



State of California – Natural Resources Agency  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



January 13, 2022

Francisco Avila, Principal Planner  
Contra Costa County  
Department of Conservation and Development  
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Subject: CenterPoint Properties Warehouse Project, Draft Environmental Impact Report. SCH No. 2019110003, Contra Costa County

Dear Mr. Avila:

The California Department of Fish and Wildlife (CDFW) received a Notice of Completion for a Draft Environmental Impact Report (Draft EIR) from Contra Costa County (County) for the CenterPoint Properties Warehouse Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

CDFW is submitting comments on the Draft EIR to inform the County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive natural resources associated with the Project.

## CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines § 15386 for commenting on projects that could impact fish, wildlife, and plant 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) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish, wildlife, and plant trust resources.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** CenterPoint Properties; 160 Franklin Street, Suite 301, Oakland, CA 94607

**Objective:** The Proponent seeks to construct three warehouse buildings totaling 555,537 square feet on a 31.48-acre site within unincorporated Contra Costa County in the North Richmond area. The Project consists of the following elements:

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<sup>1</sup> CEQA is codified in the California Public Resources Code in § 21000 et seq. The CEQA Guidelines are found in Title 14 of the California Code of Regulations, commencing with § 15000.

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- Mass vegetation removal and grading of a 31.48-acre fallow agricultural area dominated by ruderal plant species.
- Removal of seven code protected trees.
- Demolition of all existing foundations associated with former structures, as well as asphalt, concrete, fence poles, and retaining walls.
- Construction of the three warehouse buildings totaling 555,537 square feet
- Installation of approximately 129,719 square feet of landscaped areas (including bioretention areas).
- Construction of approximately 438 auto parking spaces and 266 trailer parking spaces.
- Construction of off-site improvements such as roadway, bicycle and pedestrian facilities, sidewalks, curbs, gutters, landscaping, bioretention swales, utility connections, and traffic calming improvements.
- Annexation into the West County Wastewater District.

**Location:** The Project is located at 506 Brookside Drive in Richmond, CA 94801, within unincorporated Contra Costa County. The Project will occur on multiple parcels associated with reference Assessor's Parcel Number 409-300-037. The approximate Project center coordinate is Latitude 37.964142, Longitude -122.364367.

**Timeframe:** The Project is designed to be completed over the course of two years, and require 285 workdays. No Project commencement date has been provided.

## **ENVIRONMENTAL SETTING**

The Project area is located at a fallow agricultural site comprised primarily of ruderal species, foundations of old structures, and seven mature native and non-native trees. Additionally, existing swales and drainages hold seasonal standing water that support obligate and facultative wetland vegetation. The Project area is immediately surrounded by mixed urban and industrial use areas. The Project is approximately 800 feet south of San Pablo Creek, and approximately 500 feet north of Wildcat Creek. Both of these creeks include habitat for special-status species, including, but not limited to, Central California Coast distinct population segment of steelhead (*Oncorhynchus mykiss irideus*), San Pablo vole (*Microtus californicus sanpabloensis*), and numerous others downstream in these creek's estuaries and adjacent salt marshes. The Project area is not within the Federal Emergency Management Agency's (FEMA) designated Special Flood Hazard Area, but does fall within the 0.2% Annual Chance Flood Hazard Area.

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The immediately adjacent properties border San Pablo and Wildcat Creeks and contain native and non-native ornamental trees, and other vegetation or infrastructure, that provide potential nesting habitat for birds and potential roosting habitat for bats. Within one mile are tidally influenced areas of northern coastal saltmarsh. This area holds known records of CESA Threatened or Endangered species including, but not limited to, salt-marsh harvest mouse (*Reithrodontomys raviventris*), California Ridgeway's rail (*Rallus obsoletus obsoletus*), and longfin smelt (*Spirinchus thaleichthys*). Additionally, therein are known special-status species records of white-tailed kite (*Elanus leucurus*), short-eared owl (*Asio flammeus*), and northern harrier (*Circus hudsonius*), all of which are within a reasonable dispersal distance that could utilize the Project area as foraging habitat.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish, wildlife, and plant (biological) resources.

### ***Impacts to Nesting Birds***

On page ES-12, and elsewhere, avoidance measure MM BIO-1 would not adequately reduce impacts to nesting birds to a level of less-than-significant. MM-BIO-1 does not include biological monitoring of active nests to observe for signs of disturbance and/or distress. Such project related impacts to nesting birds could lead to nest failure. CDFW recommends the Final EIR incorporate the following revised version of Mitigation Measure (MM) BIO-1 to ensure that significant impacts to bird species resulting from the Project are mitigated to a level of less-than-significant:

**MM BIO-1 (revised).** Construction work should take place outside of the February 15 to September 15 bird nesting seasonal window to the maximum extent practicable. If construction is to be conducted during the nesting season, the Project Applicant is responsible for ensuring that the Project does not result in any violation of the Migratory Bird Treaty Act or Fish and Game Code. A qualified biologist will conduct focused pre-construction nesting bird surveys throughout the Project area no more than five days prior to the initiation of on-site project-related activities. Surveys will be conducted in all potential habitat located at, and adjacent to, Project work sites and in staging and storage areas. The minimum survey radii surrounding the work area will be the following: (1) 250 feet for Passerines; (2) and 1,000 feet for raptors such as *Buteo spp.* In the event that there is a lapse in construction activities for seven days or more, a qualified biologist will conduct additional focused pre-construction nesting bird surveys in areas of potential habitat again before Project activities can be reinitiated. If an active nest is found, the qualified biologist may consult with CDFW if needed regarding appropriate action to comply with Fish and Game Code.

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- **Active Nest Buffers.** Active nest sites and protective buffer zones will be designated as “ecologically sensitive areas” where no Project-related activities or personnel may enter (while occupied or in use for the season in the case of multi clutch bearing species) during the course of nesting bird season with the establishment of a fence barrier or flagging surrounding the nest site. The qualified biologist will determine the necessary buffer, in consultation with CDFW if needed, to protect nesting birds based on existing site conditions, such as construction activity, topography, and line of sight, and will increase buffers as needed to provide sufficient protection of nesting birds and their natural behaviors.
- **Active Nests.** A qualified biologist will observe any identified active nests prior to the start of any project-related activities to establish a behavioral baseline of the adults and any nestlings. Once Project activities commence, all active nests will be continuously monitored by a qualified biologist to detect any signs of disturbance and behavioral changes as a result of the Project. In addition to direct impacts, such as nest destruction, nesting birds might be affected by noise, vibration, odors and movement of workers or equipment. If signs of disturbance and behavioral changes are observed, the qualified biologist will halt Project activities causing that change until they nestlings have fledged, and the nest is determined to be inactive.

### ***Additional Mitigation Measures***

CDFW also recommends the Final EIR incorporate the following measures to ensure that significant impacts from the Project are mitigated to a level of less-than-significant:

**Harassment of Animals.** No Project personnel or motorized equipment shall harass, herd, or drive any wildlife. Harass is defined as an intentional act which disrupts an animal’s normal behavior patterns, which includes, but is not limited to, breeding, feeding, or sheltering. Project personnel and equipment shall not cause displacement of wildlife into roadways or open areas lacking cover from predators.

**Allow Wildlife to Leave Unharmd.** Project staff shall allow any wildlife encountered during the course of Project activities to leave the Project area unharmd.

**Temporary Flagging, Fencing, and Barriers.** Permittee shall remove all temporary flagging, fencing, and/or barriers from the Project area upon completion of Project activities.

**Open Pipes Restriction.** All pipes, culverts, or similar structures that are staged or stored at the Project area for one or more overnight periods shall be either: (1) capped, screened, or filled with material by Permittee when the structures arrive at the Project area; or (2) thoroughly inspected for wildlife by biological staff prior to use in Project

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activities. All hollow pipes or posts installed as part of the Project and exposed to the environment at a positive angle shall be capped, screened, or filled with material by Project staff prior to the end of the workday in which the installation occurs.

**Open Trenches.** Any open trenches, pits, or holes with a depth of greater than one-foot shall be covered at the conclusion of work each day with a hard, non-heat conductive material (e.g., plywood). Netting, canvas, or material capable of trapping or ensnaring wildlife shall not 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 (e.g., deer, coyote) and/or small (e.g., frogs, snakes) wildlife to escape on their own volition. Prior to the initiation of Project activities each day and prior to the covering of the trench at the conclusion of work each day, biological staff shall inspect the open trench, pit, or hole for wildlife. If wildlife is discovered, it shall be allowed to leave on its own volition, or if necessary, moved by biological staff if applicable. Special-status species shall not be handled without prior consultation from CDFW.

**Signpost Restriction.** Signposts, or 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.

**Fencing Restriction.** All fencing installed temporarily or permanently throughout the course of the Project, shall not be constructed of materials deleterious to wildlife (e.g., sharp edges exposed at the top or bottom of chain-link fencing, braided wire where birds may become entangled, etc.). No barbed wire, or equivalent, shall be allowed where it may result in harm to birds and other wildlife.

**Restriction of Nighttime Construction and Artificial Lighting.** All Project activities shall be terminated 30 minutes before sunset and shall not resume until 30 minutes after sunrise. Permittee shall use sunrise and sunset times established by the Federal Aviation Administration found at [https://avcams.faa.gov/sunrise\\_sunset.php](https://avcams.faa.gov/sunrise_sunset.php). No permanent or unattended temporary outdoor lighting shall be used during the course of construction.

### ***General Recommendations***

It is indicated throughout the Draft EIR that the Project will hold a landscaping component, and on page 3.14-20 that such landscaping will be low water demand vegetation. In Appendix C, the Biological Resources Supporting Information, it is recommended that the Project landscaping incorporate native species, yet the Draft EIR does not have a mitigation measure requiring low water demand vegetation. CDFW recommends the addition of a mitigation measure to require landscaping plans incorporate drought tolerant native trees and shrubs for the benefit native nesting birds, pollinators, and other wildlife.

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The Project should also be required to select species not listed by the California Invasive Plant Council (Cal-IPC) which can be found at: <https://www.cal-ipc.org/plants/profiles/>.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports 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 the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link: <https://wildlife.ca.gov/data/CNDDDB/submitting-data>.

## FILING FEES

The Project, as proposed, would have an impact on fish, wildlife, plants, and the habitats on which they depend. Therefore, an assessment of 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 fee is required for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

## CONCLUSION

In conclusion, CDFW recommends the Final EIR incorporate these comments provided. We appreciate the opportunity to comment on the Draft EIR to assist the County in identifying and mitigating for the Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Andrew Chambers, Environmental Scientist, at [Andrew.Chambers@wildlife.ca.gov](mailto:Andrew.Chambers@wildlife.ca.gov), or Michelle Battaglia, Senior Environmental Scientist (Supervisory), at [Michelle.Battaglia@wildlife.ca.gov](mailto:Michelle.Battaglia@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Stephanie Fong*

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Stephanie Fong  
Acting Regional Manager  
Bay Delta Region

cc: Office of Planning and Research, State Clearinghouse (SCH No. 2019110003)