



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Palm Springs Fish and Wildlife Office
777 East Tahquitz Canyon Way, Suite 208
Palm Springs, California 92262



In Reply Refer To:
FWS-WRIV-12B0159-13CPA0091

Mr. Mark Gross
City of Moreno Valley
Community and Economic Development Department
14177 Frederick Street
Moreno Valley, California 92552

APR 22 2013

Subject: Draft Environmental Impact Report, World Logistics Center Project, City of Moreno Valley, Riverside County, California

Dear Mr. Gross:

The U.S. Fish and Wildlife Service (Service) has reviewed the Draft Environmental Impact Report (DEIR) for the World Logistics Center Project (Project) and appreciates the opportunity to comment. The proposed Project is located on 3,820 acres of land in the city of Moreno Valley (City) in Riverside County, south of State Route 60 between Redlands Boulevard and Gilman Springs Road, and is adjacent to the San Jacinto Wildlife Area (SJWA). The proposed Project is a master plan for development of up to 41.6 million square feet of building area for high-cube logistics warehouse distribution facilities. The Project includes a General Plan Amendment, adoption of a Specific Plan, a Zone Change, a Development Agreement, a Tentative Parcel Map, and an annexation.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The Service is providing the following comments in keeping with our agency's mission to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people and the Project's consistency with the Western Riverside County Multiple Species Habitat Conservation Plan.

On June 22, 2004, the Service issued a section 10(a)(1)(B) permit for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. Under the MSHCP, Permittees conduct covered activities consistent with the MSHCP, its associated Implementing Agreement, and section 10(a)(1)(B) permit issued. The City of Moreno Valley is an MSHCP Permittee and the Project is within the MSHCP Plan Area.

The proposed Project site and associated infrastructure improvements (i.e., offsite road improvements, debris basins, etc.) are located in MSHCP Criteria Cell Groups T, X, D' and E' of the Reche Canyon/Badlands Area Plan. Project features extend into Existing Core H (Lake Perris State Recreation Area/San Jacinto Wildlife Area) to the south, Proposed Core 3 to the north and east, and are adjacent to Existing Public/Quasi Public Lands to the north and south.

We are concerned that riparian/riverine resources within on and off site development areas and impacts to those resources may not be appropriately characterized. We also have questions regarding the Project's focused surveys and proposed mitigation for western burrowing owl (*Athene cunicularia hypugea*, burrowing owl) and Los Angeles pocket mouse (*Perognathus longimembris brevinasus*, LAPM). Additionally we have concerns about potential Project impacts to MSHCP reserve assembly and the potential for the project to degrade existing conservation values on the SJWA. Furthermore, we would like to clarify the Project's obligations under the Migratory Bird Treaty Act. The Service requests revising and recirculating the DEIR to address these issues as discussed below.

Reserve Assembly

The Project proposes development within Cell Group X. The proposed Project will not preclude reserve assembly in Cell Group X; however wildlife movement between the badlands and the SJWA may be severely restricted. Please include an analysis of wildlife connectivity across Gilman Springs Road post project in the recirculated DEIR. The analysis should include any road improvements or features to facilitate or accommodate wildlife movement across the road and the efficacy of those measures in the presence of project-related increases in traffic.

The southern boundary of the Project is adjacent to Cell Group D' and abuts Existing Public/Quasi Public Lands and Existing Core H. The northern offsite infrastructure improvements will extend into the southern portion of Cell Group T and Proposed Core 3. Development within the Criteria Cells is subject to the Joint Project Review (JPR) process, described in Section 6.6.2 of the MSHCP. The DEIR states that the JPR process will be conducted as project specific development applications are made. We encourage the City to complete MSHCP implementation and do a JPR for the entire Specific Plan during CEQA review. This will eliminate uncertainty for future development proponents in the Specific Plan Area and provide clarity regarding the Project's MSHCP compliance.

The SJWA is adjacent to and south of the Project site. The DEIR identifies a 250-foot buffer zone between Project development and the SJWA. We appreciate the inclusion of the buffer area in the Specific Plan, but note that the buffer area includes project features and infrastructure, and seeming contradictory expectations regarding function. The buffer area is to be fenced and planted with trees to segregate the project from the SJWA. Yet the DEIR also states that any LAPM or burrowing owls located during future project development will be translocated to the buffer area. Adverse alterations to drainage pattern alterations, Project related ambient noise, pollutant discharge, lighting, and emissions are all to be mitigated to some degree by the proposed buffer. We request an analysis of the Project activities and impacts with the potential to negatively affect the conservation values on the SJWA and the expected efficacy of the proposed 250 foot buffer at alleviating any negative impacts.

Riparian/Riverine Resources

The DEIR describes impacts to riparian and/or riverine areas as defined by the MSHCP Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools Policy (Riparian/Riverine Policy, MSHCP section 6.1.2). However, it appears that not all hydrological features within the Project site with characteristics of riparian/riverine resources were considered in the DEIR. Offsite development discussed in the DEIR, Section 3.4.11, includes the construction of four debris basins and one to two water reservoirs. Based on aerial imagery, these Project features appear to have the potential to affect riparian/riverine resources. Riparian/riverine resources include areas that convey water during all or portions of the year even when they do not express water dependent vegetation. We request a revised DEIR which identifies impacts to all hydrologic features covered by the Riparian/Riverine Policy, including those affected by project-related infrastructure outside of the Specific Plan development area.

Onsite development plans as depicted in DEIR, Figure 3.18, have potential to impact riparian/riverine resources. According to the DEIR, only Drainage 9 is considered riparian habitat. Drainage features 4, 8, 10, 11, and 12 also appear to be riparian/riverine. According to the Jurisdictional Delineation (Michael Brandman Associates 2012) the drainages have properties which indicate periodic hydrological conveyance. Although the Jurisdictional Delineation stated that the drainages do not have clear connectivity to traditionally navigable waters, these features do have connectivity to the SJWA and its associated hydrological complex, making them subject to the Riparian/Riverine Policy. Furthermore, several of the drainages contain riparian vegetation including mule fat (*Baccharis salicifolia*) and cottonwood (*Populus fremontii*). We request the revised DEIR reassess the hydrologic features on site and discuss the Projects conceptual grading design plans potential to impact riparian/riverine resources.

The DEIR states that impacts to riparian/riverine resources are to be mitigated through the preparation of Determinations of Biologically Equivalent or Superior Preservation (DBESPs) as individual projects are approved. As with the JPR process, we encourage the City to implement the Riparian/Riverine Policy and complete MSHCP implementation for the entire Specific Plan area. The DBESP should include an assessment of any impacts from the proposed Project to all hydrologic features covered by the Riparian/Riverine Policy, mitigation for unavoidable impacts to those features and an analysis sufficient to demonstrate that the proposed mitigation would result in preservation equal or superior to an avoidance alternative.

The Project requires the construction of debris basins, but the long-term maintenance of the basins was not discussed in the DEIR. Vegetation in that develops in the basins may support nesting birds and other wildlife. If basin maintenance activities are required, we would like to remind the Project applicant that impacts to nesting birds protected under the Federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*), must be avoided. The Service recommends the revised DEIR include a discussion of debris basin maintenance activities, potential impacts resulting from maintenance activities and any measures to avoidance, minimization or mitigate those impacts.

Additional Survey and Procedure Needs

Burrowing Owl

The proposed Project is located within Additional Survey Needs and Procedure Area for western burrowing owl as described in Section 6.3.2 of the MSHCP. According to the DEIR, habitat assessments and focused burrowing owl surveys were conducted in 2005 (May 10, 20, 23, and August 29); 2007 (May 1, 2, 3, and 4); and 2010 (June 9, 10, 11, and 16). Suitable habitat and small mammal burrows which could be utilized by burrowing owl were recorded throughout the site. In 2005, a single pair of burrowing owls was detected. Mitigation measures 4.4.6.4C commits future development within the Specific Plan Area to preconstruction surveys. We would like to clarify that as part of MSHCP implementation, focused burrowing owl surveys during the nesting season will need to be conducted as part of individual project approvals. We request that measure 4.4.6.4C be revised to require surveys consistent the Burrowing Owl Survey Instructions for the Western Riverside County MSHCP instead of pre-construction surveys. Revised measure 4.4.6.4C should be included in the revised DEIR.

Mitigation measure 4.4.6.4D describes procedures for relocating active burrowing owl burrows outside of the breeding season. While the MSHCP does provide for the active translocation of burrowing owls, this activity can only be undertaken when proposed projects affect isolated burrowing owls occupying areas with little or no conservation value. Owls are known from the Project site and given its proximity to existing conservation land it is premature to assume that any owls found onsite can be translocated or evicted. The Service requests that the City and the project proponent work with the California Department of Fish and Wildlife, the Western Riverside County Regional Conservation Authority and us to develop a comprehensive strategy for burrowing owl in the Specific Plan Area. A comprehensive strategy is appropriate given the scale of the proposed Specific Plan if impacts to burrowing owl from build out of the specific Plan are to be mitigated to a level that is biologically equivalent or superior to avoidance, as required by the MSHCP. The comprehensive strategy should be discussed and analyzed in a revised DEIR.

Los Angeles Pocket Mouse

The Project site is located within Additional Survey and Procedure Needs for LAPM. Surveys for LAPM were conducted June 27 to July 2, 2010. LAPM were not reported, however, three other species of pocket mice were reported: San Diego pocket mouse (*Chaetodipus fallax fallax*), desert pocket mouse (*Chaetodipus penicillatus*) and long-tailed pocket mouse (*Chaetodipus formosus*). Desert pocket mouse and long-tailed pocket mouse are desert species, not known from western Riverside County or cismontane California, (www.bison.usgs.ornl.gov), and neither have been recorded, trapped or observed in the project vicinity (N. Peterson, CDFW, pers. comm. 2013). (The long-tailed pocket mouse was reported on the project site by same consulting biologist in 2005.) However, the desert pocket mouse resembles the LAPM and the long-tailed pocket mouse resembles the California pocket mouse (*Chaetodipus californicus*), both of which are known from the project vicinity and routinely captured on the SJWA and Lake Perris State Recreation area, immediately south of the proposed project. We request focused LAPM trapping be redone by mammalogists who have familiarity with the local hetromyid (kangaroo rats and pocket mice) fauna. Additionally, the new LAPM survey effort should include trap arrays within the MSHCP LAPM survey area along the northeastern edge of the Specific Plan Area. If the drainage facilities proposed on the north side of Gilman Spring Road are within the LAPM survey area, the infrastructure project areas should be

trapped as well. We request that survey results and a DBESP for LAPM be included in a revised DEIR.

The DEIR included mitigation measure 4.4.6.4E for loss of habitat and Project impacts to LAPM. Mitigation measure 4.4.6.4E provides that if the species is found within the specific survey area, no development shall occur until an appropriate mitigation fee is paid or appropriate amount of land set aside on the project site or off site to compensate for any loss of occupied LAPM habitat. Alternatively, individuals may be relocated to the 250-foot setback zone along the southern boundary of the property. The area described in this measure is also described for burrowing owl conservation and relocation. The Service requests that the City and the project proponent work with the California Department of Fish and Wildlife, the Western Riverside County Regional Conservation Authority and us to develop a comprehensive strategy for LAPM in the Specific Plan Area. A comprehensive strategy is appropriate given the scale of the proposed Specific Plan if impacts to LAPM from build out of the specific Plan are to be mitigated to a level that is biologically equivalent or superior to avoidance. The comprehensive strategy should be discussed and analyzed in a revised DEIR.

Translocation and On-site Conservation Area


As discussed previously, the Service is concerned about the role of the proposed 250-foot buffer area. The DEIR prescribes translocation of listed flora, burrowing owl, LAPM, and calls for the area to serve as a buffer that will act as a sequester zone for project emission, noise, and lighting pollution. It is not appropriate as a receptor site for either LAPM or burrowing owl. It is insufficient in terms of area, spatial configuration, and planned use. Burrowing owls are a species of raptor which prey on small mammals such as the LAPM. Translocation within this narrow, relatively restricted area may exacerbate the existing predator prey relationship between the species and subsequently increase local population depredation frequencies (McKinney et. al. 2006). Furthermore, burrowing owls require large open expanses of sparsely vegetated area to forage and nest. The buffer area is to be planted with trees. Trees offer perch sites to bird eating raptors, such as red-tailed hawks, which eat burrowing owls. We request that a revised DEIR propose comprehensive strategies for Project effects to LAPM and burrowing owl as discussed above.

Migratory Birds

The MBTA protects migratory birds, and their nests, eggs, young, and parts from possession, sale, purchase, barter, transport, import, and export, and take. For the purposes of the MBTA, "take" is defined as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect," or attempt to engage in any of the aforementioned activities (50 C.F.R. § 10.12). We appreciate the inclusion of mitigation measures 4.4.6.4A and 4.4.6.4B to avoid effects to nesting birds. However, we request that the words 'special status' be removed from 4.4.6.4B because the MBTA applies to all nesting birds included in the MBTA, (virtually all birds expected in the Project area), not just those with sensitive status. Please note, the Service recommends a 300-foot buffer for non-listed birds and a 500-foot buffer for special status birds and raptor species. We also recommend that a biological monitor be present to monitor the effects of construction on any active nests and to ensure that there is no encroachment into the buffer zone.

We appreciate the opportunity to comment on the DEIR. If you have questions or comments regarding this letter, please contact Christ Allen of the Service at 760-322-2070, extension 215.

Sincerely,



Kennon A. Corey
Assistant Field Supervisor

Literature Cited:

Peterson, N. 2013. Biologist. California Department of Wildlife (CDFW). Electronic Mail to Chris Allen, U.S. Fish and Wildlife Service, Palm Springs, California, March 12, 2013.

Michael Brandman Associates. 2012. Assessment of Jurisdictional Waters and Wetlands World Logistics Center Specific Plan. Prepared for Highland Fairview Operating Company. April 23, 2012.

McKinney, T., J. C. Devos, W. B. Ballard, and S. R. Boe. 2006. Mountain lion predation of translocated desert bighorn sheep in Arizona, *Wildlife Society Bulletin*, vol. 34, no. 5, pp. 1255–1263, 2006.