



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

**Jul 28 2020**

## **STATE CLEARINGHOUSE**

July 28, 2020

Arielle Goodspeed, Assistant Planner  
San Benito County Resource Management Agency  
2301 Technology Parkway  
Hollister, California 95023

**Subject: Mission Vineyard Road-Tentative Subdivision Map and Zone Change Project (Project)  
Mitigated Negative Declaration  
State Clearinghouse No. 2020060618**

Dear Ms. Goodspeed:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the San Benito County Resource Management Agency for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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.

### **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, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on

---

<sup>1</sup> 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.

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 2

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: James P. Dassel**

**Objective:** The Project proposes to subdivide two parcels totaling 30.656 acres. The development of the property will include the creation of five (5) one-acre single-family residential lots, and one (1) twenty-five (25) acre lot with a 24-acre open space easement to preserve a hillside. The five one-acre lots will be clustered in the flat areas adjacent to Mission Vineyard Road and each will include a building site for a 2,000 to 4,000 square foot single family house. The 25-acre lot will encompass the remainder of the project area. The 24-acre open space easement will allow for the construction of a single-family residence and accessory structures over a portion of the property not to exceed one acre. Driveways to the residences will be off Mission Vineyard Road and grouped so that there are three driveways total (1 shared by Lots 1 and 2, 1 shared by Lots 3 and 4, and 1 shared by Lots 5 and 6).

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 3

The driveways will be constructed as required by County Code. The project will also include the widening of the southerly half of Mission Vineyard Road to the width required by County Code together with the re-grading of the existing roadside ditch and storm water runoff mitigation according to the requirements of County Code and the Central Coast Regional Water Quality Control Board.

Water service to the new lots will be provided by the City of San Juan Bautista which currently serves the site and new services will be provided as required by the City as defined in the August 23, 2018 and June 24, 2020 letter provided by the City. Each Lot will have an on-site septic system and will also be conditioned to connect to the City of San Juan Bautista sewer system within six months of the City's completion of a sewer main in front of these properties to meet General Plan policy. Electric and Communication service to the new lots will be underground from the existing overhead lines that run along the north side of Mission Vineyard Road.

**Location:**

The proposed project is located at 333 Mission Vineyard Road (APNs 012-190-041 and 012-190-042). The parcel is located approximately 1.0 mile southeast of the City of San Juan Bautista across State Route 156 (Section 3 of T13S/R4E MDB&M).

**Timeframe:** Not specified.

**COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist San Benito County Resource Management Agency in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

Currently, a MND has been prepared to determine the likely environmental impacts associated with the Project, however, there was only one mitigation measure provided for biological resources, for reducing impacts to nesting birds. In fact, the MND states that the site does not contain sensitive or significant biologic resources, but did not provide any biological survey results to make that determination. CDFW is concerned regarding adequacy or lack of mitigation measures for special-status species including, but not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened tricolored blackbird (*Agelaius tricolor*), the federally threatened and State species of special concern California red-legged frog (*Rana draytonii*), and State species of special concern burrowing owl (*Athene cunicularia*) and American badger (*Taxidea taxus*). In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 4

by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys and to identify any Project-related impacts under CESA and other species of concern.

## **I. Environmental Setting and Related Impact**

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status-species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?**

### **COMMENT 1: California Tiger Salamander (CTS)**

**Issue:** CTS are known to occur in the Project vicinity (CDFW 2020). Aerial imagery shows that the proposed Project site contains both CTS upland and breeding habitat. Please be advised that any take that occurs without prior acquisition of an Incidental Take Permit (ITP) (pursuant to Fish and Game Code section 2081(b)) from CDFW would result in a violation of CESA.

**Specific Impacts:** Without appropriate avoidance and minimization measures for CTS, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with construction of the Project include collapse of small mammal burrows, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs and/or young, direct mortality of individuals, and displacement due to sound or vibration. Excavation of any small mammal burrow within the Project site could result in take of CTS through capture, crushing as a result of burrow collapse, entombment, etc.

**Evidence impact would be significant:** Up to 75% of historic CTS habitat has been lost to development (Searcy et al. 2013). Loss, degradation, and fragmentation of habitat are the primary threats to CTS. Contaminants and vehicle strikes are also sources of mortality for the species (CDFW 2015a, USFWS 2017a). The Project site is within the range of CTS and has suitable habitat (i.e., aquatic breeding habitat, grasslands interspersed with burrows). CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011) and have the potential to occur on or near the Project site (CDFW 2020). Given the presence of suitable habitat on the Project site, Project activities have the potential to significantly impact local populations of CTS.

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 5

### **Recommended Potentially Feasible Mitigation Measure(s)**

Because suitable habitat for CTS is present on the Project site and CTS has been documented in the vicinity of the Project site, CDFW recommends editing the MND to include the following mitigation measures and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 1: Focused CTS Protocol-level Surveys**

CTS are known to occur adjacent to the Project site (CDFW 2020). Therefore, protocol-level surveys are advised to be conducted in accordance with the USFWS' Interim Guidance document (USFWS 2003). CDFW advises that the survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. CDFW recommends that survey findings be submitted for review. In order for a negative finding for CTS to be accepted, CDFW must make a determination on whether there has been sufficient rainfall to accept negative finding results. In addition, acceptance of a negative finding for CTS requires protocol-level surveys for two consecutive wet seasons.

#### **Recommended Mitigation Measure 2: CTS Avoidance**

CDFW recommends that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows within and/or adjacent to the Project construction footprint and occupied breeding pools within and/or adjacent to the Project site footprint. CDFW also recommends avoiding any impacts that could alter the hydrology or result in sedimentation of breeding pools. If avoidance is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take.

#### **Recommended Mitigation Measure 3: CTS Take Authorization**

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site and take cannot be avoided, acquisition of take authorization would be warranted prior to initiating ground-disturbing activities. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081(b). Alternatively, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW. Due to known CTS occurrences adjacent to the Project site, CDFW recommends that an ITP will be obtained.

### **COMMENT 2: Tricolored Blackbird (TRBL)**

**Issue:** TRBL have the potential to occur near the Project site. Review of aerial imagery indicates that the Project site is near dense low vegetation fields that may serve as nest colony sites.

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 6

**Specific impact:** Without appropriate avoidance and minimization measures for TRBL, potential significant impacts include nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

**Evidence impact would be significant:** TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014). Approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). Increasingly, TRBL are forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). In 2017, approximately 30,000 TRBL were distributed among only 16 colonies in Merced County (Meese 2017). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Meese et al. 2014).

**Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential Project-related impacts to TRBL, CDFW recommends conducting the following evaluation of the Project site, editing the MND to include the following mitigation measures, and that these measures be made conditions of approval for the Project.

**Recommended Mitigation Measure 4: TRBL Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment adjacent to the Project site in advance of Project implementation, to determine if the Project site or its vicinity contains suitable habitat for TRBL.

**Recommended Mitigation Measure 5: TRBL Surveys**

CDFW recommends that Project activities be timed to avoid the typical bird breeding season (February 1 through September 15). However, if Project activities must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL, within a minimum 500-foot buffer from the Project site, no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

**Recommended Mitigation Measure 6: TRBL Avoidance**

If an active TRBL nesting colony is found during pre-activity surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 7

2015b). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason, the colony may need to be reassessed to determine the extent of the breeding colony within 10 days prior to Project initiation.

### **Recommended Mitigation Measure 7: TRBL Take Authorization**

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code Section 2081(b), prior to any ground-disturbing activities.

### **COMMENT 3: California Red-legged Frog (CRLF)**

**Issue:** CRLF are known to occur within the vicinity of the Project area (CDFW 2020). CRLF require a variety of habitats, including aquatic breeding and upland dispersal habitats. Breeding sites of the CRLF are in aquatic habitats including pools and backwaters within streams and creeks, ponds, marshes, springs, sag ponds, dune ponds and lagoons. Additionally, CRLF frequently breed in artificial impoundments such as stock ponds (USFWS 2002). Breeding sites are generally found in deep, still or slow-moving water (greater than 2.5 feet) and can have a wide range of edge and emergent cover amounts. CRLF can breed at sites with dense shrubby riparian or emergent vegetation, such as cattails or overhanging willows, or can proliferate in ponds devoid of emergent vegetation and any apparent vegetative cover (i.e., stock ponds). CRLF habitat includes nearly any area within one to two miles of a breeding site that stays moist and cool through the summer; this includes non-breeding aquatic habitat in pools of slow-moving streams, perennial or ephemeral ponds, and upland sheltering habitat such as rocks, small mammal burrows, logs, densely vegetated areas, and even man-made structures (i.e., culverts, livestock troughs, spring-boxes, and abandoned sheds) (USFWS 2017b). Review of aerial imagery indicates that the Project site could serve as habitat to CRLF.

**Specific impact:** Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the Project's activities could include direct mortality effects and indirect negative effects by altering habitat availability and quality.

**Evidence impact is potentially significant:** CRLF populations throughout the state have experienced ongoing and drastic declines and many have been extirpated (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, mining, overgrazing by cattle, invasion of nonnative plants, impoundments, water

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 8

diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to CRLF (Thomson et al. 2016, USFWS 2017b). Review of aerial imagery indicates that numerous Project sites within the larger Project area could serve as habitat to CRLF. Therefore, project activities have the potential to significantly impact CRLF.

### **Recommended Potentially Feasible Mitigation Measure(s)**

CDFW recommends conducting the following evaluation of individual Project sites, editing the MND to include the following measures, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 8: CRLF Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if Project sites or their immediate vicinities contain suitable habitat for CRLF.

#### **Recommended Mitigation Measure 9: CRLF Surveys**

If suitable habitat is present, CDFW recommends that a qualified wildlife biologist conduct surveys for CRLF within 48 hours prior to commencing work (i.e., two night surveys immediately prior to construction or as otherwise required by the USFWS) in accordance with the USFWS's "Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog" (USFWS 2005) to determine if CRLF are within or adjacent to individual Project sites.

#### **Recommended Mitigation Measure 10: CRLF Avoidance**

If any CRLF are found during preconstruction surveys or at any time during construction, CDFW recommends that construction cease and that CDFW be contacted to discuss a relocation plan for CRLF by a qualified biologist. CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 and March 31). If ground-disturbing activities take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activities daily for CRLF.

#### **COMMENT 4: Burrowing Owl (BUOW)**

**Issue:** BUOW occur near the Project site (CDFW 2020). BUOW inhabit open grassland or adjacent canal banks, ROWs, vacant lots, etc., containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Habitat on and adjacent to the Project site supports grassland habitat.

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 9

**Specific impact:** Potentially significant direct impacts associated with subsequent activities and development include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Evidence impact is potentially significant:** BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Project site contains and is bordered by some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture or housing developments. Therefore, subsequent ground-disturbing activities associated with Project approval have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to BUOW, CDFW recommends editing the MND to include the following measures and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 11: BUOW Surveys**

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

#### **Recommended Mitigation Measure 12: BUOW Avoidance**

CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Arielle Goodspeed  
 San Benito County Resource Management Agency  
 July 28, 2020  
 Page 10

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

\* meters (m)

### **Recommended Mitigation Measure 13: BUOW Passive Relocation and Mitigation**

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. 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. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

### **COMMENT 5: American Badger (AMBA)**

**Issue:** American badger have the potential to occur in and near the Project site (CDFW 2020). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e. ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). The Project site may support these requisite habitat features. Therefore, the Project has the potential to impact American badger.

**Specific impact:** Without appropriate avoidance and minimization measures for American badger, potentially significant impacts associated with ground disturbance include direct mortality or natal den abandonment, which may result in reduced health or vigor of young.

**Evidence impact is potentially significant:** Habitat loss is a primary threat to American badger (Gittleman et. al 2001). The Project is expected to disturb annual grassland habitat. As a result, ground-disturbing activities have the potential to significantly impact local populations of American badger.

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 11

### **Recommended Potentially Feasible Mitigation Measure(s)**

CDFW recommends editing the MND to include the following measures and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 14: AMBA Surveys**

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for American badger and their requisite habitat features (dens) to evaluate potential impacts resulting from ground- and vegetation-disturbance.

#### **Recommended Mitigation Measure 15: AMBA Avoidance**

Avoidance whenever possible is encouraged via delineation and observation of a 50-foot no-disturbance buffer around occupied dens and a 250-foot no-disturbance buffer around natal dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

## **II. Editorial Comments and/or Suggestions**

**Nesting Birds:** The Project contains and is adjacent to habitat that provides nesting habitat for birds. While the MND included Mitigation Measure BIO-1 to reduce impacts to nesting birds, CDFW is concerned regarding the adequacy of this measure. CDFW encourages that Project implementation occur during the bird non-nesting season. However, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes sections referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. Prior to initiation of Project activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once Project activities begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 12

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place 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 on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

**Federally Listed Species:** CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander and California red-legged frog. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

## **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 CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **FILING FEES**

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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 & G. Code, § 711.4; Pub. Resources Code, § 21089).

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 13

CDFW appreciates the opportunity to comment on the Project to assist Fresno County Department of Public Works and Planning in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at [Kelley.Nelson@wildlife.ca.gov](mailto:Kelley.Nelson@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Bob Stafford*  
5343A684FF02469...

Bob Stafford for Julie A. Vance  
Regional Manager

Attachment 1

ec: Leilani Takano ([leilani\\_takano@fws.gov](mailto:leilani_takano@fws.gov))  
United States Fish and Wildlife Service

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 14

## Literature Cited

- California Burrowing Owl Consortium. 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.
- California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game.
- California Department of Fish and Wildlife (CDFW), 2015a. California Tiger Salamander Technical Review – Habitat, Impacts and Conservation. California Department of Fish and Wildlife, October 2015.
- CDFW. 2015b. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015. March 19, 2015.
- CDFW. 2020. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed July 22, 2020.
- Gervais, J.A., D.D. Rosenberg, and L.A. Comrack. Burrowing Owl (*Athene cunicularia*) in Shuford, W.D. and T. Gardali, editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento, California, USA.
- Gittleman, J. L., S. M. Funk, D. MacDonald, and R. K. Wayne. 2001. Carnivore conservation. Cambridge University Press, Cambridge, United Kingdom.
- Kelsey, R. 2008. Results of the tricolored blackbird 2008 census. Report submitted to U.S. Fish and Wildlife Service, Portland, OR, USA.
- Meese, R. J., E.C. Beedy, and W.J. Hamilton, III. 2014. Tricolored blackbird (*Agelaius tricolor*), The Birds of North America (P. G. Rodewald, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America: <https://birdsna-org.bnaproxy.birds.cornell.edu/Species-Account/bna/species/tribla>. Accessed December 15, 2017.
- Meese, R.J. 2017. Results of the 2017 Tricolored Blackbird Statewide Survey. California Department of Fish and Wildlife, Wildlife Branch, Nongame Wildlife Program Report 2017-04, Sacramento, CA. 27 pp. + appendices.
- Orians, G.H. 1961. The ecology of blackbird (*Agelaius*) social systems. Ecol. Monogr. 31:285-312.

Arielle Goodspeed  
San Benito County Resource Management Agency  
July 28, 2020  
Page 15

Searcy, C.A. and H.B. Shaffer. 2011. Determining the migration distance of a vagile vernal pool specialist: How much land is required for conservation of California tiger salamanders? *In* Research and Recovery in Vernal Pool Landscapes, D. G. Alexander and R. A. Schlising, Eds. California State University, Chico, California.

Searcy, C.A., E. Gabbai-Saldade, and H.B. Shaffer. 2013. Microhabitat use and migration distance of an endangered grassland amphibian. *Biological Conservation* 158: 80-87.

Thomson, R. C., A. N. Wright, and H. Bradley Shaffer, 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press.

United States Fish and Wildlife Service (USFWS). 2002. Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp.

USFWS. 2003. Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander, October 2003.

USFWS. 2005. Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog March 2005. 26 pp.

USFWS. 2017a. Recovery Plan for the Central California Distinct Population Segment of the California Tiger Salamander (*Ambystoma californiense*). U. S. Fish and Wildlife Service, Region 8, Sacramento, California. June 2017.

USFWS. 2017b. Species Account for California Red-legged frog. March 2017. 1 pp.

Weintraub, K., T.L. George, and S.J. Dinsmore. 2016. Nest survival of tricolored blackbirds in California's Central Valley. *The Condor* 118(4): 850–861.

Zeiner, D. C., W. F. Laudenslayer, Jr, K. E. Mayer, and M. White. 1990. California's Wildlife Volume I-III. California Department of Fish and Game, editor. Sacramento, CA, USA.

**Attachment 1**

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

**PROJECT: Mission Vineyard Road-Tentative Subdivision Map and  
Zone Change Project (MND, PLN 190035)**

**SCH No.: 2020060618**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Focused CTS Protocol Surveys	
Mitigation Measure 2: CTS Avoidance	
Mitigation Measure 3: CTS Take Authorization	
Mitigation Measure 4: TRBL Habitat Assessment	
Mitigation Measure 5: TRBL Surveys	
Mitigation Measure 6: TRBL Avoidance	
Mitigation Measure 7: TRBL Take Authorization	
Mitigation Measure 8: CRLF Habitat Assessment	
Mitigation Measure 9: CRLF Surveys	
Mitigation Measure 10: CRLF Avoidance	
Mitigation Measure 11: BUOW Surveys	
Mitigation Measure 12: BUOW Avoidance	
Mitigation Measure 13: BUOW Passive Relocation and Mitigation	
Mitigation Measure 14: AMBA Surveys	
Mitigation Measure 15: AMBA Avoidance	
<i>During Construction</i>	