



State of California – Natural Resources Agency
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Governor’s Office of Planning & Research

MAR 18 2020

STATE CLEARINGHOUSE

Anthony DeLuca
 Senior Planner
 County of San Bernardino
 Land Use Services Department
 385 N. Arrowhead Avenue, 1st Floor
 San Bernardino, CA, 92415-0182

Subject: Pine Tree RV Park Project
 Mitigated Negative Declaration
 State Clearinghouse No. 2020029066

Dear Mr. DeLuca:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent (NOI) to Adopt a Mitigated Negative Declaration (MND) from the County of San Bernardino Land Use Services Department (County; Lead Agency) for the Pine Tree RV Park Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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 agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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.

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 to construct 32 30-foot by 40-foot recreational vehicle (RV) spaces to the existing 21-space RV Park on 4.6 acres in the community of Big Bear City. The property is bounded on the north by United States National Forest property, to the east by St. Joseph's Catholic Church, to the south by vacant land and a residential parcel, and to the west by a San Bernardino County-owned storage yard.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist County of San Bernardino in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW agrees that an MND could be appropriate for the Project with the addition and implementation of specific and enforceable avoidance and minimization measures and compensatory mitigation strategies, including those CDFW recommends within the body of this letter and in Attachment A.

Special Status Plant Species

CEQA requires public agencies in California to analyze and disclose potential environmental impacts associated with a project that the agency will carry out, fund, or approve. Any potentially significant impact must be mitigated to the extent feasible.

The MND determined, "This project will not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service. The soil community and overall habitat within the project boundaries are not conducive to the growth rare plant species" (MND, p. 13). CDFW disagrees with this assumption and is concerned the County has not conducted an appropriate analysis to support their determination. According to the California Natural Diversity Database (CNDDB), several special-status plant are known to occur within a 1-mile radius of the Project, including but not limited to: *Astragalus lentiginosus* var. *sierrae* (Big Bear Valley milk-vetch), *Astragalus leucolobus* (Big Bear Valley woollypod), *Castilleja lasiorhyncha* (San Bernardino Mountains owl's-clover), *Erythranthe purpurea* (little purple monkeyflower), *Perideridia parishii* ssp. *parishii* (Parish's yampah), *Lewisia*

brachycalyx (short-sepaled lewisia) *Navarretia peninsularis* (Baja navarretia), *Pyrocoma uniflora* var. *gossypina* (Bear Valley pyrocoma), *Viola pinetorum* ssp. *grisea* (grey-leaved violet), *Packera bernardina* (San Bernardino ragwort).

Impacts to sensitive plants and vegetation communities must be analyzed during preparation of CEQA environmental documents, as they meet the definition of Rare or Endangered under CEQA Guidelines §15380. This includes plants tracked by the CNDDDB and the California Native Plant Society (CNPS) as California Rare Plant Rank (CRPR) 1 or 2, and plants that may warrant consideration on the basis of declining trends, recent taxonomic information, or other factors. The County has not provided a proper analysis or basis to support the determination that the Project 's impacts would be less than significant, therefore CDFW recommends the following mitigation measures be included in the MND prior to adoption:

BIO-5: Prior to Project implementation, and during the appropriate season, the Applicant shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018), or similar, accepted rare-plant survey protocols. The surveys shall be conducted by a botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys should be conducted at the appropriate time of year when plants will both be evident and identifiable and, 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 conducted 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.

If any rare plants or sensitive vegetation communities are identified, the Applicant shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the conservation of similar or higher-quality occupied habitat at a minimum 3:1 (replacement-to-impact) ratio. If the Project has the potential to impact a State-listed species, the Applicant shall apply for a California Endangered Species Act Incidental Take Permit with the California Department of Fish and Wildlife.

Southern Rubber Boa

The MND concluded southern rubber boa was unlikely to occur on the Project site and provided no mitigation measures to address the potential presence of the species. The MND states, "This species requires moist soil for burrowing, downed logs and surface litter for cover. The northwestern area of the project site contains numerous downed

logs, leaf/pine needle litter. However, the proximity to the active RV Park and neighboring developments likely preclude the presence of this species. The nearest recorded occurrence is approximately 2.5 miles from project site. This species is unlikely to occur on the project site” (MND, p. 13).

CDFW disagrees that the species is unlikely to occur on the Project site and references the MND passage, “The northwestern area of the project site contains numerous downed logs, leaf/pine needle litter” as indication that suitable habitat exists onsite. Further, according to the CNDDDB, there is an occurrence of southern rubber boa, less than 2000 feet away from the Project site. Southern rubber boa can migrate annually between the ridges and canyon bottoms as they move from winter hibernacula to summer habitat. A southern rubber boa has been recorded moving up to 300 yards (274 meters) over a period of one season (Loe 1985).

The County has not provided a proper analysis or basis to support the determination that the Project’s impacts on southern rubber boa would be less than significant, therefore CDFW recommends the following mitigation measures be included in the MND prior to adoption:

BIO-6: The Applicant shall designate a southern rubber boa biologist (Designated Biologist), approved by California Department of Fish and Wildlife (CDFW), that is knowledgeable about the southern rubber boa, including its natural history, habitat requirements, seasonal movements and range, to survey and monitor for southern rubber boa prior to and during Project activities. Prior to Project implementation, and at the appropriate times, the Designated Biologist shall survey for southern rubber boa, using standard, accepted protocol, within all areas proposed for disturbance, including a 100-foot buffer from the Project area. The Designated Biologist(s) shall focus on moveable surface materials such as rocks, logs, and manmade debris that may provide shelter for the southern rubber boa.

If suitable habitat for southern rubber boa is identified, the Applicant shall implement the following:

1. The Designated Biologist shall be on-site when all ground disturbing activities are conducted.
2. The Designated Biologist shall conduct preconstruction surveys ending no more than 3 days prior to the start of construction. During the survey, all moveable surface materials such as rocks, logs and manmade debris that may provide shelter for southern rubber boa shall be removed by hand.

3. If a southern rubber boa is found, all project activities shall be halted, CDFW shall be contacted, and a California Endangered Species Act Incidental Take Permit obtained from CDFW.

If southern rubber boa are found within the project site, the Applicant shall implement the following:

1. The County or Applicant shall apply for an Incidental Take Permit from CDFW for take of southern rubber boa.
2. The Project proponent shall conserve southern rubber boa habitat as mitigation for project impacts to the species at a minimum ratio of 3:1 for all permanent loss of habitat.

Additionally, CDFW recommends that the County or Project Applicant apply for a CESA Incidental Take Permit to reduce the potential for Project delays should a southern rubber boa be discovered onsite.

San Bernardino Flying Squirrel

The MND determined, "The project site does contain marginal nesting habitat in the form of tree cavities and snags; however, the trees found within the site are too thinly dispersed, as this species prefers large stands of dense forest. Additionally, the close proximity to the current RV Park and other neighboring developments further reduce the suitability of habitat within the project boundaries. This species is unlikely to occur on the project site" (MND, p. 12). Based on the limited conclusion in the MND, CDFW cannot agree that the species is unlikely to occur on the Project site and is concerned that the County has not provided a proper analysis or basis to support the determination that the Project's impacts on San Bernardino flying squirrel would be less than significant. Therefore CDFW recommends the following mitigation measures be included in the MND prior to adoption:

BIO-7: The Applicant shall designate a San Bernardino flying squirrel biologist (Designated Biologist), approved by CDFW, that is knowledgeable about the natural history, habitat requirements (including nesting habitat), and range of the species, to survey and monitor for the species, prior to and during construction. The Designated Biologist shall survey the Project site, including an appropriate buffer surrounding the site for habitat suitable to support San Bernardino flying squirrel, including dominant tree species present, canopy closure, duff layers, presence of large snags, presence of coarse woody debris (>10 cm), suitable cavity nesting sites and site proximity to annual or ephemeral water sources.

If San Bernardino flying squirrel are found on-site or suitable habitat exists for the species, the Applicant shall implement the following:

1. Minimize the removal of large coarse woody debris, which provide microhabitat for the growth of hypogeous fungi, a food source for San Bernardino Flying squirrel.
2. Limit removal of standing snags >25 cm DBH) and large trees (>25cm DBH, which provide both structural complexity and potential nesting habitat.
3. Prioritize the retention of large trees and snags with visible potential cavity nesting structures which are associated with high densities of flying squirrel.
4. Minimize the loss of continuous canopy closure, which provides protection from predators while foraging and may play an important role in maintaining habitat connectivity.
5. Retain a biologist on-site when all ground disturbing activities are conducted to identify and minimize potential impacts.
6. Conduct a preconstruction survey, no more than 3 days prior to the start of construction. During the survey, the Designated Biologist shall systematically survey the proposed project site as well as 150-foot buffer, specifically searching for essential San Bernardino flying squirrel habitat features. If the species is identified, the Designated Biologist shall establish avoidance measures, in coordination with CDFW, to limit disturbance to the species during construction.

Lake and Streambed Alteration Program

In reviewing the MND, aerial photographs of the Project site, the Preliminary Hydrology Study, and Project design plans, particularly in areas identified as a gully with planned Reinforced Concrete Pipe and rock wall placement, CDFW determined the proposed Project may alter an unnamed drainage and recommends the applicant notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires and 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, waster 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 water courses with a subsurface flow. It may also apply for work undertaken within the flood plain of a body of water.

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). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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 appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating Project impacts on biological resources. The MND concluded that special-status plant species, southern rubber boa, and San Bernardino flying squirrel were unlikely to occur within the Project boundaries but did not include substantial evidence to support that determination. CDFW disagrees with these assumptions and is concerned that the County's impact analysis is inadequate to support their conclusions. As such, CDFW recommends the County adopt the recommended measures provided by CDFW prior to adopting the MND.

Questions regarding this letter or further coordination should be directed to Brandy Wood, Senior Environmental Scientist at 909-483-6319 or brandy.wood@wildlife.ca.gov.

Sincerely,

Scott Wilson
Environmental Program Manager

ec: Brandy Wood, Environmental Scientist, CDFW Inland Deserts Region
Brandy.Wood@wildlife.ca.gov

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Pine Tree RV Park Project, State Clearinghouse No. 2020029066
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HCPB CEQA Coordinator
Habitat Conservation Planning Branch

REFERENCES

California Department of Fish and Wildlife, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

Loe, Steve. 1985. Habitat management guide for southern rubber boa (*Charina bottae umbratica*) on the San Bernardino National Forest. Prepared for the U.S. Department of Agriculture San Bernardino National Forest.

ATTACHMENT A

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

Mitigation Measure	Implementation Schedule	Responsible Party
<p><u>BIO-5 Special Status Plant Species.</u> Prior to Project implementation, and during the appropriate season, the Applicant shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018), or similar, accepted rare-plant survey protocols. The surveys shall be conducted by a botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys should be conducted at the appropriate time of year when plants will both be evident and identifiable and, 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 conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

<p>taxonomic level necessary to determine rarity and listing status.</p> <p>If any rare plants or sensitive vegetation communities are identified, the Applicant shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the conservation of similar or higher-quality occupied habitat at a minimum 3:1 (replacement-to-impact) ratio. If the Project has the potential to impact a State-listed species, the Applicant shall apply for a California Endangered Species Act Incidental Take Permit with the California Department of Fish and Wildlife.</p>		
<p><u>BIO-6 Southern Rubber Boa.</u> The Applicant shall designate a southern rubber boa biologist (Designated Biologist), approved by California Department of Fish and Wildlife (CDFW), that is knowledgeable about the southern rubber boa, including its natural history, habitat requirements, seasonal movements and range, to survey and monitor for southern rubber boa prior to and during Project activities.</p> <p>Prior to Project implementation, and at the appropriate times, the Designated Biologist shall survey for southern rubber boa, using standard, accepted protocol, within all areas proposed for disturbance, including a 100-foot buffer from the Project area. The Designated Biologist(s) shall focus on moveable surface materials such as rocks, logs, and manmade debris that may provide shelter for the southern rubber boa.</p> <p>If suitable habitat for southern rubber boa is identified, the Applicant shall implement the following:</p> <ol style="list-style-type: none"> 1. The Designated Biologist shall be on-site when all ground disturbing activities are conducted. 2. The Designated Biologist shall conduct preconstruction surveys ending no more than 3 days prior to the start of construction. During the survey, all moveable surface materials 	<p>Prior to commencing ground- or vegetation-disturbing activities /</p> <p>Throughout project duration</p>	<p>Project Proponent</p>

<p>such as rocks, logs and manmade debris that may provide shelter for southern rubber boa shall be removed by hand.</p> <p>3. If a southern rubber boa is found, all project activities shall be halted, CDFW shall be contacted, and a California Endangered Species Act Incidental Take Permit obtained from CDFW.</p> <p>If southern rubber boa are found within the project site, the Applicant shall implement the following:</p> <ol style="list-style-type: none"> 1. The County or Applicant shall apply for an Incidental Take Permit from CDFW for take of southern rubber boa. 2. The Project proponent shall conserve southern rubber boa habitat as mitigation for project impacts to the species at a minimum ratio of 3:1 for all permanent loss of habitat. 		
<p><u>BIO-7 San Bernardino flying squirrel.</u> The Applicant shall designate a San Bernardino flying squirrel biologist (Designated Biologist), approved by CDFW, that is knowledgeable about the natural history, habitat requirements (including nesting habitat), and range of the species, to survey and monitor for the species, prior to and during construction.</p> <p>The Designated Biologist shall survey the Project site, including an appropriate buffer surrounding the site for habitat suitable to support San Bernardino flying squirrel, including dominant tree species present, canopy closure, duff layers, presence of large snags, presence of coarse woody debris (>10 cm), suitable cavity nesting sites and site proximity to annual or ephemeral water sources.</p> <p>If San Bernardino flying squirrel are found on-site or suitable habitat exists for the species, the Applicant shall implement the following:</p> <ol style="list-style-type: none"> 1. Minimize the removal of large coarse woody debris, which provide microhabitat for the 	<p>Prior to commencing ground- or vegetation-disturbing activities</p> <p>Throughout project duration</p>	<p>Project Proponent</p>

<p>growth of hypogeous fungi, a food source for San Bernardino Flying squirrel.</p> <ol style="list-style-type: none">2. Limit removal of standing snags >25 cm DBH) and large trees (>25cm DBH, which provide both structural complexity and potential nesting habitat.3. Prioritize the retention of large trees and snags with visible potential cavity nesting structures which are associated with high densities of flying squirrel.4. Minimize the loss of continuous canopy closure, which provides protection from predators while foraging and may play an important role in maintaining habitat connectivity.5. Retain a biologist on-site when all ground disturbing activities are conducted to identify and minimize potential impacts.6. Conduct a preconstruction survey, no more than 3 days prior to the start of construction. During the survey, the Designated Biologist shall systematically survey the proposed project site as well as 150-foot buffer, specifically searching for essential San Bernardino flying squirrel habitat features. If the species is identified, the Designated Biologist shall establish avoidance measures, in coordination with CDFW, to limit disturbance to the species during construction.		
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