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GAVIN NEWSOM, Governor  
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Governor's Office of Planning & Research

February 3, 2020  
Sent via email

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## STATE CLEARINGHOUSE

Kim Stater  
Assistant Community Development Director  
City of Highland  
27215 Base Line  
Highland, CA, 92346

Subject: Initial Study and Mitigated Negative Declaration  
Highland Redlands Regional Connector Project  
State Clearinghouse No. 2020019002

Dear Ms. Stater:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from City of Highland (City) for the Highland Redlands Regional Connector Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

### 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

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<sup>1</sup> 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.

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 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 (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

## **PROJECT DESCRIPTION SUMMARY**

The Project proposes construction of regional bikeways and walkways in the Cities of Highland and Redlands. Bikeways and walkways will be constructed along 4.7 contiguous miles of streets and easements in the Cities of Highland and Redlands. Work will include pavement widening, curb ramps, curb and gutter, median curbs, pavement repairs, sidewalks, slurry seal, Class I, II, and III bikeway/pedestrian paths, sharrows (shared lane markings), pedestrian heads, enhanced crosswalks, warning beacons, lighting, roadway and bikeway signage, and speed feedback signs.

## **COMMENTS AND RECOMMENDATIONS**

The Initial Study/Mitigated Negative Declaration (ISMND) recognizes the potential for several special status species, including threatened and endangered species, to occur within and surrounding the Project area, but does not provide details of the surveys or the surveys reports/results. Absent these details, and supporting documentation, it is unclear whether the Project's impacts have been adequately identified, disclosed, or mitigated. CDFW offers the comments and recommendations below to assist the City in adequately identifying and mitigating, if necessary, fish and wildlife (biological) resources.

### **Special-status Plant Species**

The ISMND identifies the Project area as having suitable habitat for 17 special-status plant species, though only discloses two state-listed species: Santa Ana River woollystar (*Eriastrum densifolium sanctorum*) and slender-horned spineflower (*Dodecahema leptoceras*). It is unclear why the remaining 15 special-status plants were not identified/disclosed in the ISMND, and whether the Project could result in significant impacts to these species. Please note, for the purposes of CEQA, a species not currently listed as threatened or endangered should nevertheless be considered to be endangered, rare, or threatened if, "... the species is existing in such small numbers throughout all or a significant portion of its range that it may become endangered if its



environment worsens.” (CEQA Guidelines § 15380). As such, CDFW strongly recommends the City conduct an analysis of the potential impacts to all special-status plant species within the BSA, identify and disclose the significance of those impacts, and provide appropriate mitigation measures to offset the impacts.

Santa Ana River woollystar (*Eriastrum densifolium sanctorum*)

The ISMND recognized potential impacts to Santa Ana River woollystar but provides no detail as to the number of individuals or acreage of habitat to be impacted. Page 2-10 states, “The project would permanently and temporarily impact suitable habitat for Santa Ana River woollystar as a result of construction of new bikeways/pedestrian paths, pavement widening, and staging areas. Direct effects from project construction could also include direct mortality of individual plants, plant injury, and alteration of plant community structures.” Further, the ISMND does not provide the details of the surveys, such as the methods used, timeframe (season, year) in which it occurred, whether reference sites were visited, and the outcome/results of the surveys. Without demonstrating the surveys were completed according to standard, accepted protocols, and disclosing the level of impacts anticipated, CDFW believes the City is unable to substantiate the conclusions drawn by this document, and CDFW is unable to determine if the ISMND has adequately disclosed and mitigated impacts.

Slender-horned spineflower (*Dodecahema leptoceras*)

Page 2-10 of the ISMND states, “Surveys conducted during the blooming season for the slender-horned spineflower were negative, as such it is considered absent from the BSA and the project is not expected to affect this species.” As stated above, the ISMND does not provide the details of the surveys, such as the methods used, timeframe (season, year) in which it occurred, and whether reference sites were visited, and thus CDFW does not have adequate information to determine whether a thorough analysis was completed. CDFW requests this information be provided as an appendix to the ISMND to substantiate the conclusions made.

Although slender-horned spineflower was not detected, the ISMND provides Mitigation Measure BIO-21, which states, “If slender-horned spineflower is detected during pre-project surveys, seeds will be collected for four years prior to ground disturbance.” CDFW appreciates the addition of mitigation measure that would address unforeseen impacts, however, CDFW is unsure the appropriateness of proposing this measure without the City first analyzing whether the potential, future, unforeseen impact could be significant, and whether implementation of this measure would reduce the impact to less than significant. Further, the act of seed collection, in and of itself, would be considered an impact, and thus should be analyzed, as such. CDFW recommends that in the event that slender-horned spineflower is discovered onsite, the MND also reanalyzes the proposed mitigation measures to determine whether it would be effective at lessening the impact to a level commensurate with a MND.



### Additional Guidance for Rare Plant Surveys

Please note, according to 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities botanical field surveys should be conducted in a manner which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys should be floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. "Focused surveys" that are limited to habitats known to support special status plants or that are restricted to lists of likely potential special status plants are not considered floristic in nature and are not adequate to identify all plants in a project area to the level necessary to determine if they are special status plants. Botanical field surveys should be comprehensive over the entire project area, including areas that will be directly or indirectly impacted by the project, using systematic field techniques in all habitats of the project area to ensure thorough coverage. Botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting. Reference sites (nearby accessible occurrences of the plants) should be utilized to determine whether those special status plants are identifiable at the times of year the botanical field surveys take place and to obtain a visual image of the special status plants, associated habitat, and associated natural communities.

### **Special-status Wildlife**

The ISMND describes the Project as having suitable habitat to support 25 special-status wildlife species, with five species having been detected onsite: San Bernardino kangaroo rat (*Dipodomys merriami parvus*), yellow warbler (*Setophaga petechia*), northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*), San Diego desert woodrat (*Neotoma bryanti intermedia*), and San Diego black-tailed jackrabbit (*Lepus californicus bennettii*). It's unclear how the species listed were determined to be present onsite and whether surveys, habitat assessment, or other analysis were conducted to determine if the remaining 20 species with the potential to occur onsite are present and would be impacted by the Project. As such, CDFW strongly recommends the City conduct an analysis of the potential impacts to all special-status wildlife within the BSA, identify and disclose the significance of those impacts, and provide appropriate mitigation measures to offset the impacts.

#### San Bernardino kangaroo rat (*Dipodomys merriami parvus*)

The IS/MND anticipates, "The project will result in temporary and permanent impacts on San Bernardino kangaroo rat occupied habitat and critical habitat due to the construction of new bikeway/pedestrian paths, pavement widening, and staging areas. Project construction and vegetation clearing could result in direct mortality, injury, or harassment of individual San Bernardino kangaroo rat as a result of construction vehicles, personnel, and heavy equipment. Indirect effects of construction include an



increase in human activity, which could result in an increase in predators that are attracted to litter. Construction and soil disturbance may also adversely affect San Bernardino kangaroo rat habitat by altering drainage patterns and encouraging the spread of invasive plant species, which could indirectly result in loss of quality habitat" (p. 2-11). While the document indicates trapping for SBKR was conducted, there is a lack of supporting documentation, such as trapping reports/results, and a lack of detail with regard to the level of impacts. Without this information, CDFW cannot determine if the ISMND has adequately disclosed and mitigated impacts, including that the impacts can be reduced to less than significant with the incorporation of the proposed mitigation measures.

#### Burrowing Owl (*Athene cunicularia*)

Page 2-11 states, "All potential suitable habitats to support burrowing owl within the BSA were examined during the surveys conducted for the project. No burrowing owls or their signs were observed, as such, the project will have no impacts on burrowing owl." While the document indicates the burrowing owl surveys were conducted there is a lack of supporting documentation such as burrowing owl survey report/habitat assessment within the ISMND. CDFW recommends that a burrowing habitat assessment be conducted or an existing habitat assessment report be provided with the ISMND prior to project approval. If the habitat assessment shows the potential for burrowing owls to use the site, surveys consistent with the 2012 Burrowing Owl staff report (citation) should be conducted. If burrowing owls are identified on the site, this would be a new significant impact requiring mitigation. For such as impact, CDFW would recommend permanent conservation, enhancement, and management of existing burrowing owl habitat and measures to minimize impacts to burrowing owls on the project site. Mitigation. CDFW is concerned that without a burrowing owl survey/habitat assessment, CDFW cannot determine if the ISMND has adequately disclosed and mitigated impacts.

#### **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 incidental Take Permit (ITP) be obtained for SBKR and Santa Ana River woollystar because 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.

#### **Lake and Streambed Alteration**

The IS/MND explains, "As detailed in the Natural Environment Study,...the proposed project would result in the permanent removal and temporary disturbance of 0.023-acre



and 0.675-acre, of CDFW streambeds, as well as 0.001 acre of temporary disturbances of CDFW jurisdictional riparian resources" (p.2-12). CDFW cannot provide guidance or recommendations with regard to the level of impacts to areas subject to Fish and Game Code section 1602, as the Natural Environmental Study referenced was not provided with the IS/MND. CDFW recommends that all supporting documents used to identify or analyze impacts be included as part of the IS/MND. Without this information, CDFW cannot determine if the ISMND has adequately disclosed and mitigated impacts.

### **Edge effects and Wildlife Movement**

The ISMND determined, "The proposed project would not permanently affect existing wildlife movement through these corridors because no new barriers to wildlife movement would be created and none would be permanently reduced or eliminated by the proposed project." CDFW disagrees with this statement, as the Project would construct improvements to existing Orange Street and construct a new bikeway/walkway through otherwise natural areas. The construction of bike path/pedestrian paths or widening of roadways in or adjacent to natural habitats can cause or exacerbate habitat fragmentation, impacting ecosystem processes and species dispersal and persistence. The City provided Mitigation Measures BIO 43, 65, 66, and 67 to offset potential impacts to wildlife movement, however, much of the measures address the construction-related effects, not the long-term effects caused by the operation of the Project. Without this information, CDFW cannot determine if the ISMND has adequately disclosed and mitigated impacts.

### **Artificial night lighting**

Artificial light has been shown to suppress the immune system of some mammals (Bedrosian et al. 2011), and it can cause disruption of normal circadian rhythms. Rodents often decrease foraging in higher light levels due to higher risk of predation (Clarke 1983, Daly et al. 1992, Bird et al. 2004). They may also leave the area because of an increased risk of predation. An analysis of potential indirect impacts from night lighting on adjacent natural lands and rodents that may be present on those lands has not been provided. Absent a thorough impact analysis and mitigation strategy, it is unclear whether this component of the Project can be adequately identified, disclosed, or mitigated. CDFW is concerned that without this information, the analysis in the MND is incomplete and the significance of these impacts cannot be determined as required under CEQA.

### **Rodenticides, herbicides, and insecticide use**

Mitigation Measure BIO 51 states, "Rodenticides, herbicides, insecticides, or other chemicals that could potentially harm San Bernardino kangaroo rat will not be used within areas that could support San Bernardino kangaroo rat. Project construction activities outside of the Wash Plan HCP Preserve or other natural areas that use chemicals or generate byproducts that are potentially toxic or may adversely affect



wildlife and plant species, habitat, or water quality will incorporate measures to ensure that application of such chemicals does not result in any discharge into the Wash Plan HCP Preserve or other natural areas (Wash Plan HCP, Section 5.5).” CDFW is concerned that this measure does not adequately identify feasible and implementable actions to reduce potential impacts of rodenticide, herbicide, and insecticide use on special-status species, but rather defers the creation of these measures until “project construction”.

Use of pesticides could impact SBKR by poisoning from insecticide/herbicide as their diet consists of vegetation and seeds (Zeiner et al. 1990, Freemark and Boutin 1995, Pimentel 2005), alteration of ovarian development and function (Tiemann 2008), poisoning from rodenticides (Sánchez-Barbudo et al. 2012), reduced litter sizes (Grue et al. 1997, Pimentel 2005), decreased coordination and motor skills, and slow response rates to noise (Wolansky and Harrill 2008). Use of insecticide could impact Santa Ana woolly star which depends on pollination for seed reproduction.

CDFW recommends the City, prior to the adoption of the MND, write specific, enforceable measures to ensure that application of such chemicals does not impact special-status species, rather than defer the creation of these measures to a future period. Additionally, without species data (i.e., current small mammal trapping results, insect surveys, and plant surveys), CDFW is unable to assess whether the Project’s proposed use of rodenticide, herbicide, insecticides, or other chemicals could result in significant impacts to special-status species. Without current trapping results and surveys and a thorough analysis, it is unclear whether this component of the Project could result in significant impacts to these species. CDFW is concerned that without specific species information and clear and enforceable actions/measures, the analysis provided in the IS/MND is incomplete and the significance of these impacts cannot be determined as required under CEQA.

### **Staging Areas and Stockpiles**

Mitigation Measure BIO-34 states, “No erodible materials will be deposited into watercourses or areas demarcated with ESA fencing. Vegetation, mud, silt, or other debris material or pollutants from construction activities will not be stockpiled within stream channels or on adjacent banks or allowed to enter a flowing stream.” CDFW recommends the City revise this measure to require staging areas and stockpiles are not located within habitat occupied by slender-horned spineflower and San Bernardino kangaroo rat.

### **Trespass and Degradation of habitat**

CDFW is concerned that there is a lack of detail regarding deterring human entry or activities in conservation habitat. CDFW recommends the City condition the installation and maintenance of barriers to separate the bikeway from adjacent habitat and a method to monitor and preclude egress to the adjacent habitat. Habitat degradation due



to unauthorized trespass, littering, and illegal dumping should be thoroughly analyzed and disclosed in the IS/MND. CDFW believes the IS/MND does not provide a thorough impact analysis of this potential, foreseeable Project impact, and is concerned the potential impacts have not been adequately identified, disclosed, or mitigated.

## **Mitigation**

The IS/MND offers mitigation at a 1:1 ratio for several permanent impacts covered in the Biological Resources section: Riversidean alluvial fan sage scrub (BIO-16), Woolly Star Preserve lands (BIO-18), Santa Ana River woollystar (BIO-33), San Bernardino kangaroo rat (BIO-55), and non-wetland waters (BIO-70). CDFW has considerable concerns related to the adequacy of a 1:1 mitigation ratio. A 1:1 ratio will result in the protection of the same amount of habitat as is being permanently lost, effectively preserving only half a population or area. For sensitive habitats and species, whose numbers, acres, and distribution are already depleted, this level of mitigation is insufficient to reduce impacts to less than significance.

When considering mitigation, it is important that the land ultimately conserved for mitigation has the same or better resource value than the resource value being impacted. Mitigation lands should be enhanced and managed in perpetuity to mitigate for the impact and loss of habitat. If the mitigation land would require restoration, it would be important to consider the time it will take for the sites to fully establish, whether there will be a temporary loss of function and value, and whether some types of biological resources cannot be restored or recreated within a reasonable period (e.g., 1-3 years). Without the specific identification of mitigation lands, CDFW recommends at a minimum, mitigation of 3:1, depending on the species and habitats impacted, and the mitigation approach proposed.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the CNDDDB field survey form at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.



## FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. 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. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## CONCLUSION

CDFW stresses the importance of the IS/MND including supporting documents used to identify or analyze impacts be included as part of the IS/MND to inform CDFW and the public. This includes any jurisdictional delineations, biological survey reports, and habitat assessments. In addition, CDFW recommends that the IS/MND fully analyzes potential impacts to all special-status species and include specific, enforceable avoidance, minimization and mitigation measures to reduce project impacts. Absent a thorough impact analysis, including supporting documentation, it is unclear whether the Project's impacts have been adequately identified, disclosed, or mitigated.

CDFW appreciates the opportunity to comment on the MND for the Highland Redlands Regional Connector Project (SCH No. 2020019002) and hopes our comments assist the City of Highland in identifying and mitigating Project impacts on biological resources. If you should have any questions pertaining to the comments provided in this letter, please contact Cindy Castaneda, Environmental Scientist, at 909-484-3979 or at [cindy.castaneda@wildlife.ca.gov](mailto:cindy.castaneda@wildlife.ca.gov).

Sincerely,



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