



State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 18, 2019

Governor's Office of Planning & Research

Mike Szarzynski
City of Victorville
Development Department
14343 Civic Drive
Victorville, CA 92392
mszarzynski@victorvilleca.gov

NOV 18 2019

STATE CLEARINGHOUSE

Subject: Notice of Preparation- Southern California Logistics Airport Specific Plan
Amendment (PLAN-19-00004) Draft Subsequent Program Environmental
Impact Report State Clearinghouse No. 2003011008

Dear Mr. Szarzynski:

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the Notice of Preparation (NOP) of a Draft Subsequent Program Environmental Impact Report (DEIR) for the Southern California Logistics Airport (SCLA) Specific Plan Amendment (PLAN-19-00004) (Project), State Clearinghouse No. 2003011008. CDFW is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA). A Trustee Agency has jurisdiction over certain resources held in trust for the people of California. Trustee agencies are generally required to be notified of CEQA documents relevant to their jurisdiction, whether or not these agencies have actual permitting authority or approval power over aspects of the underlying project (CEQA Guidelines, Section 15386). As the trustee agency for fish and wildlife resources, CDFW provides requisite biological expertise to review and comment upon CEQA documents and makes recommendations regarding those resources held in trust for the people of California.

CDFW may also assume the role of Responsible Agency. A Responsible Agency is an agency other than the Lead Agency that has a legal responsibility for carrying out or approving a project. A Responsible Agency actively participates in the Lead Agency's CEQA process, reviews the Lead Agency's CEQA document and uses that document when making a decision on the project. The Responsible Agency must rely on the Lead Agency's environmental document to prepare and issue its own findings regarding the project (CEQA Guidelines, Sections 15096 and 15381). CDFW most often becomes a responsible agency when a 1600 Streambed Alteration Agreement or a 2081(b) California Endangered Species Act (CESA) Incidental Take Permit (ITP) is needed for a project. CDFW relies on the environmental document prepared by the Lead Agency to make a finding and decide whether to issue the permit or agreement. It is important that the Lead Agency's CEQA document considers CDFW's responsible agency

Conserving California's Wildlife Since 1870

requirements. For example, CEQA requires CDFW to include additional feasible alternatives or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment (CEQA Guidelines, section 15096 (g) (2)). In rare cases, CDFW as Responsible Agency may be required to assume the role of the Lead Agency under certain conditions (CEQA Guidelines, section 15052).

Pursuant to California Fish and Game Code section 711.4, CDFW collects a filing fee for all projects subject to CEQA. These filing fees are collected to defray the costs of managing and protecting fish and wildlife resources including, but not limited to, consulting with public agencies, reviewing environmental documents, recommending mitigation measures, and developing monitoring programs. Project applicants need not pay a filing fee in cases where a project will have no effect on fish and wildlife, as determined by CDFW, or where their project is statutorily or categorically exempt from CEQA.

PROJECT DESCRIPTION SUMMARY

Project Location

The Project is located in the County of San Bernardino, in the City of Victorville. The Project area is situated in the northwestern portion of city and encompasses approximately 8,611 acres. The City of Adelanto is located to the north, west, and partially to the south of the Project area. The approximate 8,611 acres is north of Air Expressway, east of Adelanto Road, south of Desert Flower Road, and west of National Trails Highway. The eastern portion of the Project is adjacent to the Mojave River.

Project Description

The Project proposes to amend the SCLA Specific Plan that was approved in 1993 and last amended in 2004. The current amendment proposal has 4 elements that include: 1) decreasing the footprint of the existing SCLA Specific Plan area, including removal of over 1000 acres for industrial development; 2) reflecting development trends, economic and market conditions, and design guidelines; 3) providing description updates of infrastructure serving SCLA and projected requirements for future development; modernizing the SCLA Plan's framework and format to efficiently guide development; 4) modernize the format and framework of the Specific Plan to more efficiently guide development at SCLA.

The Project proposes a reduction of development of new building area to approximately 25,973,000 square feet and includes the primary modifications: changing existing land use district boundaries; reducing development footprint; enlarging acreage for development and removing Overlay of Airport and Support Facilities; creating new land use districts; revising the circulation and infrastructure planning components of the Specific Plan; and updates to design guidelines (i.e. site planning, landscape, architecture, lighting). The rail service facility is no longer proposed.

The Project proposes an establishment of a "Priority Development Area" for likely development within the next 25 years and could result in the 25,973,00 square feet of new building area in 5 phases. The Plan allows flexibility to develop the remaining areas outside of the designated "Priority Development Area" in Phase 6 in 25-50 years. This includes approximately 3,275 undeveloped acres to the north and east (adjacent to the Mojave River) within the Project area.

The NOP states the DEIR will include a Habitat Assessment and Jurisdictional Delineation for the Priority Development Area that will consider potential impacts associated with special status plants and wildlife species, and species of special concern. Sensitive natural communities, riparian habitat, jurisdictional waters, and wildlife corridors will be considered.

To enable CDFW staff to adequately review and comment on the proposed Project, we recommend the following information be included in the DEIR, as applicable:

COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (i.e., biological resources); and administers the Natural Community Conservation Planning Program (NCCP Program). CDFW offers the comments and recommendations presented below to assist City of Victorville (Lead Agency) in adequately identifying and/or mitigating the Project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed Project with respect to impacts on biological resources. CDFW recommends that the forthcoming DEIR address the following:

Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the Project, the DEIR should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats. CDFW recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the Project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association-based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009). Adjoining habitat areas should also be included in this assessment where site

activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions;

2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the Project. CDFW's California Natural Diversity Database (CNDDDB) in Sacramento should be contacted at (916) 322-2493 or cnddb@wildlife.ca.gov to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed Project. CDFW recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Online forms can be obtained and submitted at: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. Please note that CDFW's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the potential presence of species within the general area of the Project site.
3. A complete, recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and 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, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.
4. A thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see <https://www.wildlife.ca.gov/Conservation/Plants>);

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project. To

ensure that Project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:

1. A discussion of potential impacts from lighting, noise, human activity, and wildlife-human interactions created by zoning of development projects or other project activities adjacent to natural areas, exotic and/or invasive species, and drainage. The latter subject should address Project-related changes on drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.
2. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the Project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Natural Community Conservation Plan, or other conserved lands).
3. An evaluation of impacts to adjacent open space lands from both the construction of the Project and long-term operational and maintenance needs.
4. A cumulative effects analysis developed as described under CEQA Guidelines § 15130. Please include all potential direct and indirect Project related impacts to riparian areas, wetlands, vernal pools, alluvial fan habitats, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. 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.

Mitigation Measures for Project Impacts to Biological Resources

The DEIR should include appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of the construction and long-term operation and maintenance of the Project. When proposing measures to avoid, minimize, or mitigate impacts, CDFW recommends consideration of the following:

1. *Fully Protected Species*: Several Fully Protected Species (Fish and Game Code § 3511) have the potential to occur within or adjacent to the Project area, including, but not limited to: White-tailed kite (*Elanus leucurus*), American peregrine falcon (*Falco peregrinus anatum*), Swainson's hawk (*Buteo swainsoni*), Cooper's hawk (*Accipiter cooperii*), and golden eagle (*Aquila chrysaetos*). Fully protected species may not be taken or possessed at any time. Project activities described in the DEIR should be designed to completely avoid any fully protected species that have the

potential to be present within or adjacent to the Project area. CDFW also recommends that the DEIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the Lead Agency include in the analysis how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to fully protected species.

2. *Sensitive Plant Communities*: CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in *The Manual of California Vegetation* (Sawyer et al. 2009). The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts.
3. *Mitigation*: CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse Project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.

The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset Project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

4. *Nesting Birds and Migratory Bird Treaty Act*: Please note that it is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). In addition, sections 3503, 3503.5, and 3513 of the Fish and Game Code (FGC) also afford protective measures as follows: Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by FGC or any regulation made pursuant thereto; Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and Section 3513

states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

CDFW recommends that the DEIR include the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. The DEIR should also include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. If pre-construction surveys are proposed in the DEIR, CDFW recommends that they be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

5. *Translocation of Species*: CDFW generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species as studies have shown that these efforts are experimental in nature and largely unsuccessful.

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA ITP be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, either through construction or over the life of the Project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats.

CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. Please note that the proposed avoidance, minimization, and mitigation measures must be sufficient for CDFW to conclude that the Project's impacts are fully mitigated and the measures, when taken in aggregate, must meet the full mitigation standard. The Project CEQA document should address all Project impacts to listed species and specify a mitigation monitoring and reporting program for CDFW to rely on the CEQA documents for ITP issuance.

Lake and Streambed Alteration Program

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert

or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

Further Coordination

CDFW appreciates the opportunity to comment on the NOP for the Project. Questions regarding this letter and further coordination on these issues should be directed to Ashley Rosales, Environmental Scientist, at (909) 980-8607 or by email at Ashley.Rosales@wildlife.ca.gov.

Sincerely,



Scott Wilson
Environmental Program Manager

cc: California Department of Fish and Wildlife

Ashley Rosales, Environmental Scientist
Inland Deserts Region
Ashley.Rosales@wildlife.ca.gov

Literature Cited

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California.
<http://vegetation.cnps.org/>