

Memorandum

Governor's Office of Planning & Research

Date: April 11, 2019

APR 12 2019

To: Mr. Terry Ash
California Department of Veterans Affairs
Department of General Services
707 3rd Street, 4th Floor
West Sacramento, CA 95605

STATE CLEARINGHOUSE

From: 
Mr. Gregg Erickson, Regional Manager
California Department of Fish and Wildlife-Bay Delta Region, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534

Subject: Yountville Skilled Nursing Facility, Notice of Preparation of a Draft Environmental Impact Report, SCH #2019039077, Town of Yountville, Napa County

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) provided for the Yountville Skilled Nursing Facility (Project) located at Presidents Circle and California Drive, Town of Yountville, Napa County. The NOP was received in our office on March 18, 2019.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §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 the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act, the Lake and Streambed Alteration Agreement (LSAA) 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 concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The Project includes construction of multiple structures over an approximately 285,000-square foot area for a skilled nursing facility in the southwest corner of Yountville Veterans Home property along with utility infrastructure improvements. The Project site currently consists of previously developed structures, landscaped gardens, wooded habitat to the west and an intermittent tributary to Hopper Creek along the southern border. Project construction may require demolition of standing buildings and increased development footprint replacing woodland habitat. Upon completion, the new facility anticipates requiring 100 new staff.

The CEQA Guidelines (§§15124 and 15378) require that the draft EIR 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. Please include a complete description of the following Project components in the Project description:

- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes, including construction schedule, activities, equipment and crew sizes.
- Anticipated utility upgrade areas and associated impacts from the work.
- Footprint of temporary staging areas.

- Encroachments into riparian habitats, wetlands or other sensitive areas.
- Acreage of temporary and permanent impacts to woodlands on the Project site, including the approximate size (diameter at breast height) of any trees, especially oak trees proposed for removal.
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and storm water systems.
- 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 greenhouse gas generation, traffic generation, and other features.

ENVIRONMENTAL SETTING

Sufficient information regarding the environmental setting is necessary to understand the Project's, and its alternative's (if applicable), significant impacts on the environment (CEQA Guidelines, §§15125 and 15360). 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 all rare, threatened, or endangered species (CEQA Guidelines, §15380). 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:

- White-tailed kite (*Elanus leucurus*), fully protected under Fish and Game Code
- Golden eagle (*Aquila chrysaetos*), fully protected under Fish and Game Code
- Foothill yellow-legged frog (*Rana boylei*), a candidate threatened species under CESA
- Western pond turtle (*Actinemys marmorata*), CDFW species of special concern, federal Endangered Species Act (ESA)
- Greene's narrow-leaved daisy (*Erigeron greenelii*) California Rare Plant Rank 1B.2, protected under CEQA §15380
- *Eryngium jepsonii*, California Rare Plant Rank 1B.2, protected under CEQA §15380
- Jepsons leptosiphon (*Leptosiphon jepsonii*) California Rare Plant Rank 1B.2, protected under CEQA §15380
- Stanford's arrowhead (*Sagittaria sanfordii*), California Rare Plant Rank 1B.2, protected under CEQA §15380
- Additional special-status plants

Habitat descriptions and species profiles should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, 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 prior to Project implementation, 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-Protocol>.

Botanical surveys for special-status plant species, including those listed by the California Native Plant Society (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and require the identification of reference populations. Please refer to CDFW protocols for surveying

and evaluating impacts to rare plants available at:
<https://www.wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The CEQA Guidelines (§15126.2) necessitate that the draft EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as:

- Potential for "take" of special-status species;
- Locations and acreage of encroachment into riparian habitat and other sensitive areas;
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alteration 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; and
- Impacts to rare and special-status plant species and their habitat.

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 (§§ 15021, 15063, 15071, 15126.2, 15126.4 and 15370) direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and/or mitigate significant impacts of the Project on the environment. This includes a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service and CDFW. 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 golden eagle and white-tailed kite may not be taken or possessed at any time (Fish and Game Code § 3511). Therefore, the draft EIR is advised to include measures to ensure complete take avoidance of these fully protected species.

Foothill Yellow Legged Frog

CDFW is concerned that the proposed Project has potential to impact foothill yellow-legged frogs (FYLF). The draft EIR should determine and quantify what the impacts are to FYLF, and then present biological measures, such as take avoidance and minimization measures, and mitigation for any impacts to potential breeding and foraging habitat, to conclude that the impacts have been mitigated to less-than-significant levels. This should include impacts to creek and floodplain habitat, and riparian vegetation.

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.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA §§ 21001(c), 21083, and 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 § 2080.

Lake and Streambed Alteration Agreement

CDFW will require an LSAA, pursuant to Fish and Game Code §§ 1600 et. seq. for Project-related activities within any 1600-jurisdictional waters within the proposed Project area. 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. 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 LSAA until it has complied with CEQA (Public Resources Code § 21000 et seq.) as the responsible agency.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game 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 Mr. Garrett Allen, Environmental Scientist, at (707) 428-2076 or email at garrett.allen@wildlife.ca.gov; or Karen Weiss, Senior Environmental Scientist (Supervisory), by email at karen.weiss@wildlife.ca.gov.

cc: State Clearinghouse