



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



Governor's Office of Planning & Research

September 17, 2020

Sep 17 2020

Mr. Rob Hickey, City Planner
City of Rio Vista
One Main Street
Rio Vista, CA 94571
rhipkey@ci.rio-vista.ca

STATE CLEARINGHOUSE

Subject: Rio Vista Manufacturing Project, Initial Study/Mitigated Negative Declaration, SCH No. 2020029088, City of Rio Vista, Solano County

Dear Mr. Hickey:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration from the City of Rio Vista for Rio Vista Manufacturing (Project) pursuant to the California Environmental Quality Act (CEQA). The public review period ends on September 28, 2020.

CDFW is therefore submitting comments on the Initial Study/Mitigated Negative Declaration (IS/MND) to inform the City of Rio Vista, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project. CDFW is providing these comments and recommendations regarding those activities involved in the Project that are within CDFW's area of expertise and relevant to its statutory responsibilities (Fish and Game Code, § 1802), and/or which are required to be approved by CDFW (CEQA Guidelines, §§ 15086, 15096 and 15204).

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), the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

REGULATORY REQUIREMENTS

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

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during construction or over the life of the Project. 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.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, and 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 section 2080.

PROJECT DESCRIPTION SUMMARY

Proponent: Rio Vista Manufacturing, Inc.

Description and Location:

The Project site is located at the address: 10 Poppy House Road, Rio Vista, CA 94571 on Assessor parcel number (0178-230-012). The Project site is approximately 1.24 acres on land that was formerly used as an airport.

The proposed Project involves construction of a cannabis manufacturing and distribution facility. The Project includes the construction of a 4,860-square-foot building for gas storage and trash as well as an approximately 5,000-square-foot structure that will be used for storage on-site. A 20-foot emergency access lane would be located at the southeasterly corner of the site through the westerly parking lot at the driveway on Poppy House Road.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the City of Rio Vista in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources, including Swainson's hawk (*Buteo swainsoni*).

Migratory and Nesting Birds

MM BIO-1 addresses nesting bird survey requirements specifically addressing Swainson's hawk. The measure should also address preconstruction survey parameters for passerine and other raptor species.

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Nesting bird surveys for passerines should include two surveys (draft IS/MND states only one survey will be conducted). The first survey should be conducted at least within **7 days** prior to the beginning of Project related activities, and an additional survey conducted within **48 hours** prior to the start of Project related activities. If there is a lapse of 7 days or longer in Project related activities, another focused survey should be conducted. Additional surveys for raptors may be necessary especially surveys earlier in the nesting season to document early signs of nesting when raptors are more conspicuous.

Additionally, CDFW recommends that a qualified biologist, experienced in raptor behavior, be required to monitor the behavior of any raptors nesting within disturbance distance of Project activities. The qualified biologist should have authority to order the cessation of all Project activities within disturbance distance of any raptor nest if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young). 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, interrupted feeding patterns, and flying away from the nest. Project activities within line of sight of the nest should not resume until the qualified biologist has consulted with CDFW and both the qualified biologist and CDFW confirm that the bird's behavior has normalized, or the young have left the nest.

Swainson's Hawk

The MND states that due to the presence of mammal burrows on a portion of the site, it may provide foraging habitat for Swainson's hawk and that potentially suitable nesting habitat is located within approximately 0.25 miles of the site (p. 39). Swainson's hawk has been documented within 2 miles of the Project site (California Natural Diversity Database (CNDDDB), accessed September 2020).

MM BIO-1 states that if construction activities are planned to begin after March 1, a pre-construction breeding survey for Swainson's hawks will be conducted throughout areas of suitable nesting habitat within 0.25 miles of the Project site.

CDFW recommends that Project-related disturbance within a minimum of 0.25 miles (and up to 0.5 miles depending on site-specific conditions) of any active Swainson's hawk nest site be reduced or eliminated during the critical phase of the nesting cycle (March 1 through September 15) in order to avoid significant impacts to the hawk. If Project activities must be conducted during this critical phase, then appropriate buffers should be established by a qualified biologist. Please refer to the CDFW guidance document on Swainson's hawk on take avoidance, minimization, and mitigation measures that is available at:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992>.

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MM BIO-1 does not include any mitigation if significant impacts to Swainson's hawk foraging habitat cannot be avoided.

MM BIO-1 should include mitigation for potentially significant impacts to Swainson's hawk foraging habitat on the Project site if active nests are found in the Project area. CDFW recommends mitigation for loss of Swainson's hawk foraging habitat based on the following ratios:

- For projects within one-mile of an active nest tree, provide one-acre of land for each acre of development authorized (1:1 ratio).
- For projects within five miles of an active nest tree but greater than one-mile from the nest tree, provide 0.75 acres of land for each acre of development authorized (0.75:1 ratio).
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, provide 0.5 acres of land for each acre of development authorized (0.5:1 ratio).

Other Considerations

Fencing Hazards

The Project may result in the use of open pipes used as fence posts, property line stakes, signs, etc. CDFW recommends that all hollow posts and pipes be capped to prevent wildlife entrapment and mortality because these structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Further information on this subject may be found at: <https://ca.audubon.org/conservation/protect-birds-danger-open-pipes>.

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>

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FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and 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 in order 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

CDFW appreciates the opportunity to comment on the IS/MND to assist the City of Rio Vista in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Mia Bianchi, Environmental Scientist, at (707) 428-2068 or Mia.Bianchi@wildlife.ca.gov; or Mr. Wes Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or Wes.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

ec: State Clearinghouse

REFERENCES

O'Hare, M., Sanchez, D. L., & Alstone, P. (2013). Environmental risks and opportunities in cannabis cultivation. BOETC Analysis Corp. University of California, Berkeley, CA, USA.

California Department of Fish & Wildlife (CDFW). 2020. California Natural Diversity Database (CNDDDB) Rarefind Electronic database. Sacramento, CA. Search of U.S. Geological Survey 7.5-minute quadrangles Rio Vista. Accessed September 2020.

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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
 (MMRP)**

PROJECT: Rio Vista Manufacturing Project

SCH No.: 2020029088

RECOMMENDED MITIGATION MEASURES	RESPONSIBILITY FOR IMPLEMENTATION
<p><u>MM BIO-1</u></p> <p><u>Breeding bird pre-construction surveys</u></p> <ul style="list-style-type: none"> • Nesting bird surveys for passerines should include two surveys (Draft IS/MND states only one survey will be conducted). The first survey should be conducted at least within 7 days prior to the beginning of Project related activities, and an additional survey conducted within 48 hours prior to the start of Project related activities. If there is a lapse of 7 days or longer in Project related activities, another focused survey should be conducted. Additional surveys for raptors may be necessary especially surveys earlier in the nesting season to document early signs of nesting when raptors are more conspicuous. • A qualified biologist, experienced in raptor behavior, should be required to monitor the behavior of any raptors nesting within disturbance distance of Project activities. The qualified biologist should have authority to order the cessation of all Project activities within disturbance distance of any raptor nest if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young). 	<p>Project Applicant/Qualified Biologist</p>

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Swainson's hawk habitat mitigation

MM BIO-1 should propose mitigation for potentially significant impacts to SWHA foraging habitat on the Project site if active nests are found in the Project area. CDFW recommends mitigation for loss of Swainson's hawk foraging habitat based on the following ratios:

- For projects within one-mile of an active nest tree, provide one-acre of land for each acre of development authorized (1:1 ratio).
- For projects within five miles of an active nest tree but greater than one-mile from the nest tree, provide 0.75 acres of land for each acre of development authorized (0.75:1 ratio).
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, provide 0.5 acres of land for each acre of development authorized (0.5:1 ratio).