



California Department of Fish and Game
1701 Nimbus Road, Suite A
Rancho Cordova, California 95670
California Endangered Species Act
Incidental Take Permit No. 2081-2001-017-02
Metro Air Park Property Owners Association
Metro Air Park Habitat Conservation Plan

Authority: This California Endangered Species Act ("CESA") Incidental Take Permit ("permit") is issued by the Department of Fish and Game ("Department") pursuant to Fish and Game Code section 2081(b) and section 2081(c), and California Code of Regulations, title 14, subdivision 3, chapter 6, article 1, commencing with section 783. CESA prohibits the take of any species of wildlife that is included in the list of endangered species, the list of threatened species, or the list of candidate species.² However, the Department may authorize, by permit, the take of such species if the conditions set forth in section 2081(b) and section 2081(c) are met. Findings in support of permit issuance as required of the Department by regulations implementing CESA are attached hereto as Attachment 1.

Permittee:

Metro Air Park Property Owners Association ("MAPPOA")

Name and title of principal officer, and contact person:

Gerry N. Kamilos, Secretary
2277 Fair Oaks Boulevard, Suite 285
Sacramento, CA 95825

¹Pursuant to Fish and Game Code section 86, "'Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill."

²"Candidate species" are species of wildlife that have not yet been placed on the list of endangered species or the list of threatened species, but which are under formal consideration for listing pursuant to Fish and Game Code section 2074.2.

Agent for service of process:

George Kammerer
Hefner, Stark, & Marois, LLP
2150 River Plaza Drive, Suite 450
Sacramento, CA 95833

Project location:

The 1,892-acre Metro Air Park project site is located northwest of the City of Sacramento in Sections 20, 29, and 32 of Township 10 North, Range 4 East, USGS Taylor Monument 7.5 minute quadrangle map in the unincorporated area of Sacramento County, California. The site is located immediately east of the Sacramento Metropolitan Airport on the north side of Interstate 5.

Project description:

The Metro Air Park Industrial/Business Park project consists of the development of 1,892 acres, within the Metro Air Park Special Planning Area (MAPSPA), and 123 acres of lands outside the MAPSPA and within Sacramento County, California (MAPHCP, 2001; Figure 1, Regional Location and Figure 4, Off-Site Improvements). A combination of commercial, industrial, manufacturing, airport related land uses, a golf course and open space development will occur. Implementation of the project would result in the creation of:

- 617 acres light manufacturing
- 296 acres airport related facilities
- 167 acres office-retail/high tech/Research and Development
- 344 acres commercial
- 127 acres commercial professional offices/Corporate Headquarters
- 278 acres open space/golf course
- 58 acres roads and freeway interchange

Covered species:

This permit covers the following species:

Name	Status ³
<u>Birds</u>	
1. Swainson's hawk (<i>Buteo swainsoni</i>)	ST
2. Bank Swallow (<i>Riparia riparia</i>)	ST
3. White-faced Ibis (<i>Plegadis chihi</i>)	SSC
4. Tricolored Blackbird (<i>Agelaius tricolor</i>)	SSC
5. Loggerhead Shrike (<i>Lanius ludovicianus</i>)	SSC
6. Burrowing Owl (<i>Athene cunicularia</i>)	SSC
7. Aleutian Canada Goose (<i>Branta canadensis leucopareia</i>)	FT

Reptiles and amphibians

1. Giant Garter Snake (<i>Thamnophis gigas</i>)	ST
2. Northwestern Pond Turtle (<i>Clemmys marmorata marmorata</i>)	SSC

Plants

1. Delta Tule Pea (<i>Lathyrus jepsonii</i> ssp. <i>Jepsonii</i>)	FSC
2. Sanford's Arrowhead (<i>Sagittaria sanfordii</i>)	FSC

These species and only these species are hereinafter referred to as "Covered Species."

Effective date and expiration date of permit:

This permit shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by applicant (see below) and returned to the Department. Unless renewed by the Department, this permit shall expire on March 11, 2052.

Incidental take authorization:

The Department authorizes MAP POA, its employees, contractors and agents to take Covered Species incidentally in carrying out the project, subject to the limitations

³Refers to status under CESA. Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species. All other species are "unlisted."

described in this section and the conditions of approval identified below. This permit does not authorize any intentional take of Covered Species, take of Covered Species from activities outside the scope of the project as described above, or take of Covered Species resulting from a permit violation.

This permit authorizes the incidental take of each Covered Species that is currently listed as a candidate species, a threatened species, or an endangered species pursuant to CESA. For Covered Species that are not listed under CESA at the time this permit is issued ("Unlisted Covered Species"), this permit shall become effective upon each Unlisted Covered Species' acceptance as a candidate species pursuant to Fish and Game Code section 2074.2, except as otherwise provided in this paragraph. No additional CESA permit or authorization shall be required by the Department to allow incidental take of Unlisted Covered Species from permitted activities, unless it is determined in a court of law that the Department is not authorized to cause the permit to become effective automatically as to Unlisted Covered Species. If the event this permit's take authorization for Unlisted Covered Species is nullified, the Department shall accept and give due consideration to the minimization and mitigation measures in this permit in support of an application for a permit amendment or for a separate permit to authorize take of such Covered Species for the remaining term of this permit.

Conditions of Approval:

The Department's issuance of this permit and MAPPOA's authorization to take Covered Species is subject to MAPPOA's compliance with and implementation of the following conditions of approval:

1. MAPPOA shall comply with all applicable state, federal and local laws in existence on the effective date of this permit or adopted thereafter.
2. MAPPOA shall fully implement and adhere to the conditions in all of the following documents:
 - A. Habitat Conservation Plan for the Metro Air Park Project in the Natomas Basin, Sacramento County, California (July 2001) ("MAP HCP");
 - B. Metro Air Park Special Planning Area Implementation Agreement for the Metro Air Park Habitat Conservation Plan, County of Sacramento (December 4, 2001) ("MAP IA"); and

- C. Findings of Fact of the California Department of Fish and Game as a Responsible Agency Under the California Environmental Quality Act for the Metro Air Park Project Incidental Take Permit Under Section 2081(b) of the California Fish and Game Code as Previously Analyzed in the Final EIR and Final Supplemental EIR Certified by the Lead Agency County of Sacramento for the Metro Air Park Project (March 11, 2002) ("Department CEQA Findings").
3. Permittee shall provide Department representatives with reasonable access to the project site and mitigation lands under its control, and shall otherwise fully cooperate with Department efforts to verify compliance with or effectiveness of mitigation measures.
 4. This permit may be amended without the concurrence of MAPPOA if the Department determines that continued implementation of the project under existing permit conditions would jeopardize the continued existence of a Covered Species.
 5. The Department may issue MAPPOA a written stop work order to suspend any activity covered by this permit for an initial period of up to 25 days to prevent a violation of this permit or the illegal take of an endangered, threatened or candidate species. Permittee shall comply with the stop work order immediately upon receipt thereof. The Department may extend a stop work order under this provision for a period not to exceed 25 additional days, upon written notice to the permittee. The Department shall commence any formal suspension process pursuant to California Code of Regulations, title 14, section 783.7 within five working days of issuing a stop work order.

Compliance with Other Laws

This permit contains the Department's requirements for the project pursuant to CESA. This permit does not necessarily create an entitlement to proceed with the project. The permittee is responsible for complying with all other applicable state, federal, and local laws.

Notices

Written notices, reports and other communications relating to this permit shall be delivered to the Department by first class mail at the following addresses, or at addresses the Department may subsequently provide MAPPOA:

Original to: Regional Manager
California Department of Fish and Game
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

Copy to: General Counsel
Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, CA 95814

Compliance with the California Environmental Quality Act

The Department's issuance of a permit under CESA is a "project" subject to the California Environmental Quality Act ("CEQA") (Public Resources Code, § 21000 et seq.)

In issuing this permit to MAPPOA, the Department is acting as a "responsible agency" for purposes of CEQA. (See generally Cal. Code Regs., tit. 14, §§ 783.3, 783.5, subd. (c).) Section 15096, subdivision (a), of the "CEQA Guidelines" states that "[a] responsible agency complies with CEQA by considering the EIR or negative declaration prepared by the lead agency and by reaching its own conclusions on whether or how to approve the project involved."⁴ Subdivision (g)(1) of the same guidelines section also provides that "[a] responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve." In this regard, CEQA requires the Department to review the lead agency's prior environmental analysis of for the Project, and to ensure that the direct and indirect environmental effects approved or authorized by the Department pursuant to this permit will be mitigated to the extent required by CEQA.

The Department has complied with CEQA in issuing this permit through, among other things, preparation and consideration of three specific documents. The first is the Department CEQA Findings, which is Attachment 2 to this permit. The second document is entitled "Addendum to the Final EIR and Final Supplemental EIR Previously Certified by the Lead Agency County of Sacramento for the Metro Air Park Project as prepared by the California Department of Fish and Game as a Responsible Agency under the California Environmental Quality Act for the Metro Air Park Project Incidental Take Permit Under Section 2081(b) of the California Fish and Game Code"

⁴The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

(March 11, 2002) ("Department Addendum"). The Department Addendum is Attachment 3 to this permit. The third document is the Department of Fish and Game Mitigation/Monitoring and Reporting Program ("MMRP"). The Department's MMRP is Attachment 4 to this permit.

Fully protected species

This permit does not authorize the take of any fully protected species. See Fish and Game Code section 3511, section 4700, section 5050, and section 5515. The Department finds that the conditions of approval of this permit, if fully implemented and adhered to, will avoid the take of American Peregrine Falcon (*Falco peregrinus anatum*) and Greater Sandhill Crane (*Grus canadensis tubida*) during Project implementation. The Department therefore finds that the Project as conditioned by this permit can be carried out in accordance with the proscription against take of fully protected species as set forth in Fish and Game Code section 3511.

Attachments:

ATTACHMENT 1	Department CESA Findings
ATTACHMENT 2	Department CEQA Findings
ATTACHMENT 3	Department Addendum
ATTACHMENT 4	Mitigation Monitoring and Reporting Program

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME

on March 11, 2002



**Banky Curtis, Regional Manager
Sacramento Valley Central Sierra Region**

ACKNOWLEDGMENT

The undersigned representative(s) of the Metro Air Park Property Owner's Association acknowledges receipt of this permit and, by signing, accepts and agrees to comply with all terms and conditions of the permit.

By: [Signature]

Date: March 12, 2002

Name: Gerry N. Kamilos

Title: SECRETARY

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References:

Habitat Conservation Plan for the Metro Air Park Project in the Natomas Basin, Sacramento County, California (July 2001).

Metro Air Park Special Planning Area Implementation Agreement for the Metro Air Park Habitat Conservation Plan, County of Sacramento (December 4, 2001).

U.S. Fish & Wildlife Service Final Environmental Impact Statement, Metro Air Park Project (July 2001).

The Metropolitan Airport/Vicinity Special Planning Area General Plan Amendment and Rezone, County of Sacramento (March 1993) (State Clearinghouse No. 92032074).

Metro Air Park Zoning Ordinance Amendment, Tentative Subdivision Map, Plan Approval, Boundary Line Adjustment, Abandonment and Public Facilities Financing Plan, County of Sacramento (August 1997) (State Clearinghouse No. 92032074).