

February 15, 2023

**DATE: February 15, 2023**

## **DEVELOPER'S STATEMENT & MITIGATION MONITORING PROGRAM FOR MILLER CONDITIONAL USE PERMIT (N-2021-00004)**

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, is 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-1 Fugitive Dust Construction Control Measures.** Prior to issuance of construction permits, the following measures shall be incorporated into the construction phase of the project and shown on all applicable plans:
1. Reduce the amount of the disturbed area where possible;
  2. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible;
  3. All dirt stock-pile areas shall be sprayed daily as needed;
  4. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible, and building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
  5. All of these fugitive dust mitigation measures shall be shown on grading and building plans; and
  6. 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 transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.

- AQ-2 ROG, NO<sub>x</sub>, DPM Emissions.** The following measures based on the SLOAPCD standard mitigation measures for construction equipment for reducing nitrogen oxides (NO<sub>x</sub>), reactive organic gases (ROG), and diesel particulate matter (DPM) emissions from construction equipment shall be implemented to reduce expose of sensitive receptors to substantial pollutant concentrations. These measures shall be shown on grading and building plans:

February 15, 2023

- a. Implement Mitigation Measure AQ-1, as identified above.
- b. On-road diesel vehicles shall comply with Section 2485 of Title 13 of the California Code of Regulations. This regulation limits idling from diesel-fueled commercial motor vehicles with gross vehicular weight ratings of more 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:
  - i. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,
  - ii. Shall not operate a diesel-fueled auxiliary power system to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 1,000 feet of a restricted area, except as noted in Subsection (d) of the regulation.
- c. Maintain all construction equipment in proper tune according to manufacturer's specifications.
- d. Fuel all off-road and portable diesel-powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road).
- e. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation.
- f. Idling of all on and off-road diesel-fueled vehicles shall not be permitted when not in use. Signs shall be posted in the designated queuing areas and or job site to remind drivers and operators of the no idling limitation.
- g. Electrify equipment when possible.
- h. Substitute gasoline-powered in place of diesel-powered equipment, when available. and,

Use alternatively fueled construction equipment on-site when available, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

**Monitoring:** Energy Conservation Plan shall be submitted and approved by the Department of Planning and Building. Compliance will be verified by the County Department of Planning and Building.

## BIOLOGICAL RESOURCES

**BIO-1 Environmental Awareness Training** – Prior to major construction activities (e.g., site mobilization, clearing, grubbing, preparation for installing new facilities, etc.), 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, the California Endangered Species Act, and 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 (County). If new project personnel join the project after the initial training period, they will receive the environmental awareness

February 15, 2023

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.

**Monitoring:** Evidence that environmental awareness training has been completed shall be provided to the County Department of Planning and Building prior to construction. 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 submitted to, and kept by, the Department of Planning and Building.

**BIO-2 Pre-construction survey for special-status reptiles and amphibians (western spadefoot, western pond turtle and northern legless lizard).** A qualified biologist shall conduct a pre-construction survey immediately prior to initial project activities (i.e., the morning of the commencement of project activities) within 50 feet of suitable habitat. Construction monitoring shall also be conducted by a qualified biologist during all initial ground-disturbing and vegetation removal activities (e.g., grading, grubbing, vegetation trimming, vegetation removal, etc.) within suitable habitat. If any special-status reptile or amphibian species are discovered during surveys or monitoring, they will be allowed to leave the area on their own or will be hand-captured by a qualified biologist and relocated to suitable habitat outside the area of impact.

If any additional ground- or vegetation-disturbing activities occur on the project site, the above surveys and monitoring will be repeated.

**BIO-3 Pre-construction survey for American badgers.** A qualified biologist shall complete a pre-construction survey for badgers no less than 14 days and no more than 30 days prior to the start of initial project activities to determine if badgers are present within proposed work areas, in addition to a 200-foot buffer around work areas. The results of the survey shall be provided to the County prior to initial project activities.

- If a potential den is discovered, the den will be monitored for 3 consecutive nights with an infra-red, motion-triggered camera, prior to any project activities, to determine if the den is being used by an American badger.
- If an active badger den is found, an exclusion zone shall be established around the den. A minimum of a 50-foot exclusion zone shall be established during the non-reproductive season (July 1 to January 31) and a minimum 100-foot exclusion zone during the reproductive season (February 1 to June 30). Each exclusion zone shall encircle the den and have a radius of 50 feet (non-reproductive season) or 100 feet (reproductive season), measured outward from the burrow entrance. 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 den is no longer in use. If avoidance is not possible during project construction or continued operation, the County shall be contacted. The County will coordinate with appropriate resource agencies for guidance.

If more than 30 days pass between construction phases (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the badger survey shall be repeated.

**BIO-4 Pre-construction Survey for Sensitive and Nesting Birds.** If work is planned to occur between February 1 and September 15, a qualified biologist shall survey the area for nesting birds within one week prior to initial project activity beginning, including ground disturbance and/or vegetation removal/trimming. If nesting birds are located on or near the

February 15, 2023

proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active.

- 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.
- If special-status avian species (aside from the burrowing owl or tricolored blackbird [if identified in biological report]) are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County and any relevant resource agencies.
- The results of the survey shall be provided to the County 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 two weeks lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

**BIO-5 Pre-construction surveys for Crotch Bumblebee (CBB).** The following actions shall be undertaken to avoid and minimize potential impacts to CBB:

- a. CBB Surveys - The applicant shall retain a County-qualified biologist to conduct pre-construction survey(s) for CBB within suitable habitat (i.e. small mammal burrows, thatched/bunched grasses, upland scrubs, brush piles, unmowed/overgrown areas, dead trees, hollow logs, etc.) on the project site. Survey(s) shall be conducted over an extended period of time to document and establish the presence of the bees within the areas of disturbance.
- b. CBB Take Avoidance - If the survey(s) establish the presence of CBB within the areas of disturbance, the applicant shall retain a qualified biologist to prepare a Biological Resources Management Plan (Management Plan) subject to review and approval of the Department of Planning and Building in consultation with CDFW. The Management Plan shall include at least the following:
  - i. Avoidance measures to include a minimum 50-foot no-disturbance buffer to avoid take and potentially significant impacts.
  - ii. If ground-disturbing activities will occur during the overwintering period (October through February), the applicant, in coordination with the Department of Planning and Building, shall consult with CDFW to identify specific measures to be undertaken to avoid take as defined by the California Endangered Species Act (CESA).
- c. In the event CBB is denied listing under the CESA, this measure shall not be required.

**Monitoring:** Evidence that preconstruction surveys for special-status reptiles and amphibians, nesting birds, American badger, and crotch bumble bee have been undertaken within the timeframes prescribed for each species shall be provided to the Department of Planning Building prior to any construction or pre-construction activities. Compliance will be verified by the County Department of Planning and Building prior to, and during construction.

**HAZARDS AND HAZARDOUS MATERIALS**

**HAZ-1 Equipment Maintenance and Refueling.** During all construction activities, the cleaning, refueling, and maintenance of equipment and vehicles shall occur only within designated staging areas. The staging areas shall conform to all Best Management Practices applicable to attaining zero discharge of stormwater runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills.

**HAZ-2 Spill Response Protocol.** During all construction activities, all project-related spills of hazardous materials shall be cleaned up immediately. Appropriate spill prevention and cleanup materials shall be onsite at all times during construction.

**Monitoring:** Required during all construction activities, and required for all operational activities (i.e., HAZ-2). Implementation and compliance will be verified by the County Department of Planning and Building.

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.

DocuSigned by: <i>Gary Miller</i>	Gary Miller	2/16/2023
<b>Signature of Applicant</b>	<b>Name (Print)</b>	<b>Date</b>