



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



SENT BY EMAIL ONLY

March 14, 2022

Amy Harbin
 City of Long Beach
 411 W. Ocean Blvd., 3rd Floor
 Long Beach, CA 90802
Amy.Harbin@longbeach.gov

Subject: Long Beach River Park Residential Project, Draft Environmental Impact Report, SCH #2021020492, City of Long Beach, Los Angeles County

Dear Ms. Harbin:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Environmental Impact Report (DEIR) from the City of Long Beach (City; Lead Agency) for the Long Beach River Park Residential Project (Project). The Project is proposed by Integral Communities (Project Applicant). 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's 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 State 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, including 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.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description and Summary

Objective: The Project proposes the development of 226 detached and attached single-family units on approximately 15 acres of the 20-acre Project site. The residential area will be developed on the southern portion of the Project site located south of Baker Street. Specifically, the residential area will consist of 74 detached single-family condominium units, 152 attached townhouse units, and 510 parking spaces. In addition, a clubhouse, recreational area, and pool will be constructed. The remaining five acres located north of Baker Street will be designated as an open space area. The open space area will include a walking trail, exercise equipment, a look-out point, butterfly garden, and open turf area to accommodate a soccer field. Landscaping will be provided throughout the entire Project site. Additional Project-related activities include grading, vegetation clearing, bioremediation, internal road construction, biofiltration basin construction, and installment of wet and dry utility infrastructure. Development of the proposed Project is anticipated to occur over the span of approximately 44 months.

Location: The Project is located on approximately 20 acres of vacant land on the west side of the Wrigley Heights neighborhood, in the City of Long Beach, Los Angeles County. The Project site is bounded by West Wardlow Road to the south, the Los Angeles River to the west, the San Diego 405 Freeway to the north, and Golden Avenue to the east. Assessor's Parcel Number (APNs) associated with the Project site are 7203-002-001, -005, -007, -008, -009, and -010.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City of Long Beach in adequately avoiding and/or mitigating the Project's impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Inadequate disclosure of impacts on burrowing owls

Issue: CDFW is concerned that burrowing owl (*Athene cunicularia*), a California Species of Special Concern (SSC), was not adequately analyzed and discussed in the DEIR. No avoidance or minimization measures were provided in the DEIR.

Specific impacts: Impacts to burrowing owls were not assessed in the DEIR. Project construction and activities such as vegetation removal and grading may impact wintering, breeding, and foraging habitat for the species.

Why impact would occur: Typical burrowing owl habitat is often dry open areas with sparse vegetation and available burrows. Although this habitat is associated with dry grasslands and agricultural land, burrowing owls have found habitat in urban settings such as golf courses or vacant lots (Urban Bird 2022). In an urban setting, burrowing owls have been known to use artificial burrows such as exposed pipes or concrete debris piles (LSA 2009). However, burrowing owls generally prefer burrows commonly dug by ground squirrels or badger dens. The Initial Study noted that the California ground squirrel (*Otospermophilus beecheyi*) was

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observed during the biological survey of the Project site. With California ground squirrel on-site, their burrows could provide potential cover sites for burrowing owls. In addition, the Biological Resources Technical Report indicated that burrowing owls could occur on the Project site for transient periods of time.

Furthermore, results from a wintering burrowing owl survey conducted along Interstate 710 freeway indicate presence of two burrows directly adjacent to the Project site (LSA 2009). In addition, burrowing owls were recently observed in vacant lots about one mile north of the Project site along the Los Angeles River (LSA 2016). The DEIR does not provide discussion or avoidance measures to minimize the impacts to burrowing owls. If a protocol-level burrowing owl survey was conducted, there is potential that species presence may be observed. Project activities without pre-construction surveys could result in injury or mortality of unidentified burrowing owl. Lastly, grading activities will result in loss of habitat if burrowing owls are present.

Evidence impact would be significant: A [California Species of Special Concern](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022a).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065).

Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The Project and environmental document should be conditioned to avoid and/or mitigate for potential impacts to burrowing owl and habitat if burrowing owls are present. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the City perform a protocol-level survey for burrowing owls adhering to survey methods described in CDFW's March 7, 2012, [Staff Report](#)

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[on Burrowing Owl Mitigation](#) (CDFW 2012). Burrowing owl protocol surveys should be conducted by a qualified biologist on the Project site and within 100 feet (minimum) of the Project site where there is suitable habitat. In California, the burrowing owl breeding season extends From February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. If burrowing owls are identified, the applicant should prepare an Impact Assessment and Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. The Project Applicant should contact CDFW to develop appropriate mitigation/management procedures. The applicant should submit a final Burrowing Owl Mitigation Plan to the City prior to the City issuing construction permits.

Mitigation Measure #2: If the Project will impact habitat supporting burrowing owls, CDFW recommends that the City require the Project Applicant to offset impacts on habitat supporting a Species of Special Concern at no less than 2:1. There should be no net loss of burrowing owl habitat. The Project Applicant should set aside replacement habitat. Replacement habitat should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.

Mitigation Measure #3: CDFW recommends that the City require the Project Applicant to avoid using any rodenticides and second-generation anticoagulant rodenticides during Project activities.

Additional Recommendations

Moving out of Harm's Way. The proposed Project may result in impacting habitats on and/or adjacent to the Project site that may support ground dwelling wildlife. To avoid direct mortality of ground inhabiting species, CDFW recommends that a qualified biological monitor be on-site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grading or Project-related construction activities. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, we recommend that the DEIR clearly identify that the designated entity shall obtain all appropriate state and federal permits.

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDDB Online Field Survey Form](#) (CDFW 2022b). The City should ensure that the Project applicant has submitted data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project applicant should provide CDFW with confirmation of data submittal.

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Mitigation and Monitoring Reporting Plan. CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [(Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the City in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

Filing Fees

The Project, as proposed, could 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 City of Long Beach 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 & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the Project to assist the City of Long Beach in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of Long Beach has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Julisa Portugal, Environmental Scientist, at Julisa.Portugal@wildlife.ca.gov or (562) 330-7563.

Sincerely,

DocuSigned by:

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Victoria Tang signing for

Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

Erinn Wilson-Olgin, Los Alamitos – Erinn.Wilson-Olgin@wildlife.ca.gov

Victoria Tang, Los Alamitos – Victoria.Tang@wildlife.ca.gov

Ruby Kwan-Davis, Los Alamitos – Ruby.Kwan-Davis@wildlife.ca.gov

Felicia Silva, Los Alamitos – Felicia.Silva@wildlife.ca.gov

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Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov
CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov
State Clearinghouse, Office of Planning and Research – State.Clearinghouse@opr.ca.gov

References:

- [CDFW] California Department of Fish and Wildlife. March 7, 2012. Staff Report on Burrowing Owl Mitigation. Available at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>
- [CDFWa] California Department of Fish and Wildlife. 2022. Species of Special Concern. Available from: <https://wildlife.ca.gov/Conservation/SSC>
- [CDFWb] California Department of Fish and Wildlife. 2022. Submitting Data to the CNDDDB. Available at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.
- LSA Associates Inc. 2009. Results of Phase III Wintering Burrowing Owl surveys for the I-710 Corridor Project in Los Angeles County (LSA Project No. URS0801).
- LSA Associates Inc. 2016. Results of 2015 Phase I and Phase II Burrowing Owl Surveys for the Interstate 710 Corridor Project in Los Angeles County (LSA Project No. UR0801E).
- Urban Bird Foundation. 2022. Conserving Burrowing Owls in North America. Available at: <https://urbanbird.org/our-work/programs/burrowing-owl-conservation/>



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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1 – Burrowing Owl Survey	The City shall perform a protocol-level survey for burrowing owls adhering to survey methods described in CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation. Burrowing owl protocol surveys shall be conducted by a qualified biologist on the Project site and within 100 feet (minimum) of the Project site where there is suitable habitat. In California, the burrowing owl breeding season extends From February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. If burrowing owls are identified, the applicant shall prepare an Impact Assessment and Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. The Project Applicant shall contact CDFW to develop appropriate mitigation and management procedures. The applicant shall submit a final Burrowing Owl Mitigation Plan to the City prior to the City issuing construction permits.	Prior to finalizing CEQA document	City of Long Beach/ Project Applicant
MM-BIO-2 – Species of Special Concern Mitigation	If the Project will impact habitat supporting burrowing owls, CDFW recommends that the City require the Project Applicant to offset impacts on habitat supporting a Species of Special Concern at no less than 2:1. There should be no net loss of burrowing owl habitat. The Project Applicant should set aside	Prior to finalizing CEQA document	City of Long Beach/ Project Applicant

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	replacement habitat. Replacement habitat should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.		
MM-BIO-3 – Rodenticides	The City require the Project Applicant to avoid using any rodenticides and second-generation anticoagulant rodenticides during Project activities.	During Project activities.	Project Applicant
REC 1 – Move out of Harm’s Way	To avoid direct mortality of ground inhabiting species, CDFW recommends that a qualified biological monitor be on-site prior to and during ground and habitat disturbing activities to move out of harm’s way special status species or other wildlife of low mobility that would be injured or killed by grading or Project-related construction activities. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, we recommend that the DEIR clearly identify that the designated entity shall obtain all appropriate state and federal permits.	During Project activities.	Project Applicant/ Biological Monitor
REC 2 – Data	Please report any special status species detected by completing and submitting CNDDB Online Field Survey Form . The City should ensure that the Project Applicant has submitted the data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project Applicant should provide CDFW with confirmation of data submittal.	Prior to finalizing CEQA document	City of Long Beach/ Project Applicant
REC 3 - MMRP	The MND’s proposed Biological Resources Mitigation Measures should be updated and conditioned to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. The City is welcome to	Prior to finalizing CEQA document	City of Long Beach

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	coordinate with CDFW to further review and refine the Project's mitigation measures.		
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