



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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January 6, 2022

Kimberly Jordan

Town of Windsor

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Subject: Estates at Ross Ranch Development Project, Notice of Preparation of a Draft Supplemental Environmental Impact Report and Initial Study, SCH No. 2016112065, Sonoma County

Dear Ms. Jordan:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a draft Supplemental Environmental Impact Report (SEIR) and Initial Study provided for the Estates at Ross Ranch Development Project (Project) located in the Town of Windsor, Sonoma County.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as a California Endangered Species Act (CESA) or Native Plant Protection Act Permit, Lake and Streambed Alteration (LSA) Agreement, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following comments and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The Project is located in the northeastern portion of the Town of Windsor at 1295 Jensen Lane. The approximate center coordinate for the Project is latitude 38.5532, and longitude -122.78988. The Project would occur on Assessor's Parcel Number 162-020-004. The Project would involve the subdivision and development of an approximately 17.17-acre parcel into 30 single family lots.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the draft SEIR incorporate a full project description, including reasonably foreseeable future phases of the Project, and that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following project components in the Project description:

Ms. Kimberly Jordan
Town of Windsor
January 6, 2022
Page 2 of 11

- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes;
- Encroachments into riparian habitats, wetlands or other sensitive areas;
- Construction schedule, activities, equipment and crew sizes; and
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise and, traffic generation, and other features, both during construction and after completion of the Project.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a 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. **The Project may result in impacts to the CESA listed as endangered Sebastopol meadowfoam (*Limnanthes vinculans*), Burke’s goldfields (*Lasthenia burkei*), many-flowered navarretia (*Navarretia leucocephala* ssp. *plienantha*) and Sonoma sunshine (*Blennosperma bakeri*), as further described below.**

CEQA requires a Mandatory Finding of Significance if a project is likely to if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with Fish and Game Code section 2080 et seq.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will 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. **The Project may result in impacts to a stream, as further**

Ms. Kimberly Jordan
 Town of Windsor
 January 6, 2022
 Page 3 of 11

described below. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as the responsible agency.

ENVIRONMENTAL SETTING

Sufficient information regarding the environmental setting is necessary to understand the Project's, and its alternatives' (if applicable), significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360). According to the Initial Study, the Project site consists primarily of non-native grasslands, with wetlands present throughout the northern and southwest corners of the site. Aerial imagery and the California Aquatic Resources Inventory database indicate the presence of a drainage that may constitute a stream on the Project site potentially connected to wetlands. CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including *but not limited to* all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The draft SEIR should describe aquatic habitats, such as wetlands, vernal pools, or waters of the U.S. or State, and any sensitive natural communities (see: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>) or riparian habitat occurring on or adjacent to the Project site. Fully protected, threatened or endangered, candidate, and other special status species that are known to occur, or have the potential to occur in or near the Project site, include, *but are not limited to*, those listed in the table below.

Species	California Endangered Species Act	Federal Endangered Species Act	Other Special-Status	Nearest Observation to Project Site ¹
Western burrowing owl <i>Athene cunicularia</i>			SSC ²	2.5 miles SW; 2017
White-tailed kite <i>Elanus leucurus</i>			FP ³	5.6 miles W; 1998
Townsend's big-eared bat <i>Corynorhinus townsendii</i>			SSC	1.7 miles W; 2017
Burke's goldfield <i>Lasthenia burkei</i>	E ⁴	E		1.7 miles NW; 2019
Many-flowered navarretia <i>Navarretia leucocephala</i> ssp. <i>plianantha</i>	E	E		2.2 miles SW; 1998

Ms. Kimberly Jordan
 Town of Windsor
 January 6, 2022
 Page 4 of 11

Sebastopol meadowfoam <i>Limnanthes vinculans</i>	E	E		2.4 miles SW; 2014
Sonoma sunshine <i>Blennosperma bakeri</i>	E	E		2.4 miles SW; 1998
Other special-status plants			CRPR ⁵	1.5 miles SW; 1990
Nesting birds			F&GC ⁶ ; MBTA ⁷	

¹ Data obtained from the California Natural Diversity Database

² FP: California Fully Protected species

³ SSC: California Species of Special Concern

⁴ E: Endangered

⁵ CRPR: California Rare Plant Rank species

⁶ F&GC: Protected under Fish and Game Code section 3503

⁷ MBTA: Protected under Migratory Bird Treaty Act of 1918

Habitat descriptions, species profiles, and the potential for species occurrence should include information from multiple sources such as: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, the U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the CEQA document can then adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends that during project planning surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocols>.

Botanical surveys for special-status plant species, including California Rare Plant Rank species listed by the California Native Plant Society (CNPS) (found at: <http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the appropriate identification period for all special-status plant species potentially occurring within and where offsite indirect impacts may occur, adjacent to, the Project area and require the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to special-status plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The draft SEIR should discuss all direct and indirect impacts (temporary and permanent), including reasonably foreseeable impacts, that may occur with Project

Ms. Kimberly Jordan
Town of Windsor
January 6, 2022
Page 5 of 11

implementation (CEQA Guidelines, § 15126, 15126.2, & 15358). This includes evaluating and describing impacts such as:

- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, overhanging banks);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence;
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features; and
- Permanent or temporary changes to natural community composition.

The CEQA document also should identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a listed species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft SEIR, and/or mitigate significant impacts of the Project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This includes a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less than significant levels.

Fully protected species such as white-tailed kite may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515). Therefore, the draft SEIR should include measures to ensure complete take avoidance of fully protected species.

Based on the information in the Initial Study and CDFW's knowledge of the Project vicinity, the Project may result in significant impacts to the biological resources identified above. Therefore, CDFW recommends including the following mitigation measures in

Ms. Kimberly Jordan
Town of Windsor
January 6, 2022
Page 6 of 11

the draft SEIR to reduce impacts to fish and wildlife resources to less-than-significant if appropriate based on the complete analysis within the SEIR.

1. California Endangered Species Act Protected and Other Special-Status Plants

- a. *Prior to the initiation of Project activities, a qualified botanist shall conduct at least two years of botanical surveys at the Project site during appropriate conditions where suitable wetland habitat for California Endangered Species Act (CESA) listed species occurs, in conformance with California Department of Fish and Wildlife's (CDFW's) 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (see: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) and the Santa Rosa Plain Conservation Strategy Appendix D, unless otherwise approved in writing by CDFW. Impacts may include direct and indirect impacts (e.g., hydrological modifications), therefore surveys shall encompass any suitable habitat adjacent to the Project site that may be impacted. Survey results must receive CDFW written acceptance to be considered valid.*
- b. *If botanical surveys detect CESA listed species, CDFW does not accept survey results, or CDFW provides approval in writing that presence of CESA listed species may be assumed, then prior to the initiation of Project activities directly or indirectly impacting wetland habitat suitable to support CESA listed species, including Sebastopol meadowfoam (*Limnanthes vinculans*), Burke's goldfields (*Lasthenia burkei*), many-flowered navarretia (*Navarretia leucocephala* ssp. *plienantha*) and Sonoma sunshine (*Blennosperma bakeri*), the Project shall obtain an Incidental Take Permit (ITP) from CDFW. The Project shall comply with all requirements of the ITP. Regardless of whether an ITP is obtained, the Project shall provide habitat mitigation consistent with the Santa Rosa Plain Conservation Strategy (see: <https://www.fws.gov/sacramento/es/Recovery-Planning/Santa-Rosa/santa-rosa-strategy.php>). In addition to compliance with CESA, the Project shall consult with the U.S. Fish and Wildlife Service (USFWS) for impacts to federally listed plants, including the above plant species, or their habitat pursuant to the Federal Endangered Species Act and receive authorization for impacts if required by USFWS. Although often consistent, please be advised that CESA ITP habitat compensation requirements may differ from those included in the Santa Rosa Plain Conservation Strategy or required by USFWS.*
- c. *If other special status plants may be impacted, such as California Rare Plant Rank species, the Project shall submit a special status plant mitigation plan to CDFW for written approval. The plan shall include offsite habitat compensation at a 3:1 mitigation to impact ratio, a long-term management plan, and funding*

Ms. Kimberly Jordan
Town of Windsor
January 6, 2022
Page 7 of 11

for habitat protection and management in perpetuity, unless otherwise approved in writing by CDFW. Once approved by CDFW, the Project shall implement the special status plant mitigation plan prior to the onset of ground disturbing Project activities, or within 18 months of the onset of ground disturbing Project activities if a financial security in an amount approved by CDFW is provided to the lead agency. If CDFW does not have the staffing resources to review and approve the above items, a qualified botanist approved by CDFW may review and approve them.

2. Lake and Streambed Alteration

- a. *The Project proponent shall submit a Lake and Streambed Alteration (LSA) Notification to CDFW, obtain an LSA Agreement prior to Project construction, and comply with the Agreement if it is determined that any onsite drainage including any connected wetlands is subject to Fish and Game Code section 1600 et seq.*
- b. *Permanent impacts to drainages subject to Fish and Game Code section 1600 et seq. shall be mitigated by either on-site or offsite restoration within the same stream or watershed at a minimum 3:1 mitigation to impact ratio for the linear distance and square feet permanently impacted. Temporary impacts shall be restored onsite at a 1:1 ratio. A restoration plan shall be prepared and implemented within the same year that Project construction is completed. The plan shall be prepared by a qualified biologist and shall include a minimum 80 percent survival and cover for success criteria, maintenance, and monitoring of plantings for five years. If success criteria are not met, replacement planting, maintenance, and monitoring shall be required for an additional five years. If the Project must remove trees from the riparian corridor of any streams, tree plantings shall be replanted on-site or at an off-site location approved by CDFW at the following ratios:*
 - i. *1:1 for non-native trees*
 - ii. *3:1 for native trees (excluding oaks)*
 - iii. *4:1 for oak trees between 5 and 10 inches DBH*
 - iv. *5:1 for oak trees between 10 and 15 inches DBH; and*
 - v. *10:1 for oak trees greater than 15 inches DBH*

Oaks shall be sourced using locally procured trees of the same species; and they shall be maintained and monitored for a minimum of five years. Planted oak trees shall achieve an 80 percent survival rate after five years and annual

Ms. Kimberly Jordan
Town of Windsor
January 6, 2022
Page 8 of 11

monitoring reports shall be provided to CDFW. If tree plantings have not achieved at least 80 percent survival after 5 years, new trees shall be planted and monitored for an additional 5 years to achieve 80 percent survival. Planted trees shall be able to survive the last two years of the minimum 5-year monitoring period without supplemental irrigation. CDFW recommends that cages be placed around planted trees if deer browse is a concern, and that weeding occur within and around caged trees until the trees become well-established. Once the trees become a sufficient size to withstand deer browse, the cages shall be removed.

3. Western Burrowing Owl

- a. *To protect burrowing owl in their winter habitat, if Project activities shall occur between September 1 and January 31, a qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, pursuant to the Department of Fish and Game (currently Department of Fish and Wildlife) Staff Report on Burrowing Owl Mitigation (2012) survey methodology prior to the commencement of Project activities. The assessment and surveys shall cover the Project area and adjacent habitat as outlined in the CDFW Staff Report on Burrowing Owl Mitigation. If burrowing owl is detected, a qualified biologist shall establish suitable buffers to ensure the owl is not disturbed by the Project pursuant to the buffer distances outlined in the CDFW Staff Report on Burrowing Owl Mitigation. To prevent encroachment, the established buffers shall be clearly marked by high visibility material. The established buffers shall remain in effect until the burrow is no longer occupied as confirmed by the qualified biologist, unless a burrowing owl exclusion and mitigation plan, including but not limited to habitat compensation through a conservation easement at a minimum 2:1 mitigation to impact ratio including foraging habitat around the occupied wintering habitat (e.g., burrow), a long term management plan, funding for long term management in perpetuity, and identification of overwintering burrowing owl habitat (i.e., suitable burrows) within reasonable dispersal distance of the Project area, is submitted to CDFW and receives approval in writing from CDFW. Once approved by CDFW, the Project shall implement the burrowing owl exclusion and mitigation plan and complete habitat compensation prior to the onset of ground disturbing Project activities.*

4. Roosting Bats

- a. *Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features. (e.g., cavities, crevices in wood and bark, exfoliating*

Ms. Kimberly Jordan
Town of Windsor
January 6, 2022
Page 9 of 11

bark for colonial species, suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. Trees may be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergency surveys or complete visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.

- b. If suitable bat habitat structures (bridges, culverts, barns and other structures, etc.) identified by a qualified biologist exist within the Project area, then a qualified biologist shall survey for bats 30 to 90 days prior to the beginning of Project-related activities, unless otherwise approved in writing by CDFW. Survey results shall be submitted to CDFW prior to commencing ground-disturbing or structure-disturbing activities. If roosting bats are detected in structures planned for removal, an associated bat exclusion plan shall be submitted to CDFW for approval and implemented. The plan shall recognize that both maternity and winter roosting seasons are vulnerable times for bats and require exclusion outside of these times, generally between March 1 and April 15 or September 1 and October 15 when temperatures are sufficiently warm. Habitat removal activities shall cease if bats are found roosting within the Project area. Bats shall not be disturbed without specific notice to and written approval from CDFW. Exclusion plan implementation results shall be submitted to CDFW for written acceptance prior to ground-disturbing activities.*
- c. Removal of bat roosting structures shall not start until the qualified biologist confirms that bats have left the site pursuant to the bat exclusion plan. Bat habitat shall be removed during the seasonal periods of bat activity from approximately March 1 through April 15 and September 1 through October 15. If any injured or killed bats are observed while removing habitat, all removal activities shall cease immediately, and Permittee shall contact CDFW within 24 hours. In this event, habitat removal activities shall not resume until CDFW has provided written permission.*

Ms. Kimberly Jordan
Town of Windsor
January 6, 2022
Page 10 of 11

5. Nesting Birds

A qualified biologist shall conduct nesting bird surveys no more than seven days prior to the initiation of Project activities. Surveys should be repeated if there is a lapse in Project activities of seven days or more. No-disturbance nest buffers should be determined by a qualified biologist based on species, nest stage, and site conditions. Nests shall be monitored daily during Project-related activities by a qualified biologist to determine the sufficiency of the buffer and whether it should be expanded to protect the nest based on disruptions to an individual bird's natural nesting behaviors, unless otherwise approved by CDFW.

Any other resource agency permits or approvals should be required in an additional mitigation measure, such as Clean Water Act permitting from the Army Corps of Engineers and Water Quality Control Board, or a Biological Opinion from the USFWS. Requiring such permits as a mitigation measure ensures that the Project obtains the required permits protecting the environment and reducing impacts.

GENERAL SUGGESTIONS

CDFW suggests including the following general construction measures for the protection of wildlife species:

- a. *Any fencing, signposts, or vertical poles installed temporarily or permanently throughout the course of the Project shall have the top capped and/or the top three post holes covered or filled with screws or bolts to prevent the entrapment of wildlife.*
- b. *Any open trenches, pits, or holes with a depth larger than one-foot shall be covered at the conclusion of work each day with a hard, non-heat conductive material (i.e., plywood). No netting, canvas, or material capable of trapping or ensnaring wildlife shall be used to cover open trenches. If use of a hard cover is not feasible, multiple wildlife escape ramps shall be installed, constructed of wood or installed as an earthen slope in each open trench, hole, or pit that is capable of allowing large (i.e., deer) and small (i.e., snakes) from escaping on their own accord. Prior to the initiation of construction each day and prior to the covering of the trench at the conclusion of work each day, a qualified biologist or on-site personnel shall inspect the open trench, pit, or hole for wildlife. If wildlife is discovered, it shall be allowed to leave on its own accord.*
- c. *Integrated pest management solutions that emphasize non-chemical pest management shall be used over chemical pesticides to the extent feasible. Rodenticides and insecticides shall not be used on the Project site.*

Ms. Kimberly Jordan
Town of Windsor
January 6, 2022
Page 11 of 11

- d. *No erosion control materials containing plastic monofilament netting (erosion control matting) or similar material containing netting shall be used within the Project area due to documented evidence of amphibians and reptiles becoming entangled or trapped in such material. The Project proponent shall use natural-fiber substitutes (e.g., coconut coir matting).*

The above recommended mitigation measures and general suggestions would likely be required under the LSA Agreement for the Project, as applicable, if issued by CDFW.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

If you have any questions, please contact Ms. Jennifer Rippert, Senior Environmental Scientist (Specialist), at (707) 799-4210 or Jennifer.Rippert@wildlife.ca.gov, or Ms. Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Stephanie Fong

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Stephanie Fong
Acting Regional Manager
Bay Delta Region

cc: State Clearinghouse #2016112065

Vincent Griego, U.S. Fish and Wildlife Service, Vincent_Griego@fws.gov