



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region
3883 Ruffin Road | San Diego, CA 92123
wildlife.ca.gov

May 11, 2023

John Oquendo
800 South Victoria Ave.
Ventura, CA 93009
John.Oquendo@ventura.org



Subject: Mitigated Negative Declaration for Agromin Composting and Soil Amendment Facility Major Modification to Conditional Use Permit 5001-1 Project, SCH #2016101062, Ventura County

Dear Mr. Oquendo:

The California Department of Fish and Wildlife (CDFW) has reviewed the Agromin Composting and Soil Amendment Facility Major Modification to Conditional Use Permit 5001-1 (Project) Initial Study/Mitigated Negative Declaration (MND) from Ventura County (County). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW's 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

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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, including lake and streambed alteration 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.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Applicant requests a Major Modification to CUP 5001-1 (Case No. PL13-0101) for a time extension to allow for the continued operation of a composting and soil amendment facility until December 31, 2030. The Composting Facility will require the following upgrades:

- Revise the boundary of CUP 5001-1 from approximately 9.77 acres to 11.44 acres. The applicant proposes the addition of approximately 3.19 acres of APN 231-0-040-315 to the CUP area to accommodate an additional fire access road and compost expansion area.
- Increase maximum onsite feedstock and active compost storage volume limit from 10,000 cubic yards to 12,500 cubic yards. Feedstock and active compost stored onsite would consist of up to 12,500 cubic yards of green material (wood, paper, agricultural waste). The Applicant is not proposing to increase the limitation on green material feedstock accepted in a single year above the currently allowed 93,000 tons per year.
- Construct fire access roads that would align with the modified CUP boundary, to provide internal circulation. The fire access roads will also contain storm runoff, which would ultimately drain to an on-site retention basin. Two new fire hydrants would be installed on APN 231-0-080-085; one fire hydrant would be located approximately 50 feet west of the existing masonry bagging/packaging building and a second hydrant 140 feet north of the existing scale house. Three fire water tanks would be removed from the site once the fire hydrant system becomes operational.
- Other proposed facility changes include the following: construction of a storm water management system comprised of a single, 0.6-acre stormwater retention basin and other related improvements to retain the

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85th percentile 24-hour rain event; application of soil cement on a 0.7-acre area to be used for active composting to reduce the potential for infiltration of leachate and storm water runoff; authorization of the continued use of one onsite trailer on APN 231-0-080-085 for storage; installation of a 30-foot high mesh litter screen along Arnold Road on the eastern boundary of APNs 231-0-080-085, and 231-0-080-070; addition of 23 parking spaces; and installation of a berm along the new CUP boundary within APN 231-080-070.

- Permit the relocation compost and soil amendments activities from APN 231-0-040-165 to the southeast portion of the site on APN 231 -0-080-085. Concrete block bunkers, associated compost, and amendments will be relocated to APN 231-0-080-085. Mixing operations will move to an existing asphalt concrete surface south of the existing masonry building. Storage of bagged amendments will be moved into the existing masonry building.
- The Agromin facility currently employs eight employees. The project would increase the number of employees to nine full- and four part time/seasonal employees.

Location: The 17.42-acre property is located at 6859 Arnold Road, west of the intersection of Arnold Road and Casper Road, in the unincorporated area of Ventura County.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the County in adequately identifying, avoiding, 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 are also included to improve the environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

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Specific Comments

Comment #1: Biological Surveys

Issue: MND analysis and conclusions rely on outdated biological information.

Specific impacts: The biological surveys conducted for the Project may no longer represent the current state of the Project site, its vicinity, and the inventory of biological species that may be present. Therefore, Project implementation, including grading, fire road construction, and other ground disturbing activities, may result in direct mortality, population declines, or local extirpation of sensitive plant and wildlife species that were not previously known or identified.

Why impact would occur: The Project has utilized biological surveys from 2013 (updated in 2015). As changes to the site and its vicinity may have occurred in the past 10 years, impacts to species not previously known or identified to be on the Project site or within its vicinity have the possibility to occur. In addition, impacts to species already identified may have changed since surveys were conducted. This may result in mortality, reduced reproductive capacity, population declines, or local extirpation of a sensitive or special status wildlife species.

Evidence impact would be significant:

Impacts to special status species, both direct and indirect, should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS. Additionally, plants that have a CNPS California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS [Rare Plant Ranks](#) page for additional rank definitions.

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Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: The County should have a qualified biologist re-survey the Project site and update the biological assessment. The assessment should include biological field survey(s) of the Project site to characterize the extent and quality of habitat that would be impacted by development, as well as potential impacts to the vicinity. Surveys should include baseline surveys and protocol-level surveys, if necessary, to confirm the presence of any special status species within or immediately adjacent to proposed impact areas. Surveys should be conducted by qualified biologists and/or botanists in accordance with CDFW and/or United States Fish and Wildlife Services survey protocols for target species. Biological Resources Assessments should provide and include the following:

1. A complete, recent, assessment of rare, threatened, and endangered species, regionally and locally unique species, and sensitive habitats at the project site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of land around the project site should also be addressed. A nine-quadrangle search of CDFW's [California Natural Diversity Database](#) (CNDDDB) should be conducted to obtain current information on any previously reported sensitive species and habitat (CDFW 2023a);
2. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas should be included where project construction and activities could lead to direct or indirect impacts off site;
3. Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the project site and within the area of potential effect. The [Manual of California Vegetation](#) (MCV), second edition, should be used to inform this mapping and assessment;
4. A rare plant assessment using online databases for rare, threatened, and endangered plants, including the California Native Plant Society (CNPS) [Online Inventory of Rare and Endangered Plants of California](#) (CNPS 2022)

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as well as the Calflora's [Information on Wild California Plants](#) database (Calflora 2022);

5. A discussion regarding project-related indirect impacts on biological resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]; and
6. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site.

If biological resources are documented on the Project site, the Project proponent should comply with the applicable requirements of the regulatory agencies and should apply mitigation determined through the agency permitting process.

Comment #2: Impacts to Nesting Birds

Issue: Project activities may indirectly impact special status nesting birds, including western snowy plover (*Charadrius alexandrinus nivosus*), California least tern (*Sterna antillarum browni*), and Belding's savannah sparrow (*Passerculus sandwichensis beldingi*).

Specific impacts: Construction during the breeding season of special status nesting birds could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment in habitat adjacent to a Project site.

Why impact would occur: The MND has identified nesting habitat for western snowy plover (ESA-listed, California Species of Special Concern), California least tern (ESA-listed, California Fully Protected Species), and Belding's savannah sparrow (CESA-listed) within half a mile of the Project site. The MND does not provide any avoidance or minimization measures for nesting birds. Without any protective measures, impacts to nesting birds could result from ground disturbing activities related to retention basin construction or fire lane creation. In addition, impacts could result from noise disturbances, increased human activity, increased lighting, fugitive dust, other ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations caused by heavy equipment. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable foraging habitats. Construction during the breeding season of nesting birds could result in the incidental loss of breeding success or otherwise lead to nest abandonment.

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Evidence impact would be significant: The loss of occupied habitat or reductions in the number of rare bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. Furthermore, nests of all native bird species are protected under state laws and regulations, including Fish and Game Code sections 3503 and 3503.5.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #2: To protect nesting birds that may occur adjacent to the Project boundary, CDFW recommends that no construction occur from February 1 through September 15, as early as January 1 for some raptors.

Additional Recommendations

Recommendation #1: 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 detected by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2023b). This includes all documented occurrences of special status species. The City should ensure the data has been properly submitted, with all data fields applicable filled out, prior to Project ground-disturbing activities. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The City should provide CDFW with confirmation of data submittal.

Recommendation #2: Mitigation and Monitoring Reporting Plan – Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A). A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

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 City of Lancaster and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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).

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Conclusion

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov or (562) 292-8105.

Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

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OPR

State Clearinghouse – State.Clearinghouse@opr.ca.gov

References:

[CDFWa] California Department of Fish and Wildlife. 2023. California Natural Diversity Database. <https://wildlife.ca.gov/Data/CNDDDB>

[CDFWb] California Department of Fish and Wildlife. 2023. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

[CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959>

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Calflora. 2022. Information on Wild California Plants. Available from:

<https://www.calflora.org/>

[CNPS] California Native Plant Society, Rare Plant Program. 2022. Inventory of Rare and Endangered Plants of California (online edition, v9-01 1.0).

Available from: <https://www.rareplants.cnps.org>

[MCV]. A Manual of California Vegetation, 2nd ed. (2023) Available from:

<https://vegetation.cnps.org/>



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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into the Project's environmental document.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Biological survey	<p>The County shall have a qualified biologist re-survey the Project site and update the biological assessment. The assessment shall include biological field survey(s) of the project site to characterize the extent and quality of habitat that would be impacted by development, as well as potential impacts to the vicinity. Surveys shall include baseline surveys and protocol-level surveys, if necessary, to confirm the presence of any special status species within or immediately adjacent to proposed impact areas. Surveys shall be conducted by qualified biologists and/or botanists in accordance with CDFW and/or United States Fish and Wildlife Services survey protocols for target species. Biological Resources Assessments shall provide and include the following:</p> <ol style="list-style-type: none"> 1. A complete, recent, assessment of rare, threatened, and endangered species, regionally and locally unique species, and sensitive habitats at the project site and within the area of potential 	Prior to Project construction and activities	County of Ventura/Project Applicant



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	<p>effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed shall include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of land around the project site shall also be addressed. A nine-quadrangle search of CDFW's California Natural Diversity Database (CNDDDB) shall be conducted to obtain current information on any previously reported sensitive species and habitat (CDFW 2023b);</p> <ol style="list-style-type: none"><li data-bbox="569 829 1377 1175">2. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). Adjoining habitat areas shall be included where project construction and activities could lead to direct or indirect impacts off site;<li data-bbox="569 1182 1388 1409">3. Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the project site and within the area of potential effect. The Manual of California Vegetation (MCV), second edition, shall be used to inform this mapping and assessment;		
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	<ol style="list-style-type: none"> 4. A rare plant assessment using online databases for rare, threatened, and endangered plants, including the California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants of California (CNPS 2022) as well as the Calflora's Information on Wild California Plants database (Calflora 2022); 5. A discussion regarding project-related indirect impacts on biological resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]; and 6. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site. <p>If biological resources are documented on the Project site, the Project proponent shall comply with the applicable requirements of the regulatory agencies and shall apply mitigation determined through the agency permitting process.</p>		
<p>MM-BIO-2- Nesting birds</p>	<p>To protect nesting birds that may occur adjacent to the Project boundary, no construction shall occur from</p>	<p>Prior to Project</p>	<p>County of Ventura/Project Applicant</p>



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	February 1 through September 15, as early as January 1 for some raptors.	construction and activities	
REC-1-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 detected by completing and submitting CNDDDB Field Survey Forms (CDFW 2023b). This includes all documented occurrences of special status species. The City should ensure the data has been properly submitted, with all data fields applicable filled out, prior to Project ground-disturbing activities. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The City should provide CDFW with confirmation of data submittal.	Prior to Project construction and activities	County of Ventura/Project Applicant

Jordan Traverso
January 10, 2023