



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Rd.
San Diego, CA 92123
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor’s Office of Planning & Research

August 6, 2021

August 09 2021

STATE CLEARINGHOUSE

Spencer Hayes
City of El Cajon
200 Civic Center Way
El Cajon, CA 92020
Shayes@elcajon.cgov

Dear Mr. Hayes:

**Subject: OAKDALE TOWNHOMES (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
(SCH# 2021070478)**

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of El Cajon for the 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.

PROJECT DESCRIPTION SUMMARY

Proponent: City of El Cajon (City)

Objective: The objective of the Project is to construct seven two-story apartment townhome units, including parking, landscaping, and outdoor open space. Primary Project activities include site preparation, grading, utility work, and construction of the townhome units.

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.

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Location: The Project site is a 0.4-acre vacant lot on Oakdale Avenue in the City of El Cajon (City), and is surrounded by residential housing, including a vacant lot to the south. The Project site is not within a Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP) area.

Biological Setting: The MND indicates that the Project site is heavily disturbed, consisting of primarily weedy and ornamental species. One special-status plant documented during general biological surveys was the federally endangered San Diego ambrosia (ambrosia; *Ambrosia pumila*). This species is also listed as a narrow endemic species in the San Diego Multiple Species Conservation Plan (MSCP) covering southwestern San Diego County. Although El Cajon was an original participant in the MSCP development, this jurisdiction did not choose to complete the state or federal permits. The MND indicates that 2,000+ stems were documented during the biological survey conducted in 2020. No special-status wildlife species are expected to occur on the Project site, due to lack of suitable habitat.

Timeframe: The Project is expected to span 6 months, pending approval of construction documents by the City.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT #1: San Diego Ambrosia

Section IV. Biological Resources, Page 16 and Appendix B. San Diego Ambrosia Translocation and Management Plan

Issue: The Project proposes to translocate the 2,000+ stem population of ambrosia that is currently within the Project site. Ambrosia was previously translocated from this site in April 2018, prior to the sale of the property; the 2,000+ stems are new growth following the prior partial translocation. Mitigation Measure BIO-1 (MM BIO-1) indicates that a translocation plan for the on-site ambrosia will be developed in conjunction with the U.S. Fish and Wildlife Service (USFWS), and a copy of the San Diego Ambrosia Translocation and Management Plan is included as an attachment to the MND.

There has been ongoing correspondence from April 2021 to present regarding translocation options between Meredith Osborne with CDFW, Eric Porter with the United States Fish and Wildlife Service (USFWS), the City, biological consultants, and the property owners. Two proposed translocation plans were discussed. One plan proposed translocating the ambrosia from the Project site to the Hanson Pond Preserve in Lakeside, CA, and the second plan proposed to translocate the ambrosia to the Railroad Avenue Preserve in Santee. The plan that was ultimately agreed upon by CDFW and USFWS (collectively referred to as the Wildlife Agencies) involved working with biological consultant Vincent Scheidt to translocate the remaining plants to the Railroad Avenue Preserve adjacent to Railroad Avenue and Gillespie

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Field in Santee. This agreement was made due to prior success by Mr. Scheidt in translocating ambrosia to that site in 2016, the survival and expansion of that translocated ambrosia in the years since translocation, and the likelihood of translocation success for the proposed Project. Eric Porter relayed support for this proposal to Melissa Devine and Spencer Hayes at the City via e-mail (Porter 2021).

The San Diego Ambrosia Translocation and Management Plan included with the MND (Appendix B) proposes translocation to the Endangered Habitat Conservancy (EHC) Hanson Pond Preserve in Lakeside, CA. A prior translocation of ambrosia from the Project site (before purchase by the current owner) to the Hanson Pond Preserve site has been less successful and few of those plants remain. Another ambrosia population translocated in 2020 from a site in El Cajon appears to be doing well with irrigation in the first year of management and monitoring. However, the translocation took place in 2020, which has not allowed as much time to pass, compared to the Railroad Avenue Preserve, to evaluate translocation success on a long-term basis.

Evidence impact would be significant: As indicated in Appendix B: San Diego Ambrosia Translocation and Management Plan, impacts to ambrosia are considered significant. In addition to being a federally endangered species, there are only eighteen known natural populations remaining in San Diego County (CDFW 2019).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)

Recommendation #1:

To reduce impacts to less than significant: While CDFW generally supports the management and monitoring criteria proposed in Appendix B: San Diego Ambrosia Translocation and Management Plan, we continue to recommend translocation to the site along Railroad Avenue, due to the increased probability of translocation success at this location.

COMMENT #2: Nesting Bird Impacts

Section IV. Biological Resources, Page 16

Issue: Mitigation Measure BIO-2 (MM BIO-2) does not adequately avoid or minimize impacts to nesting birds.

Specific Impact: MM-BIO-2 describes pre-construction surveys for nesting birds within 14 days of ground disturbance, should clearing and/or construction activities occur during avian nesting season (February through August). The MND indicates that the qualified biologist will establish a suitable buffer of no-disturbance around any active nests. A two-week timeframe may be insufficient to detect nest activity, as birds may locate onto the project site and begin nesting during that large span of time. Nesting bird surveys should be conducted as close to the time of potential disruption as possible, no more than 3 days prior to ground disturbance, vegetation removal, or construction activities.

Why impact would occur: Ornamental vegetation on the Project site may provide suitable habitat for nesting birds. Direct impacts to nesting birds may occur from vegetation removal if nests are present.

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Evidence impact would be significant: California Fish and Game Code Sections 3503, 3503.5, and 3513 require the avoidance of the incidental loss of fertile eggs or nestlings, or activities that lead to nest abandonment (Fish & G. Code, § 3503, 3503.5, and 3513 *et seq.*).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure #1:

To reduce impacts to less than significant: To avoid potential direct and indirect impacts to nesting birds in conformance with the California Fish and Game Code and Migratory Bird Treaty Act, the MND should require that clearing of vegetation and construction activities occur outside of the peak avian breeding season, which generally runs from February 1st through September 1st (as early as January 1st for some raptors). If Project activities cannot occur outside of the bird nesting season, CDFW recommends that nesting bird surveys be conducted no more than three days prior to construction-related activities including clearing of vegetation, grubbing, or grading. If active nests or breeding behavior are observed within the Project area during the survey, a buffer zone with a minimum width of 100 feet (300 feet for CESA-listed passerines and 500 feet for raptors) should be established around the nest and a qualified biologist should be on-site to monitor activity daily during vegetation clearing and grading. Buffer zones should be delineated by temporary fencing and remain in effect as long as construction is occurring or until the nest is no longer active.

We recommend that the MM BIO-2 incorporate the following language (changes indicated in **bold**):

“General Nesting Birds. Clearing shall occur between non-nesting (or non-breeding) season for birds (generally, September 1 to January 31). If this avoidance schedule is not feasible, the alternative is to carry out pre-construction surveys under the supervision of a qualified biologist experienced with the detection of nests and nesting birds. The pre-construction survey shall entail the following:

*A qualified biologist shall conduct a pre-construction nesting bird survey no more than **three (3)** days prior to initiating ground disturbance activities. The survey shall consist of full coverage of the proposed disturbance limits and up to a 500-foot buffer area, determined by the biologist and taking into account the species nesting in the area and the habitat present.*

If no active nests are found, no additional measures are required.

*If "occupied" nests are found, their locations shall be mapped, species documented, and, to the degree feasible, the status of the nest (e.g., incubation of eggs, feeding of young, near fledging) recorded. The biologist shall establish a no-disturbance buffer around each active nest. The buffer area shall be determined by the biologist based on the species present, surrounding habitat, and type of construction activities proposed in the area; **buffers shall be a minimum width of 100 feet (300 feet for CESA-listed passerines and 500 feet for raptors)**. No construction or ground disturbance activities shall be conducted within the buffer until the biologist has determined the nest is no longer active and has informed the construction supervisor that activities may resume.”*

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jessie Lane, Environmental Scientist, at Jessie.Lane@wildlife.ca.gov.

Sincerely,

DocuSigned by:


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David Mayer
Environmental Program Manager
South Coast Region

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Attachments

A. CDFW Comments and Recommendations

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REFERENCES

California Department of Fish and Wildlife. 2019. *Ambrosia pumila*. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System (BIOS). Retrieved August 6, 2021, from <http://bios.dfg.ca.gov>.

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EMAILS

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Ramos, Fariba. Email to Eric Porter. 8 July 2021.

Porter, Eric. Email to Fariba Ramos. 15 June 2021.

Ramos, Fariba. Email to Eric Porter, John Young, and Tho Ramos. 15 June 2021.

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Devine, Melissa. Email to Fariba Ramos, Tho Ramos, and John Young. 9 June 2021.

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Terp, Jill. Email to Jonathan Snyder, Sally Brown, Fariba Ramos, John Young, and Chris Manzuk. 23 April 2021.

Young, John. Email to Jill Terp and Fariba Ramos. 23 April 2021.

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Attachment A:

CDFW Comments and Recommendations

	Recommendations/Mitigation Measures	Timing	Responsible Party
Recommendation #1	CDFW recommends that remaining on-site San Diego ambrosia be translocated to the site proposed along Railroad Avenue, due to the increased probability of translocation success at this location.	Prior to construction	City of El Cajon
Mitigation Measure #1	<p>General Nesting Birds. Clearing shall occur between non-nesting (or non-breeding) season for birds (generally, September 1 to January 31). If this avoidance schedule is not feasible, the alternative is to carry out pre-construction surveys under the supervision of a qualified biologist experienced with the detection of nests and nesting birds. The pre-construction survey shall entail the following:</p> <p>A qualified biologist shall conduct a pre-construction nesting bird survey no more than three (3) days prior to initiating ground disturbance activities. The survey shall consist of full coverage of the proposed disturbance limits and up to a 500-foot buffer area, determined by the biologist and taking into account the species nesting in the area and the habitat present.</p> <p>If no active nests are found, no additional measures are required.</p> <p>If "occupied" nests are found, their locations shall be mapped, species documented, and, to the degree feasible, the status of the nest (e.g., incubation of eggs, feeding of young, near fledging) recorded. The biologist shall establish a no-disturbance buffer around each active nest. The buffer area shall be determined by the biologist based on the species present, surrounding</p>	Prior to construction	City of El Cajon

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	habitat, and type of construction activities proposed in the area; buffers shall be a minimum width of 100 feet (300 feet for CESA-listed passerines and 500 feet for raptors) . No construction or ground disturbance activities shall be conducted within the buffer until the biologist has determined the nest is no longer active and has informed the construction supervisor that activities may resume		
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