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CALIFORNIA DEPARTMENT OF
FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
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In Reply Refer to:
FWS/CDFW- 20B0171-20TA1080

May 29, 2020
Sent Electronically

Ms. Morgan Dresser
Associate Planner
Development Services Department
City of San Diego
1222 First Avenue, MS 501
San Diego, California 92101

Subject: Comments on the Draft Mitigated Negative Declaration (MND) for the Beyer Park SDP, San Diego County, California (Project # 589554; SCH# 2020049049)

Dear Ms. Dresser:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (CDFW), collectively referred to as the Wildlife Agencies, have reviewed the Draft Mitigated Negative Declaration (MND) for the Beyer Park SDP dated April 23, 2020 (Project). The comments provided in this letter are based on information provided in the MND and the Biological Resources Report for the Beyer Park Development Project, San Diego, California (RECON 2019), our knowledge of sensitive and declining species and their habitats in the region, and our participation in the Multiple Species Conservation Program (MSCP) and the City's MSCP Subarea Plan (SAP).

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), including habitat conservation plans (HCP) developed under section 10(a)(1) of the Act. CDFW is a Trustee Agency and a responsible Agency pursuant to the California Environmental Quality Act (CEQA), Sections 15386 and 15381, respectively. The CDFW is responsible for the conservation, protection, and management of the State's biological resources; including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA), and administers the Natural Community Conservation Planning (NCCP) program. The City participates in CDFW's NCCP and the Service's HCP programs by implementing its SAP.

The City proposes construction and operation of a 16.5-acre open space park which would include a soccer field, 3 children's fields, a 19,375-square foot skate park, a 19,450-square foot

large dog park, a 14,700-square foot small dog park, a 10,400-square foot children's play area, a 450-square foot comfort station, a 350-square foot maintenance building and trash enclosure, a half basketball court, shade structures, picnic areas, and trails. The park would also have 69 on-site parking and 15 street parking stalls. Site improvements would include associated hardscape and landscape, retaining walls, infrastructure (e.g., off-site utility connections of water, sewer), storm drain, and access roads/trails. Grading would entail approximately 81,100 cubic yards of cut with a maximum cut depth of 21 feet. The project is anticipated to begin a year after the CEQA process has been completed.

The 43-acre site is located southeast of the eastern terminus of Beyer Boulevard. The project site is designated park and open space and zoned OP-1-1 and RS-1-7 per the San Ysidro Community Plan. Portions of the project site are within the City's MSCP Multiple Habitat Planning Areas (MHPA). The project site is also within the City's Vernal Pool HCP. The project site is bounded by residential development to the north, and designated open space to the south, east, and west.

The project impact footprint supports the following vegetation communities: Diegan coastal sage scrub, maritime succulent scrub, mulefat scrub, vernal pool, and disturbed. The project will impact 5.77 acres of maritime succulent scrub and 5.70 acres of Diegan coastal sage scrub (11.47 acres total) outside of the MHPA. The project also proposes to enhance 7.79 acres of maritime succulent scrub in the MHPA and 2.64 acres of maritime succulent scrub outside of the MHPA. In addition, 3.70 acres of disturbed, both inside and outside the MHPA will be restored to maritime succulent scrub for a total of 14.12 acres of enhancement and restoration.

The project site supports the federally endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*); the federally threatened coastal California gnatcatcher (*Polioptila californica californica*; gnatcatcher); the federally threatened, state-endangered and MSCP narrow endemic Otay tarplant (*Deinandra conjugens*); four California Species of Special Concern which are also covered species under the MSCP: western burrowing owl (*Athene cunicularia*), northern harrier (*Circus cyaneus*), coastal cactus wren (*Campylorhynchus brunneicapillus*), and Southern California rufous-crowned sparrow (*Aimophila ruficeps*); and three additional MSCP covered species: Belding's orange-throated whiptail (*Aspidoscelis hyperythra beldingi*), southern mule deer (*Odocoileus hemionus*), and San Diego barrel cactus (*Ferocactus viridescens*). Although found on the site, impacts to San Diego fairy shrimp and Otay tarplant will be avoided by the project as stated in the MND.

The Wildlife Agencies offer comments and recommendations (Attachment) to assist the City in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources. Thank you for the opportunity to comment on the subject MND. If you have any questions, please contact [Nasseer Idrisi](mailto:Nasseer.Idrisi@wildlife.ca.gov) of CDFW¹ at 858- 467-2720, or [Patrick Gower](mailto:Patrick.Gower@fws.gov) of the Service² at 760-431-9440 ext. 352.

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² Patrick Gower@fws.gov

Ms. Morgan Dresser (FWS/CDFW-20B0171-20TA1080)

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Sincerely,

CHRISTINE
MEDAK

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CHRISTINE MEDAK
Date: 2020.05.29 06:43:44
-07'00'

for David A. Zoutendyk
Acting Assistant Field Supervisor
U.S. Fish and Wildlife Service



David A. Mayer
Environmental Programs Manager
California Department of Fish and Wildlife

LITERATURE CITED

Alden Environmental. 2020. Resource Management Plan for the Turecek Off-site Mitigation Parcel. Prepared for Sunroad Enterprises San Diego California. 37 pp

[ICR] San Diego Zoo's Institute of Conservation Research. 2017. Burrowing Owl Conservation and Management Plan for San Diego County. San Diego California. 86pp.

RECON. 2019. Biological Resources Report for the Beyer Park Development Project, San Diego, California. Prepared for Mr. Darren Genova City of San Diego Public Works – Engineering San Diego California. 175 pp

Schaefer Ecological Solutions. 2019. Burrowing Owl Mitigation Plan for the Metropolitan Airpark Project. Prepared for Metropolitan Airpark, LLC San Diego California. 69 pp

ATTACHMENT

Wildlife Agencies' Comments on the City of San Diego's Draft Mitigated Negative Declaration (MND) for the Beyer Park SDP, City of San Diego, California

1. The MSCP requires that occupied burrowing owl habitat be mitigated with occupied, or occupiable (i.e., with enhancement) habitat at ratios reflective of impacts/conservation within or outside of the MHPA. If a proposed mitigation parcel is not within, or amended into via a Boundary Line Adjustment, the City's MHPA, the mitigation acreage requirement would be higher. The MSCP allows active or passive protocols for burrowing owl as approved by the Wildlife Agencies. This species has fared extremely poorly over the course of 20 years of MSCP implementation and it is important to ensure that positive conservation outcomes will be obtained when impacts to this species are proposed. To achieve this, and to be consistent with requirements applied to development projects elsewhere in the City, the City needs to develop a comprehensive habitat enhancement and resource management plan to address the proposed burrowing owl mitigation site, and submit a draft of this plan for review and eventual approval by the Wildlife Agencies. This plan needs to thoroughly evaluate the proposed mitigation site's existing conditions and include any necessary measures to enhance the site in order to support burrowing owls. This begins with providing an initial local/regional contextual review of the site and adjoining lands. Additionally, the site's soils, vegetation composition and condition, proximity to development, and other factors must be evaluated relative to compatibility for burrowing owls. The site's soils are particularly important to determine if they can support a robust population of fossorial mammals (e.g., ground squirrels). The San Diego Zoo's Institute of Conservation Research (ICR) has provided guidance materials to evaluate soils and other factors in selecting a potential burrowing owl mitigation site (ICR 2017). An earthen berm may need to be constructed to provide suitable fossorial habitat on the mitigation site. Artificial burrows may also be necessary to provide immediately available burrow habitat as refugia to support owls until sufficient natural burrows become established by squirrels. If artificial burrows are employed, they must be maintained at least twice a year, once in the fall and once just prior to the pre-spring breeding season, unless the site has demonstrated that the ground squirrel population has established sufficient, well-developed burrows to support owls without the need for artificial burrows. The Wildlife Agencies recommend following the recently approved (by the City and Wildlife Agencies) Resource Management Plan for the Turecek Off-site Mitigation Parcel (Alden Environmental 2020) or the Burrowing Owl Mitigation Plan for the Metropolitan Airpark Project (Schaefer Ecological Solutions 2019) as examples for burrowing owl mitigation. Both documents are available through the City of San Diego's MSCP Division.
2. The 2016/2017 protocol surveys for fairy shrimp has reached the 3-year time limit as per Attachment I Sample Protocol Survey Requirements of the City's Land Development Manual – Biology Guidelines; therefore, before project construction can begin, new protocol surveys should be completed. The Wildlife Agencies request that

the final MND demonstrate that the project will not negatively impact the vernal pool's watershed or result in changes to the hydrology.

3. The Wildlife Agencies recommend permanent barriers/fencing should be installed along the park/MHPA boundary to preclude human entrance into the MHPA outside of approved entrances. These barriers should be described in Section 3.2.3 of the MND.
4. Because the proposed project is sponsored by the City's Parks Department, the MND should provide Area Specific Management Directives (ASMDs) to reduce impacts to cactus wrens and to ensure the Park activities are compatible with long-term habitat of the cactus wren. The Wildlife Agencies recommend that trails and active uses at the park property are located as far as possible from mature cactus habitat.
5. Pre-construction surveys must be performed to ensure that any active nests of northern harrier are provided a 900-foot buffer from construction activities, as required by the MSCP.
6. The Proposed Mitigation Design (Figure 8) in the Biological Resources Report shows Otay tarplant along a trail that will be closed, but this trail continues outside of the mitigation area. The Wildlife Agencies recommend fencing be erected to protect Otay tarplant along the remaining trail segments on City property.
7. Figure 8c (Jurisdictional Waters – City of San Diego Wetlands) in the Biological Resources Report shows the 100-foot wetlands avoidance buffer overlapping with the project impact area. Project impact areas should be located outside the 100-foot wetlands avoidance buffer.
8. The Wildlife Agencies recommend the North/South trail that is located within the MHPA (as depicted in Figure 10 in the Biological Resources Report) be moved to the boundary of the developed area. This action would be consistent with City's MSCP SAP Public Access, Trails, and Recreation Priority 1, which states that: “#2 *Locate trails, view overlooks, and staging areas in the least sensitive areas of the MHPA. Locate trails along the edges of urban land uses adjacent to the MHPA, or the seam between land uses (e.g., agriculture/habitat), and follow existing dirt roads as much as possible rather than entering habitat or wildlife movement areas. Avoid locating trails between two different habitat types (ecotones) for longer than necessary due to the typically heightened resource sensitivity in those locations.*”
9. The Biological Resources Report (page 91) specifies that the mitigation site will be maintained and monitored by the City Parks and Recreation Department, but it does not address the conservation mechanism that will be in place to preserve the land into perpetuity. The Wildlife Agencies recommend that the mitigation site adjacent to the MHPA be incorporated through a Boundary Line Adjustment into the MHPA.
10. Mitigation Measure BIO-14: San Diego Fairy Shrimp Measures Prior to Construction states that, “*If work inadvertently occurs beyond the fenced or demarcated limits of*

impact, all work shall cease until the problem has been remedied to the satisfaction of the City.” Given the special status of this species, mitigation measure BIO-14 should be amended to include notification, reporting, and coordination with the Wildlife Agencies regarding next steps.

11. Page 5 of the MND (section E) states that, “*The pre-construction survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation).*” The Wildlife Agencies recommend that pre-construction surveys occur no more than 3 days prior to the start of construction.