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June 13, 2025

Vivien Togonon, Associate Planner
City of Benicia Community Development Department
250 East L Street
Benicia, CA 94510
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Subject: Storage Star Facility Project, Initial Study/Mitigated Negative Declaration, SCH No. 2025050673, City of Benicia, Solano County

Dear Vivien Togonon:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration (IS/MND) from City of Benicia (City) Community Development Department for the Storage Star Facility 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.

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 (LSA) 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

Proponent: Storage Star Facility Project

Objective: The objective of the Project is to develop a 5.98 acre (121,183-square-foot site for a self-storage facility. Primary Project activities include construction of 4 buildings [three single-story and one two-story] for the purpose of typical self-storage and RV storage, construction of a stormwater bioretention area in the southeastern portion of the site, paving for parking, construction of an internal roadway system which

[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.

will connect to two new driveways off of Goodyear Road, landscaping, and utilities improvements.

Location: 7000 Goodyear Road, Benicia, CA 94510; Assessor's Parcel No. 0080-320-380; Township 3N, Range 2W, Section 20; Latitude 38°5'32.42"N, Longitude -122°6'19.22"W.

Timeframe: Approximately one year

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in "take" of plants or animals listed under CESA or the Native Plant Protection Act (NPPA), either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit.

Candidate species for listing under CESA are afforded the same legal protections as CESA-listed species while under review (Fish and Game Code § 2608). Candidate species which may occur within the Project area include, but are not limited to, western burrowing owl (*Athene cunicularia*).

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065.) In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Fully Protected Species

Fully protected species, such as white-tailed kite (*Elanus leucurus*), California black rail (*Laterallus jamaicensis coturniculus*), and California Ridgway's rail (*Rallus longirostris obsoletus*) may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species;
- Live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code § 2081.15). Project proponents should consult with CDFW early in the Project planning process.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting river, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through horizontal directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the IS/MND and complied with its responsibilities as a responsible agency under CEQA.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist City Community Development Department 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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Project Description and Related Impact Shortcoming

COMMENT 1: LIGHTING IMPACTS

Section I. Aesthetics, Page 21

The IS/MND states that the site is currently undeveloped and does not contain existing sources of light or glare. The Project will introduce new light sources and glare where none currently exist. However, traffic and existing industrial and commercial uses contribute to existing light in the area. The IS/MND summarizes the lighting topic by saying the Project will not be expected to cause public annoyance from new sources of glare or create new sources of light to be cast onto oncoming traffic. However, the effects of artificial lighting at night have not been analyzed in regard to wildlife and the habitat surrounding the Project site.

Artificial light spillage beyond the Project site into surrounding natural areas may result in a potentially significant impacts through substantial degradation of the quality of the environment. Artificial light pollution also has the potential to significantly and adversely affect the cycle of biological resources. Unlike the natural brightness created by the monthly cycle of the moon, the permanent and continuously powered lighting fixtures create an unnatural light regime that produces a constant light output at night. Continuous light output for 365 days a year, when the artificial lighting is followed by the natural light of the sun can also have cumulatively significant impacts on fish and wildlife populations.

Artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., bird song; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). For nocturnally migrating birds, direct mortality as a result of collisions with anthropogenic structures due to attraction to light (Gauthreraux, 2006) is another direct effect of artificial light pollution. There are also more subtle effects, such as disrupted orientation (Poot et al. 2008) and changes in habitat selection (McLaren et al. 2018). Frogs and salamanders are particularly susceptible to artificial light pollution. Light pollution may affect physiology, behavior, ecology, and evolution of frog and salamander populations (Wise, 2007). For example, artificial light levels and timing influences melatonin production in salamanders. Melatonin regulates hormones, reproductive development and behavior, skin coloration, an animal's ability to regulate body temperature, and night vision (Gern, 1986). Reduced survival at the population level can result in smaller populations or populations that disappear altogether. Due to the high potential for migratory birds, songbirds, amphibians and mammals to occur within the Project limits, CDFW recommends the following mitigation measure to mitigate the impact to less-than-significant.

Recommended Mitigation Measure

Mitigation Measure: Light Output Limits

All LED's or bulbs installed as a result of the Project shall be rated to emit or produce light at or under 2700 kelvin that results in the output of a warm white color spectrum.

Light should not be visible outside of Project area. Eliminate all non-essential lighting from the Project site and avoid or limit the use of artificial light during the hours of dawn and dusk, as these windows of time are when many wildlife species are most active. All light poles or sources of illumination that shall be new or replacement installations of existing light sources should be installed with the appropriate shielding, cast downward, and does not spill over onto other properties or upwards into the night sky (see the International Dark-Sky Association standards at https://darksky.org/) to avoid excessive light pollution into natural landscapes or aquatic habitat with the Project site.

II. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT 2: SPECIAL-STATUS PLANTS

Section IV. Biological Resources, Page 35

Mitigation Measure IV-1 describes rare plant surveys to be conducted and salvage methods to be conducted, if necessary. The mitigation measure should also include transplant success criteria, monitoring, and reporting, and adaptive management as part of the mitigation measure to ensure that transplanted special-status plants survive to meet the mitigation obligation.

The salvage and transplant of special-status plant species is identified in the IS/MND as the mitigation for impacts to special-status plant species to mitigate project impacts to less-than-significant. If transplantation occurs and the plants do not survive, then the mitigation obligation was not met and the Project impacts to special-status plants is significant.

Recommended mitigation measure

Mitigation Measure 3:

Special-Status Species Plant Transplant and Monitoring Plan. To mitigate for unavoidable impacts to special-status plants within the Project's footprint, the

Permittee will hire a qualified botanist to prepare a transplant and monitoring plan prior to conducting Project Activities. To ensure a successful transplant effort, the plan shall include the following:

- A description of baseline conditions documented by reference photographs at static points within the Project Area and used for comparison when evaluating success criteria;
- A description of the techniques and tools to be used to extract the existing plants from the Project Area;
- A description of the location where plants will be maintained during Project Activities, and replanted once Project Activities are completed;
- An implementation schedule; and
- Adaptive management strategies to ensuring success criteria are met.

  To ensure a successful transplant effort, all rare plant transplants shall be monitored and maintained as necessary for five years.]

Following the completion of transplanting, the following success criteria shall be met:

- All transplants shall have a minimum of 80 percent survival at the end of three years;
- Vegetation cover shall consist of no invasive plant species rated as “high” by the Cal-IPC at the end of three years;
- Transplant monitoring shall be conducted annually for a period of three years to determine whether these goals have been met. If the survival requirements are not projected to meet these goals, based on annual monitoring, the Project shall remain responsible for implementation of adaptive management strategies defined in the plan until success criteria have been achieved;

COMMENT 3: BURROWING OWL

Section IV. Biological Resources, Page 37

Clarification of the number of burrowing owl surveys is needed in the IS/MND. Mitigation Measure IV-2(a) says a preconstruction survey shall be conducted for burrowing owl following the 2012 CDFW Guidelines, which includes 2 surveys, one within 14 days prior to the start of construction and the second within 24 hours prior to the start of construction. The Project site contains and is adjacent to grassland habitat which may provide habitat for burrowing owl. Ground squirrels (*Otospermophilus beecheyi*) or other fossorial mammals occur on and likely near the Project site and can excavate burrows, providing refugia habitat for burrowing owl.

The Project could result in injury or mortality of resident, wintering, and nesting burrowing owl in burrows or other suitable refugia on or within up to 500 meters (1,640 feet) of the Project site. The 2012 *Staff Report on Burrowing Owl Mitigation* describes the need for a series of at least four preconstruction surveys prior to Project commencement. More than two surveys are needed to detect the presence or absence and status of burrowing owl on or near the Project site to avoid impacts to burrowing owl.

Information indicates a decline in burrowing owl range over time, burrowing owl has experienced population declines in regions of California and threats to burrowing owl, coupled with long-term population declines, suggest a high degree and immediacy of threat to burrowing owl in California (CDFW 2024). Burrowing owl

population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrels resulting in a loss of suitable burrows required by burrowing owl for nesting, protection from predators, and shelter (Shuford and Gardali 2008; Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)

Project activities may result in take to burrowing owl. Burrowing owl can be impacted by auditory and visual disturbances up to 500 meters or 1,640 feet away (CDFW 2012). Construction activities and subsequent site use may cause disturbances which could result in reduced health and vigor, or mortality, of owls from burrow abandonment (Klute et. al 2003). Burrowing owl is a candidate species under CESA and is federally protected by the MBTA. Based on the foregoing, if burrowing owl are wintering or nesting on or within up to 500 meters (1,640 feet) of the Project site, the Project may result in a substantial reduction in the number of a CESA candidate species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

As a candidate for listing under CESA, burrowing owl is afforded the same legal protections as CESA-listed species while under review (Fish & G. Code § 2608) and is considered rare, threatened, or endangered pursuant to CEQA Guidelines §15380.

Recommended mitigation measure:

To reduce potential impacts to burrowing owl to less-than-significant and comply with CESA, CDFW recommends adding the following mitigation measures to the IS/MND:

Mitigation Measure 4: Burrowing Owl Habitat Assessment and Surveys

A qualified biologist shall conduct a habitat assessment and surveys, if habitat is present, for wintering burrowing owl prior to construction if construction starts during the burrowing wintering season (September 1 to January 31). Surveys for breeding burrowing owl shall be conducted during the breeding season if construction starts during the breeding season, February 1 to August 31. The habitat assessment and surveys shall follow the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012) methodology (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds) and the qualified biologist shall prepare a report documenting the survey results, and submit the report to CDFW. The habitat assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur annually for the duration of the Project, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days. Surveys for either non-breeding or breeding burrowing owl shall be spread over four visits during the nonbreeding and breeding season (September 1 to January 31 and February 1 to August 31, respectively). Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to, a final survey within 24 hours prior to ground disturbance. If the habitat assessment does not identify suitable habitat and surveys are not conducted, an additional habitat assessment should be conducted within 14 days prior to construction. The qualified biologist shall have a minimum of two years of experience implementing the above methodology. The Project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012), which may be up to 500 meters (1,640

feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities.

If a burrowing owl is detected, it shall be avoided by 500 meters (1,640 feet) and monitored by a qualified biologist to ensure avoidance. If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a CESA take authorization or otherwise demonstrate compliance with CESA.

Mitigation Measure 5: Compensatory Mitigation

The IS/MND should include language for compensatory mitigation in the event take of burrowing owl occurs. Compensatory mitigation in the form of conserved lands should include presence of burrowing owls and ground squirrel burrows, well-drained soils, abundant and available prey within proximity to burrows, as well as foraging, wintering, and dispersal areas. The location of mitigation areas for burrowing owls should be identified in consultation with CDFW prior to the start of project-related activities. Conservation lands should be placed under a Conservation Easement with CDFW listed as a third-party beneficiary and an endowment should be funded for managing the lands for the benefit of the species in perpetuity. Additionally, a long-term management plan should be prepared and implemented by a land manager and approved by CDFW. The Grantee of the Conservation Easement should be an entity that has gone through the due diligence process for approval by CDFW to hold or manage conservation lands.

Mitigation Measure 6: Cap Pipes and Hoses

To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

III. Editorial Comments and/or Suggestions

COMMENT 4: Wetlands Mitigation

Mitigation Measure IV-5 on page 40 states that wetland habitat restoration, rehabilitation, and/or replacement shall be at a location and by methods acceptable to the U.S. Army Corps of Engineers. The wetland mitigation should also be identified in consultation with CDFW.

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 (CNDDB). The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing fee is

required in order for the underlying project approval to be operative, vested, and final. (See 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 IS/MND to assist City Community Development Department in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to CDFW staff Andrea Boertien, Environmental Scientist, at Andrea.Boertien@wildlife.ca.gov or (707) 317-0388 or Sara Kern, Senior Environmental Scientist (Supervisory), at Sara.Kern@wildlife.ca.gov or (916) 531-4465.

Sincerely,

DocuSigned by:
Erin Chappell
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Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento

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