



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

Apr 13 2021

April 8, 2021

STATE CLEARINGHOUSE

Jamie Bax, Deputy Director - Planning
Madera County Community and Economic Development Department
200 West 4th Street, Suite 3100
Madera, California 93637
jamie.bax@maderacounty.com

Subject: Rio Mesa Boulevard Project (Project)
Draft Environmental Impact Report (DEIR)
State Clearinghouse No. 2017101048

Dear Ms. Bax:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (DEIR) from the Madera County Community and Economic Development Department for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish and G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA,

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration 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.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest 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).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: Madera County Community and Economic Development Department

Objective: The Project proposes to construct an approximately 2.3-mile segment of new roadway (Rio Mesa Boulevard), widen an approximately 2,200-foot segment of Avenue 12, and install utilities within the Rio Mesa Boulevard right-of-way and within two linked utility line corridors in southeastern Madera County. The Project segment of Rio Mesa Boulevard would provide a connection between the SR 41/Avenue 12 intersection in the south to the southernmost point of the internal road network within the Tesoro Viejo Master Planned Community (Tesoro Viejo) to the north. The Project utility installation would provide utility infrastructure between Avenue 12 and Avenue 14 and along an approximately one-mile segment of Avenue 14.

Location: The Project site is located approximately 15 miles east of the City of Madera and approximately five miles north of the City of Fresno and is within Sections 27, 28, and 33, Township 11 South, and Range 20 East (Mount Diablo Base and Meridian) of the "Lanes Bridge, California" 7.5-minute quadrangle.

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Timeframe: Unknown.

COMMENTS AND RECOMMENDATIONS

CDFW previously commented on the Notice of Preparation for this Project in a letter dated November 20, 2019. Our November 20, 2019 letter provided specific recommendations for the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State and federally endangered hairy Orcutt grass (*Orcuttia pilosa*), the federally threatened and State endangered San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), the State endangered and federally threatened succulent owl's clover (*Castilleja campestris var. succulenta*), and the State species of special concern burrowing owl (*Athene cunicularia*) and western spadefoot toad (*Spea hammondi*). CDFW recognizes that several recommendations from that letter were included in the DEIR for the Project. CDFW maintains the same recommendations for advised survey methods and mitigations measures that are not included in the DEIR. In addition, CDFW has the following recommendations on specific mitigation measures included in the DEIR.

Mitigation Measure BIO-5

Mitigation Measure BIO-5 in the DEIR requires pre-construction nesting raptor and bird surveys at least 14 days prior to construction activities. Mitigation Measure BIO-5 indicates that a minimum 300-foot no-disturbance buffers will be utilized for any identified SWHA nest. A 300-foot no disturbance buffer may not be sufficient to avoid take.

As stated in our November 20, 2019 comment letter, if ground-disturbing Project activities are to take place during the normal bird breeding season (March 1 through September 15), CDFW recommends a minimum no-disturbance buffer of ½-mile be delineated around active SWHA nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Mitigation Measure BIO-6

Mitigation measure BIO-6 proposes to use one-way door eviction method but does not specify mitigation for the loss of the burrow(s) for burrowing owl. As stated in our November 20, 2019 comment letter, CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of one burrow collapsed to one artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW, particularly if available burrows are a limited habitat feature in the Project area.

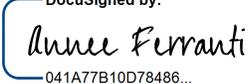
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Mitigation Measure BIO-10

Mitigation Measure BIO-10 establishes that avoidance zones for special status plant species will be implemented but does not specify the avoidance distance. CDFW recommends that Mitigation Measure BIO-10 is edited to state that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species so the measure is clear and enforceable. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species, and if take can be avoided for species listed pursuant to CESA.

CDFW appreciates the opportunity to comment on the Project to assist the Madera County Community and Economic Development Department in identifying and mitigating the Project's impacts on biological resources. If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014 extension 254, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

cc: Regional Water Quality Control Board
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