

To:
[ ] Office of Planning and Research
For U.S. Mail:
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Sacramento, CA 95814

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MAR 26 2019

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Office of the General Counsel

From:
California Department of Fish and Wildlife (CDFW)
Bay Delta Region
2825 Cordelia Road, Suite 100, Fairfield, CA 94534
Contact: Melanie Day
Phone: (707) 428-2092

Lead Agency
City of Santa Rosa
100 Santa Rosa Avenue, Room 3, Santa Rosa, CA 95404
Contact: Susie Murray
Phone: (707) 543-4348

SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code § 21108

State Clearinghouse Number: 2016082054

Project Title: Grove Village [California Endangered Species Act (CESA) Incidental Take Permit No. 2081-2018-045-03 (ITP)]

Project Location: The Project is located immediately east of Stony Point Road and approximately 0.1 miles north of Bellevue Avenue, bound to the north by a high-density residential development and to the east by Elsie Allen High School, and within the City of Santa Rosa, Sonoma County. The Project footprint is 18.09 acres and at an approximate latitude 38.404680 and longitude -122.738914.

Project Description: The Project includes the development of 18.09 acres of undeveloped land into a residential development including approximately 136 single-family homes, interior roadways, and a park. Project activities include grubbing and grading of the entire Project Area, trench digging, road construction, tree removal, and other activities.

The Project will result in permanent impacts to 18.09 acres of California tiger salamander (Ambystoma californiense) habitat. The Project is expected to result in incidental take of California tiger salamander, which is designated as a threatened species under CESA. The ITP referenced above as issued by CDFW authorizes incidental take of species listed under CESA that may occur as a result of Project implementation.

This is to advise that CDFW, acting as [ ] the lead agency / [ ] a responsible agency approved the above-described project on 2-14-19 and made the following determinations regarding the above described project:

- 1. The project [ ] will / [ ] will not have a significant effect on the environment...
2. [ ] An environmental impact report / [ ] A negative declaration was prepared...
3. Additional mitigation measures [ ] were / [ ] were not made...
4. A mitigation reporting or monitoring plan [ ] was / [ ] was not adopted...
5. A Statement of Overriding Considerations [ ] was / [ ] was not adopted...
6. Findings [ ] were / [ ] were not made...
7. Compliance with the environmental filing fee requirement...
[ ] Payment is submitted with this notice.
[ ] A copy of a receipt showing prior payment was submitted to CDFW.
[ ] Responsible Agency statement: The Negative Declaration prepared by the lead agency...

Signature Gregg Erickson Date: 2-14-19

Gregg Erickson, Regional Manager Governor's Office of Planning & Research

Date Received for filing at OPR: MAR 29 2019

STATE CLEARINGHOUSE

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
CALIFORNIA ENDANGERED SPECIES ACT  
INCIDENTAL TAKE PERMIT  
NO. 2081-2018-045-03**

**Santa Rosa 5 INV, LLC  
Grove Village Project**

**CEQA FINDINGS**

**INTRODUCTION:**

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*). CDFW is a responsible agency under CEQA with respect to the Grove Village Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish and Game Code, § 2050 *et seq.*). [See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a)].<sup>1</sup> CDFW makes these findings under CEQA as part of its discretionary decision to authorize Santa Rosa 5 INV, LLC (Permittee) to incidentally take California tiger salamander (*Ambystoma californiense*) (hereafter, Covered Species) during implementation of the Project. (See generally Fish and Game Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4). The California tiger salamander is designated as a threatened species under CESA. [Cal. Code Regs., tit. 14, § 670.5, subd. (b)(3)(G)].

CDFW is a responsible agency under CEQA with respect to the Project because of prior environmental review and approval of the Project by the lead agency, City of Santa Rosa (City) (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367). The City analyzed the environmental impacts associated with implementation of the Project in a Mitigated Negative Declaration for the Grove Village Project (SCH No. 2016082054) and approved the Project on September 22, 2016. In so doing, the City imposed various mitigation measures for impacts to the Covered Species as conditions of Project approval and concluded that Project-related impacts to the Covered Species could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less-than-significant.

As approved by the City, the Project involves development of the approximately 19-acre site in Santa Rosa into 136 lots providing an average density of 7.2 dwelling units per acre. The Project site is within the range of the Covered Species and is known to support individuals of the species. Development of the Project site will result in the permanent loss of 18.09 acres of habitat for the Covered Species and take of the Covered Species as defined by Fish and Game Code is expected. (Fish and Game Code, § 86). These impacts fall within CDFW's permitting jurisdiction under CESA. [*Id.*, §§ 2080, 2081, subd. (b)].

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the Project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the Project as set forth in the City's Mitigated Negative Declaration, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or

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<sup>1</sup> The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

approve. [Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g)]. Accordingly, because CDFW's exercise of discretion is limited to issuance of an Incidental Take Permit (ITP) for the Project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under CESA. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 935-941). Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the Mitigated Negative Declaration fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130).

#### **FINDINGS:**

CDFW has considered the Mitigated Negative Declaration adopted by the City as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by the City, along with the mitigation measures and Conditions of Approval set forth in imposed by CDFW through the issuance of the ITP, will ensure that all Project-related impacts on the Covered Species are mitigated to below a level of significance under CEQA.

CDFW finds that issuance of the ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the conditions of Project approval adopted by the lead agency, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of the ITP, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's ITP for the Project will avoid to the extent feasible and mitigate to below a level of significance all Project-related impacts on the Covered Species:

- A. Habitat Acquisition. The Permittee shall either purchase 37 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank or shall provide for both the permanent protection and management of 37 acres of Habitat Management (HM) lands.
- B. Covered Species Relocation Plan. The Permittee shall submit a Covered Species Relocation Plan (Relocation Plan) a minimum of 30 days prior to the commencement of Covered Activities for approval in writing by CDFW. The Designated Biologist shall follow this Relocation Plan to install the Covered Species temporary barrier, install the pitfall traps, cover boards, and drift fence arrays, check pitfall traps according to the rainfall-dependent schedule, and relocate captured Covered Species adults, juveniles, and larva to a suitable site.
- C. Dry Season Work Restriction. The Permittee shall ensure that initial ground disturbing activities involving construction and heavy equipment use within Covered Species habitat (such as excavation, grading and contouring) are limited to the period from June 15 to October 15 (Dry Season).

If more time is needed to complete initial ground disturbing activities, the work period may be modified in writing on a week-by-week basis by a CDFW representative. Requests for a work period extension shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; 4) provide photographs of both the current work completed and the proposed site for continued work; and 5) include an assessment of additional biological impacts as a result of the work extension. An extension of the period may require an Amendment if additional impacts to Covered Species will occur.

D. Wet Weather Work Restriction. The Permittee or the Designated Biologist shall consult the 72-hour weather forecast from the National Weather Service (NWS) prior to the start of ground disturbing activities. Ground disturbing activities shall not begin unless a no precipitation forecast is obtained covering the entire Project Area and necessary erosion control measures are implemented. The Designated Biologist shall keep precipitation records on-site, and these records shall be subject to CDFW inspection.

- If a 40 percent or greater chance of rain is forecasted, then ground disturbing activities shall cease 24 hours prior to the forecasted rain, unless otherwise approved in writing by CDFW.
- If ground-disturbing activities are approved by CDFW as described above, the Designated Biologist shall survey the work area before construction begins each day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, ground-disturbing activities shall cease.
- Twenty-four hours after the rain ceases and once there is no precipitation in the 24-hour forecast, ground disturbing activities may continue.

E. Covered Species Temporary Barrier. Permittee shall provide a Covered Species Temporary Barrier Plan a minimum of 30 days prior to commencing Covered Activities for approval in writing by CDFW. Prior to any ground disturbing Covered Activities and under the direct supervision of the Designated Biologist, Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the Project Area, unless otherwise approved in writing by CDFW. The barrier shall be designed to allow Covered Species to leave the Project Area using a one-way funnel at 100-foot intervals along the barrier or other method approved in writing by CDFW. The barrier shall remain in place until Covered Activities are completed, including during periods of inactivity. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as coverboards (2-foot x 2-foot plywood), along both sides at 100-foot intervals on each side, and a climbing barrier at the top of the temporary barrier. The Designated Biologist shall check temporary Covered Species barriers and refuge areas daily during Covered Activities and before, during, and following storm events or periods of 70 percent or greater humidity, and weekly, during periods of inactivity. Animals found within the interior of the barrier shall be relocated outside of the barrier as described in the Covered Species Relocation Plan.

F. Covered Species Permanent Barrier. Permittee shall provide a Covered Species Permanent Barrier Plan a minimum of 30 days prior to commencing Covered Activities for approval in writing by CDFW. The Permittee shall install a permanent 12-inch high impenetrable barrier between the impacted area and adjacent Covered Species habitat.

The permanent barrier shall be installed after grading and stabilizing activities have been completed and prior to construction of residential, commercial, or other development unless otherwise approved in writing by CDFW. Permittee shall design the barrier to prevent Covered Species from climbing over it or under it through burrows or cracks. The Permittee shall ensure the permanent barrier is monitored and maintained. The barrier shall be inspected annually prior to October 1 and all damages to the barrier shall be repaired immediately. Permittee shall ensure that permanent barriers installed between fully developed areas and Covered Species habitat are maintained in perpetuity.

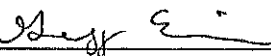
- G. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Designated Biologist at least 30 days before starting Covered Activities. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. More than one Designated Biologist may be necessary to monitor Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, and collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat.
- H. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all Annual Status Reports; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

CDFW finds that the Mitigation Monitoring and Reporting Program in Attachment 1 of CDFW's ITP for the Project will ensure compliance with mitigation measures by requiring the Permittee to monitor and report progress in implementing those measures for review by CDFW staff.

*The Mitigation Monitoring and Reporting Program is adopted.*

*The Project is approved.*

DATE: 2-14-19

By:   
Gregg Erickson, Regional Manager  
Bay Delta Region  
California Department of Fish and Wildlife