



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



October 28, 2022

Kimberley Jordan, Associate Planner  
Town of Windsor Community Development Department  
9291 Old Redwood Highway, Building 400  
Windsor, CA, 95492  
[kjordan@townofwindsor.com](mailto:kjordan@townofwindsor.com)

Subject: Estates at Ross Ranch Development Project, Supplemental Environmental Impact Report, SCH No. 2016112065, Town of Windsor, Sonoma County

Dear Ms. Jordan:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Supplemental Environmental Impact Report (SEIR) from the Town of Windsor (Town) for the Estates at Ross Ranch Development Project (project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

CDFW is submitting comments on the SEIR to inform the Town, as the Lead Agency, of our concerns regarding potentially significant impacts to biological resources associated with the project.

## CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** Pink Viking Returns, LLC

**Objective:** The project would develop a 31-lot residential subdivision ranging in size from 12,200 to 40,931 square feet. The project would involve the demolition of the existing single-family residence. Water and sewer for the project would be provided by the Town and all utilities would be underground. All structures, septic tanks, and fences

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<sup>1</sup> 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.

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(with exception of the westerly fence along the Vintage Hills subdivision lots) on the project site would be removed. Any existing wells would either be removed or retained for irrigation purposes.

**Location:** The project is located at 1295 Jensen Lane in the northeastern corner of the Town of Windsor, Sonoma County, California. The project site is on a 17.17-acre parcel (Assessor's Parcel Number 162-020-004) in the Healdsburg, California, United States Geographical Survey 7.5-minute Topographic Quadrangle Map, Township 8 North, Range 8 West, Section 7 (Latitude 38.553358° North; Longitude -122.789645° West).

## REGULATORY AUTHORITY

### California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) 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. **The project has the potential to result in take of Sonoma sunshine (*Blennosperma bakeri*), Burke's goldfields (*Lasthenia burkei*), man-flowered navarretia (*Navarretia leucephala* ssp. *plieantha*), and Sebastopol meadowfoam (*Limnathes vinculans*), all listed as endangered species, as further described below.** Issuance of a CESA ITP 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 ITP.

### 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 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, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The project may fill unnamed ephemeral drainages, therefore an LSA Notification may be required, as further described below.** CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

### Fully Protected Species

Fully Protected species, such as white-tailed kite (*Elanus leucurus*), may not be taken or possessed at any time and no licenses or permits may be issued for their take except

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for collecting these species for necessary scientific research, relocation of the bird species for the protection of livestock, or if 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).

### **Raptors and Other Nesting Birds**

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

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the Town in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below CDFW concludes that an SEIR is appropriate for the project. **Attachment** includes a Draft Mitigation Monitoring and Reporting Program for CDFW's recommended mitigation measures below.

#### **I. Environmental Setting and Related Impact Shortcoming**

***Mandatory Findings of Significance: Does the project have the potential to substantially reduce the number or restrict the range of a rare or endangered plant or animal?***

#### **COMMENT 1: Section 4.1.1, Page 4.1-6**

**Issue:** The SEIR indicates that wetlands within the project site have the potential to support four CESA and federally listed as endangered plants: Sonoma sunshine, Burke's goldfields, many-flowered navarretia, and Sebastopol meadowfoam, however these species were not detected during surveys.

The Santa Rosa Plain Conservation Strategy, Appendix D: *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain* and CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* provide guidelines for acceptable survey documentation for protocol-level surveys for CESA and federally listed plants on the Santa Rosa Plain. Appendix B in the

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SEIR provides a partial list of the information required for protocol rare plant surveys and states “More detailed support data (field notes, plant lists by survey date, wetland data forms, photos, reference site information) are available upon request.” Given that a full report of the protocol-level surveys was not provided, it is unclear if surveys were conducted according to the Santa Rosa Plain Conservation Strategy and CDFW 2018 protocols.

**Specific impacts and why they may occur and be significant:** If CESA and federally listed plants that may be impacted by the project go undetected, the project may result in mortality of individuals from direct impacts or degradation of habitat adjacent to ground disturbance. CESA and federally listed plant mentioned above are considered endangered under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if CESA and federally listed plants are present on or directly adjacent to the project site where they may be indirectly impacted, the project may substantially reduce the number or restrict the range of these species, which would be a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** For an adequate environmental setting and to reduce impacts to CESA and federally listed plants to less-than-significant, CDFW recommends implementing the following mitigation measure:

The project shall submit to CDFW two years of completed botanical survey results and obtain CDFW’s written approval of the results. The botanical survey results shall follow CDFW’s 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* and the Santa Rosa Plain Conservation Strategy, Appendix D: *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain*. If CDFW is unable to accept the survey results, the project applicant shall conduct additional surveys prior to initiation of project activities or may assume presence of Sonoma sunshine, Burke’s goldfields, many-flowered navarretia, and Sebastopol meadowfoam. Please be advised that for CDFW to accept the results, they must be completed in conformance with CDFW’s 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* and the Santa Rosa Plain Conservation Strategy, Appendix D: *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain*, including but not limited to conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts such as altering offsite hydrological conditions where the above species may be present. Surveys conducted during drought conditions may not be acceptable. If the botanical surveys result in the detection of the above CESA listed plants that may be impacted by the project, or the presence of these species is

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assumed, the project applicant shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP.

***Would the Project have a substantial adverse 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 U.S. Fish and Wildlife Service (USFWS)?***

**COMMENT 2: Section 4.1.1, Page 4.1-6**

**Issue:** The project is within the wintering distribution of burrowing owl (*Athene cunicularia*) and contains and is adjacent to grasslands that may be suitable wintering habitat for the species (Klute et al. 2003). Burrowing owls have been documented overwintering in the project vicinity (California Natural Diversity Database (CNDDDB) Occurrence Numbers 564, 921, 2023; CDFW 2022). Appendix B of the SEIR indicates that burrowing owl would not be impacted by the project because no suitably sized burrows or evidence of potential burrows are present on or immediately adjacent to the project site. However, suitable burrows may be excavated within a single day by, for example, American badger (*Taxidea taxus*) (Ministry of Environment Ecosystems 2007 as cited in Brehme et al. 2015). Additionally, burrowing owls can be impacted up to 500 meters or 1,640 feet away from a project from auditory and visual disturbances and may utilize burrow surrogates, such as culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures (CDFW 2012). Therefore, the absence of natural burrows does not necessarily exclude burrowing owls.

**Specific impacts and why they may occur and be significant:** If burrowing owls that may be impacted by the project are not detected, the project may result in reduced health and vigor, or mortality, of owls from direct impacts to occupied wintering habitat or from wintering burrow abandonment caused by auditory and visual disturbances. Burrowing owl is a California Species of Special Concern and protected under Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act. Therefore, if wintering burrowing owls are present on or within 1,640 feet of the project site, project impacts to burrowing owl would be *potentially significant*.

**Recommended Mitigation Measure:** For an adequate environmental setting and to reduce impacts to burrowing owl to less-than-significant, CDFW recommends implementing following mitigation measure:

A qualified biologist shall conduct a habitat assessment for wintering burrowing owl, and surveys if habitat is present. The qualified biologist shall follow the California Department of Fish and Game (now CDFW) *2012 Staff Report on Burrowing Owl*

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*Mitigation* (CDFW 2012 Staff Report) habitat assessment and survey methodology prior to project activities occurring during the burrowing owl wintering season from September 1 to January 31. The habitat assessment and surveys shall encompass a sufficient buffer zone to detect owls nearby that may be impacted, which shall be a minimum of 1,640 feet unless otherwise approved in writing by CDFW. Surveys shall include four non-breeding season surveys spread evenly throughout the nonbreeding season pursuant to the CDFW 2012 Staff Report. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance and before construction equipment mobilizes to the project area. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections.

Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site specific conditions, and completed before project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and preparation and implementation of a long-term management plan prior to project construction.

**COMMENT 3: Section 4.1.1, Page 4.1-6**

**Issue:** The project is within the range and potential habitat for California red-legged frog (*Rana draytonii*). California red-legged frogs require a variety of habitats, including aquatic breeding habitats and upland dispersal habitats. Breeding sites of the species are in aquatic habitats including pools and backwaters within streams and creeks, ponds, marshes, springs, sag ponds, dune ponds and lagoons. Additionally, California red-legged frogs frequently breed in artificial impoundments such as stock ponds (USFWS 2002). Breeding sites are generally found in deep, still, or slow-moving water (>2.5 feet) and can have a wide range of edge and emergent cover amounts. California red-legged frogs can breed at sites with dense shrubby riparian or emergent vegetation, such as cattails (*Typha* sp.) or overhanging willows (*Salix* sp.), or can proliferate in ponds devoid of emergent vegetation (i.e., stock ponds). California red-legged frog habitat includes nearly any area within one to two miles of a breeding site that stays moist and cool through the summer; this includes non-breeding aquatic habitat in pools of slow-moving streams, perennial or ephemeral ponds, and upland sheltering habitat such as rocks, small mammal

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burrows, logs, densely vegetated areas, and man-made structures (i.e., culverts, livestock troughs, spring-boxes, and abandoned sheds) (USFWS 2017b).

**Specific impacts and why they may occur and be potentially significant:** The project could injure or kill California red-legged frogs if they occur on site. California red-legged is listed as threatened under the federal Endangered Species Act and is a Species of Special Concern, and their populations throughout the State have experienced ongoing and drastic declines and many have been extirpated (Thompson et al. 2016). Habitat loss from growth of cities and suburbs, mining, overgrazing by cattle, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to the species (Thompson et al. 2016; USFWS 2017b). Therefore, if California red-legged frog is present in the project area and would be impacted, project impacts to California red-legged frog would be potentially significant.

**Recommended Mitigation Measure:** For an adequate environmental setting and to reduce potential impacts to California red-legged frog to less-than-significant, CDFW recommends the following mitigation measure.

Within 48 hours prior to the commencement of ground-disturbing activities, the project area and nearby vicinity, including a minimum 500-foot radius surrounding the project area, shall be assessed by a qualified biologist for the presence of California red-legged frog individuals and habitat features. Habitat features include both aquatic habitat such as plunge pools and ponds and terrestrial habitat such as burrows. The results of the habitat feature assessment shall be submitted to CDFW for written acceptance prior to starting project activities. Habitat features shall be flagged for avoidance to the extent feasible. If California red-legged frogs are encountered during the assessment or project activities, the project shall not proceed or all work shall cease, and CDFW shall immediately be notified. Work shall not proceed until the frog, through its own volition, moves out of harm's way and CDFW has provided permission in writing to proceed with the project. If California red-legged frog is encountered or the qualified biologist believes that California red-legged frog is likely to occur in the project area, the project shall consult with USFWS pursuant to the federal Endangered Species Act.

***Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by CDFW or USFWS?***

**COMMENT 4: Section 4.1.1, Pages 4.1-7 – 4.1-8**

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**Issue:** As noted above, the project would permanently impact several unnamed drainages which may constitute streams under Fish and Game Code section 1600 et seq. These drainages may fall within CDFW jurisdiction, which would require the Project to submit an LSA Notification. The SEIR states “Because the seasonal wetlands and swales are in upland areas, lack riparian vegetation, and do not redirect a natural stream course, these features are unlikely to be under CDFW jurisdiction pursuant to CFGC Section 1600 et seq.” However, the SEIR indicates that a stream occurs onsite as it states, “While there is a short section of channel and minor scour near the lower part of the main drainage swale convergence...”. Additionally, the California Aquatic Resources Inventory database shows a stream occurring on the project site. The description and nature of the drainages within the project site is unclear. Although the drainages may tie into the storm drain system as stated in the SEIR, the characteristics of the drainages onsite may provide substantial habitat value for plant and wildlife species under the jurisdiction of CDFW.

**Specific impacts and why they may occur and be potentially significant:** The project proposes to permanently impact several small drainages. This may entail substantial alteration of the bed, bank, and channel of these unnamed drainages which may be considered streams. Stream habitat including connected wetlands is of critical importance to protecting and conserving the biotic and abiotic integrity of an entire watershed. When stream habitat is substantially altered, riparian functions become impaired, thereby likely substantially adversely impacting aquatic and terrestrial species. Removing connected wetland habitat may also result in the degradation of stream habitat. Therefore, if the above impacts to stream habitat occur, project impacts to stream habitat would be *potentially significant*.

**Recommended Mitigation Measure:** For an adequate environmental setting, to comply with Fish and Game Code section 1600 et seq., and to reduce impacts to stream habitat to less-than-significant, CDFW recommends that the SEIR: 1) identify that CDFW may be a Responsible Agency for the project if impacts to any stream would occur, and 2) incorporate the following mitigation measure.

The project shall consult with CDFW to determine if on-site aquatic features are subject to Fish and Game Code section 1600 et seq. For project activities that may substantially alter the bed, bank, or channel of any streams (including ephemeral or intermittent streams), a LSA Notification shall be submitted to CDFW pursuant to Fish and Game Code section 1602 prior to project construction. If CDFW determines that an LSA Agreement is warranted, the project shall comply with all required measures in the LSA Agreement, including but not limited to requirements to mitigate impacts to the streams and riparian habitat. Permanent impacts to the stream and associated riparian habitat shall be mitigated by restoration of riparian habitat at a 3:1 mitigation to impact ratio based on acreage and linear distance as close to the project area as possible and within the same watershed and year as the



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impact, unless otherwise approved in writing by CDFW. Temporary impacts shall be restored on-site in the same year as the impact.

## II. Mitigation Measures and Related Impact Shortcoming

### COMMENT 5: Section 4.1.3, Page 4.1-18

**Issue:** Mitigation Measure BIO-3 requires a pre-construction nesting bird survey prior to all new development that may remove trees or vegetation, which may not be adequate to avoid impacts to special status and common nesting raptors such as white-tailed kite, a California Fully Protected species. This measure also does not account for nesting birds that may nest on the ground or on the abandoned man-made structures within the project site. The mitigation measure also does not specify a timeframe prior to construction in which the surveys should take place.

**Recommended Mitigation Measure:** To reduce impacts to nesting birds to less-than-significant, CDFW recommends replacing Mitigation Measure BIO-3 with the following mitigation measure:

If construction, grading, vegetation removal, or other project-related activities are scheduled during the nesting season, February 1 to August 31, a focused survey for active nests shall be conducted by a Qualified Biologist within 7 days prior to the beginning of project-related activities. The survey shall consist of the entire project limits, as well as a minimum 500-foot buffer. If a lapse in project-related work of 7 days or longer occurs, another focused survey shall be required before project work can be reinitiated. If an active nest is found during surveys, qualified biologist shall establish site- and species-specific no-work buffers. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.

The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.

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**Please be advised that an LSA Agreement obtained for this Project would likely include the above recommended mitigation measures, as applicable.**

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 field survey form can be filled out and submitted online 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://www.wildlife.ca.gov/Data/CNDDDB/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. (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 MND to assist the Town in identifying and mitigating project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Nick Wagner, Senior Environmental Scientist (Specialist), at (707) 428-2075 or [nicholas.wagner@wildlife.ca.gov](mailto:nicholas.wagner@wildlife.ca.gov); or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [melanie.day@wildlife.ca.gov](mailto:melanie.day@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment: Draft Mitigation Monitoring and Reporting Program

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

## REFERENCES

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## Attachment 1

### Draft Mitigation Monitoring and Reporting Program

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p><b>MM-BIO-1: Botanical Surveys:</b> The project shall submit to CDFW two years of completed botanical survey results and obtain CDFW's written approval of the results. The botanical survey results shall follow CDFW's 2018 <i>Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities</i> and the Santa Rosa Plain Conservation Strategy, Appendix D: <i>Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain</i>. If CDFW is unable to accept the survey results, the project applicant shall conduct additional surveys prior to initiation of project activities or may assume presence of Sonoma sunshine, Burke's goldfields, many-flowered navarretia, and Sebastopol meadowfoam. Please be advised that for CDFW to accept the results, they must be completed in conformance with CDFW's 2018 <i>Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities</i> and the Santa Rosa Plain Conservation Strategy, Appendix D: <i>Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain</i>, including but not limited to conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts such as altering offsite hydrological conditions where the above species may be present. Surveys conducted during drought conditions may not be acceptable. If the botanical surveys result in the detection of the above CESA listed plants that may be impacted by the project, or the presence of these species is assumed, the project applicant shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP.</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p><b>MM-BIO-2: Burrowing Owl Wintering Surveys:</b> A qualified biologist shall conduct a habitat assessment for wintering burrowing owl, and surveys if habitat is present. The qualified biologist shall follow the California Department of Fish and Game (now CDFW) <i>2012 Staff Report on Burrowing Owl Mitigation</i> (CDFW 2012 Staff Report) habitat assessment and survey methodology prior to project activities occurring during the burrowing owl wintering season from September 1 to January 31. The habitat assessment and surveys shall encompass a sufficient buffer zone to detect owls nearby that may be impacted, which shall be a minimum of 1,640 feet unless otherwise approved in writing by CDFW. Surveys shall include four non-breeding season surveys spread evenly throughout the nonbreeding season pursuant to the CDFW 2012 Staff Report. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance and before construction equipment mobilizes to the project area. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections.</p> <p>Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site specific conditions, and completed before project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and preparation and implementation of a long-term management plan prior to project construction.</p>	<p>Prior to ground disturbance and annually</p>	<p>Project Applicant</p>
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<p><b>MM BIO-3: California Red-Legged Frog Habitat Assessment and Surveys:</b> Within 48 hours prior to the commencement of ground-disturbing activities, the project area and nearby vicinity, including a minimum 500-foot radius surrounding the project area, shall be assessed by a qualified biologist for the presence of California red-legged frog individuals and habitat features. Habitat features include both aquatic habitat such as plunge pools and ponds and terrestrial habitat such as burrows. The results of the habitat feature assessment shall be submitted to CDFW for written acceptance prior to starting project activities. Habitat features shall be flagged for avoidance to the extent feasible. If California red-legged frogs are encountered during the assessment or project activities, the project shall not proceed or all work shall cease, and CDFW shall immediately be notified. Work shall not proceed until the frog, through its own volition, moves out of harm's way and CDFW has provided permission in writing to proceed with the project. If California red-legged frog is encountered or the qualified biologist believes that California red-legged frog is likely to occur in the project area, the project shall consult with USFWS pursuant to the federal Endangered Species Act.</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>
<p><b>MM BIO-4: Lake and Streambed Alteration:</b> The project shall consult with CDFW to determine if onsite aquatic features are subject to Fish and Game Code section 1600 et seq. For project activities that may substantially alter the bed, bank, or channel of any streams (including ephemeral or intermittent streams), a LSA Notification shall be submitted to CDFW pursuant to Fish and Game Code section 1602 prior to project construction. If CDFW determines that a LSA Agreement is warranted, the project shall comply with all required measures in the LSA Agreement, including but not limited to requirements to mitigate impacts to the streams and riparian habitat. Permanent impacts to the stream and associated riparian habitat shall be mitigated by restoration of riparian habitat at a 3:1 mitigation to impact ratio based on acreage and linear distance as close to the project area as possible and within the same watershed and year as the impact. Temporary impacts shall be restored onsite in the same year as the impact.</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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October 28, 2022  
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<p><b>MM BIO-5: Nesting Bird Surveys:</b> If construction, grading, vegetation removal, or other project-related activities are scheduled during the nesting season, February 1 to August 31, a focused survey for active nests shall be conducted by a Qualified Biologist within 7 days prior to the beginning of project-related activities. The survey shall consist of the entire project limits, as well as a minimum 500-foot buffer. If a lapse in project-related work of 7 days or longer occurs, another focused survey shall be required before project work can be reinitiated. If an active nest is found during surveys, qualified biologist shall establish site- and species-specific no-work buffers. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.</p> <p>The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.</p>	<p>Prior to ground disturbance and ongoing</p>	<p>Project Applicant</p>
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