



SJCOG, Inc.

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San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

Centerpoint Intermodal Facility (Phase 1B) Expansion

APN: 198-200-12, 198-200-15

Incidental Take Minimization Measures

Date: October 23, 2013

Total Disturbed Acres Anticipated: 43.3 acres (see attached map for Phase 1 & 1B Combined)

Habitat Types to be Disturbed: Agricultural Habitat Lands

Project Jurisdiction: San Joaquin County/City of Manteca

Findings:

SJMSCP Covered Animal Species Potentially Occurring on Project Site	
Animal Species	Findings
Birds	
Cooper's hawk <i>Accipiter cooperi</i>	Suitable foraging habitat on the project site. No suitable nesting habitat.
Sharp-shinned hawk <i>Accipiter striatus</i>	Suitable foraging habitat on the project site. No suitable nesting habitat.
Western burrowing owl <i>Athene cunicularia</i>	Suitable nesting habitat present on site. Many known occurrences of burrowing owl in the area. None observed onsite.
White-tailed kite <i>Elanus leucurus</i>	Suitable foraging habitat on the project site. No suitable nesting habitat.
Tri-colored blackbird <i>Agelaius tricolor</i>	Suitable foraging habitat on the project site. No suitable nesting habitat.
Invertebrates	
Valley elderberry longhorn beetle <i>Desmocerus californicus dimorphus</i>	No blue elderberry shrubs (<i>Sambucus mexicana</i>) were identified on the project site.
Reptiles	
California tiger salamander <i>Ambystoma californiense</i>	No suitable habitat on the project site.
Giant garter snake <i>Thamnophis gigas</i>	No suitable habitat on the project site.
Western pond turtle <i>Emys marmorata</i>	No suitable habitat on the project site.

SJMSCP Covered Plant Species Potentially Occurring on Project Site	
Plant Species	Findings
Alkali milk-vetch <i>Astragalus tener var tener</i>	No suitable habitat on the project site.
Blue skullcap <i>Scutellaria lateriflora</i>	No suitable habitat on the project site.
Bristly sedge <i>Carex comosa</i>	No suitable habitat on the project site.

Habitat Types to be Disturbed: 43.3acres of C4 Row and Field Crop Agricultural Habitat

Conditions

This project is required to return a signed Incidental Take Minimization Measures to participate in the SJMSCP. If no signed ITMM is filed within six-months of issuance, this project will not be covered by the SJMSCP and will have to re-apply for coverage.

Prior to Ground Disturbance:

1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

2013 SJMSCP Fees

Pay the appropriate SJMSCP fee to SJCOG Inc.:

43.3 acres (billable) X \$12,711 (Agricultural Habitat Lands Fee/acre) = \$550,386.30

Total Fee due: \$550,386.30

Note: If fees are not paid prior to January 1, 2014 this project will be subject to the subsequent fee changes, and the fee above will no longer be applicable.

Project Proponent Must Initial Here As to Understanding the Note Above: _____

Prior to Commencing Construction Between February 1st and September 15th:

5.2.4.15 Burrowing Owls

The presence of ground squirrels and squirrel burrows are attractive to burrowing owls. Burrowing owls may therefore be discouraged from entering or occupying construction areas by discouraging the presence of ground squirrels. To accomplish this, the Project Proponent should prevent ground squirrels from occupying the project site early in the planning process by employing one of the following practices:

A. The Project Proponent may plant new vegetation or retain existing vegetation entirely covering the site at a height of approximately 36" above the ground. Vegetation should be retained until construction begins. Vegetation will discourage both ground squirrel and owl use of the site.

B. Alternatively, if burrowing owls are not known or suspected on a project site and the area is an unlikely occupation site for red-legged frogs, San Joaquin kit fox, or tiger salamanders:

The Project Proponent may disc or plow the entire project site to destroy any ground squirrel burrows. At the same time burrows are destroyed, ground squirrels should be removed through one of the following approved methods to prevent reoccupation of the project site. Detailed descriptions of these methods are included in Appendix A, Protecting Endangered Species, Interim Measures for Use of Pesticides in San Joaquin County, dated March, 2000:

1. **Anticoagulants.** Establish bait stations using the approved rodenticide anticoagulants Chlorophacinone or Diphacinone. Rodenticides shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.
2. **Zinc Phosphide.** Establish bait stations with non-treated grain 5-7 calendar days in advance of rodenticide application, and then apply Zinc Phosphide to bait stations. Rodenticides shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.
3. **Fumigants.** Use below-ground gas cartridges or pellets and seal burrows. Approved fumigants include Aluminum Phosphide (Fumitoxin, Phostoxin) and gas cartridges sold by the local Agricultural Commissioner's office. NOTE: Crumpled newspaper covered with soil is often an effective seal for burrows when fumigants are used. Fumigants shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.
4. **Traps.** For areas with minimal rodent populations, traps may be effective for eliminating rodents. If trapping activities are required, the use of traps shall be consistent with all applicable laws and regulations.

If the measures described above were not attempted or were attempted but failed, and burrowing owls are known to occupy the project site, then the following measures shall be implemented:

- A. **Breeding season (February 1 through August 31):** Pre-construction surveys for burrowing owls [following the Staff Report on Burrowing Owls (CDFG 2012)] will be performed no less than 14 days prior and again 24-hours prior to initial ground disturbance activities.
 1. Any occupied burrows shall not be disturbed and shall be provided with a 75 meter protective buffer until and unless the TAC, with the concurrence of the Permitting Agencies (representatives on the TAC); or unless a qualified biologist approved by the Permitting Agencies verifies through non-invasive means that either: 1) the

birds have not begun egg laying, or 2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Once the fledglings are capable of independent survival, a Burrowing Owl Exclusion Plan (BOEP) is developed and approved by the applicable Department of Fish and Wildlife SJMSCP representative/office, and habitat is mitigated in accordance with the Staff Report (CDFG 2012), then the burrow can be destroyed. Pre-construction surveys following destruction of burrows and prior to initial construction activities are required (24-hours prior) to ensure owls do not re-colonize the Project Area.

2. If Project activities are delayed or suspended for more than 15 days during the breeding season, surveys will be repeated.

- B. Non-breeding season (September 1 through January 31):** Pre-construction surveys following the Staff Report on Burrowing Owls (CDFG 2012) will be performed prior (no less than 14-days and again 24-hours prior) to initial ground disturbance activities. Burrowing owls may be evicted after a Burrowing Owl Exclusion Plan is developed and approved by the applicable Department of Fish and Wildlife SJMSCP representative/office and habitat is mitigated in accordance with the Staff Report (CDFG 2012).

Pre-construction surveys following destruction of burrows and prior to initial construction activities are required (24-hours prior) to ensure owls do not re-colonize the Project Area. If owls are found within 50 meters of the Project Area, it is recommended that visual screens or other measures are implemented to limit disturbance of the owls without evicting them from the occupied burrows.

During project construction:

1. All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers and removed at least once a week from the construction site.

In reliance on the Section 10(a)(1)(B) Permit issued by the United States Fish and Wildlife Service and the Section 2081(b) Incidental Take Permit issued by the California Department of Fish and Game, *San Joaquin County/City of Manteca* has consulted with and agreed to allow coverage pursuant to the SJMSCP for the *Centerpoint Intermodal Facility (Phase 1B) Expansion*, its successors, agents and assigns pursuant to the "Implementation Agreement for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan" which will allow the *Centerpoint Intermodal Facility (Phase 1B) Expansion*, its successors, agents and assigns to construct, operate and maintain the Project commonly known as the *Centerpoint Intermodal Facility (Phase 1B) Expansion* and located on Assessor Parcel Number 198-200-12 and 198-200-15, which could result in a legally permitted Incidental Take of the SJMSCP Covered Species in accordance with and subject to the terms and conditions of the *Centerpoint Intermodal Facility (Phase 1B) Expansion* approved by *San Joaquin County/City of Manteca*. This Certification applies only to activities on the subject parcel(s) which are carried out in full compliance with the approved plans for the *Centerpoint Intermodal Facility (Phase 1B) Expansion*, Section 10(a)(1)(B) Permit, and Section 2081(b) Incidental Take Permit conditions.

I have read, acknowledge, and agree to the preceding conditions:

Project Proponent for the Centerpoint Intermodal Facility (Phase 1B)

Date

Please Print Name Here

FOR SJCOG, Inc. Use Only:

SJCOG, Inc. Staff Signature

Official Date of Issuance

SJCOG, Inc. Staff Print Name Here

Attachment 1 – Centerpoint Phase 1 and 1B Site Map

