendation: The MND should provide additional details about the proposed Project grading, including the road length, information about the fill materials and location of grading on a map. Impacts to native vegetation may be minimized by using fill materials consisting of locally similar soil types.

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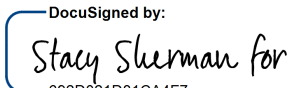
FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.

CONCLUSION

Thank you for the opportunity to comment on the Project's MND. Questions regarding this letter or further coordination should be directed to Mr. Will Kanz, Environmental Scientist, at (707) 337-1187 or Will.Kanz@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell
Regional Manager
Bay Delta Region

ec: State Clearinghouse (SCH No. 2023010567)

REFERENCE

U.S. Fish and Wildlife Service. 2017. *Mission Blue Butterfly - Invertebrates, Endangered Species Accounts | Sacramento Fish & Wildlife Office*. [online] Available at: <https://www.fws.gov/species/mission-blue-icaricia-icarioides-missionensis>