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**GAVIN NEWSOM, Governor**  
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Governor's Office of Planning & Research

**Aug 12 2020**

## **STATE CLEARINGHOUSE**

August 11, 2020

Mr. Scott Orr, Interim Deputy Director of Planning  
Sonoma County, Permit and Resource Management Department  
2550 Ventura Avenue  
Santa Rosa, California 95403  
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Subject: Sikh Temple PLP18-0031 Project, Mitigated Negative Declaration,  
SCH No. 2020070275, Sonoma County

Dear Mr. Orr:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from Sonoma County (County) for the Sikh Temple PLP18-0031 Project (project) pursuant the California Environmental Quality Act (CEQA).

CDFW is submitting comments on the MND to inform the County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed project.

### **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), Lake and Streambed Alteration (LSA) Program, or 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 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 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 CESA.

### **Lake and Streambed Alteration**

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may 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 will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

### **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Ajaib Bhadare

**Objective:** Construct a 150-person temple and a 3-person residence on an approximately 3.73-acre site, including parking areas, landscaping, and bio-retention facilities.

**Location:** The project is southeast of the Todd Road and Stony Point Road intersection at 792 Todd Road in unincorporated Sonoma County. It is centered at approximately 38.386393 degrees latitude and -122.740756 degrees longitude on Assessor Parcel Number 134-161-045.

**Timeframe:** Unspecified.

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the below comments and recommendations to assist the County in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the project's avoidance of significant impacts on biological resources, in part through implementation of CDFW's below recommendations, CDFW concludes that an MND is appropriate for the project.

## **Environmental Setting**

*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 U.S. Fish and Wildlife Service (USFWS)?*

### **Comment 1:** MND Pages 32 and 34

The project is located within grassland habitat that may be suitable for California tiger salamander (CTS, *Ambystoma californiense*), a State and federally listed as threatened and endangered species. The MND indicates that there is a low likelihood for CTS to occur on the 3.73-acre project site as it is small and CTS would likely be killed on adjacent roads before making it to the site.

CTS may travel up to 1.3 miles from breeding habitat (Orloff 2007). The Santa Rosa Plain Vernal Pool Ecological Reserve for CTS (also known as the Gobbi Preserve) including known breeding habitat is located approximately 820 feet west of the project site. California Natural Diversity Database (CNDDDB) documented breeding habitat is also located approximately 1,800 feet and 2,200 southeast of the project site (Occurrences No. 685 and 926). There are additional CNDDDB and pending CNDDDB records of breeding habitat locations within 1.3 miles, some with no intervening roads. Based on aerial imagery, potential breeding habitat occurs approximately 460 feet southwest of the project site along a drainage. While roads are often lethal to CTS, they can successfully move across them, often moving at night when traffic is lighter (CDFW 2010; Orloff 2007).

**Recommendation:** For an adequate environmental setting and impact analysis, and to reduce impacts to less-than-significant, CDFW recommends that the MND:

- Include a thorough analysis of the potential for CTS within the project area. The MND should describe the potential for CTS occurrence at a greater likelihood based on the above information.
- Identify potentially significant impacts to CTS including potential Mandatory Findings of Significance, prior to mitigation. The MND should include mitigation measures such as implementing seasonal work restrictions, pre-construction surveys by a qualified biologist, and biological monitoring, in addition to the existing requirements outlined in MND Mitigation Measure BIO-2.
- Require an ITP from CDFW for impacts to CTS. To ensure the ITP is obtained, CDFW requests that MND include the ITP requirement as a mitigation measure as a condition of project approval in the County's project permit(s). Please be advised that CDFW's and mitigation requirements may differ from those of the Santa Rosa Plain Conservation Strategy and USFWS.

**Comment 2:** MND Page 29

The MND indicates that the project site includes wetland habitat potentially suitable for Sebastopol meadowfoam (*Limnanthes vinculans*) and Burke's Goldfields (*Lasthenia burkei*), both of which are State and federally listed as endangered, and other special-status plants. CNDDDB documents Sebastopol meadowfoam on the project site in 1987; however, two years of formal rare plant surveys were conducted in 2017 and 2018 and no special-status plants were detected.

It appears that the wetland habitat is also potentially suitable for Sonoma sunshine (*Blennosperma bakeri*), also State and federally listed as endangered.

**Recommendation:** For an adequate environmental setting and impact analysis, and to reduce impacts to less-than-significant, CDFW recommends that the MND identify Sonoma sunshine habitat and include a mitigation measure requiring CDFW's acceptance of plant survey results to ensure surveys were properly implemented. Surveys should follow CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* and include habitat that may be indirectly impacted by the project from, for example, hydrological modifications.

**Comment 3:** MND Page 31

The project is located within and adjacent to grassland habitat that may be suitable for American badger (*Taxidea taxus*), a California Species of Special Concern. There is a pending CNDDDB 2015 record of a deceased American badger approximately 3,000 feet south of the project site.

The project may result in injury or mortality to adult or young badgers, or burrow abandonment. Therefore, project impacts to American badger would be potentially significant.

**Recommendation:** For an adequate environmental setting and impact analysis, and to reduce impacts to less-than-significant, CDFW recommends that the MND analyze the potential for American badger to occur at and adjacent to the project site and include a mitigation measure to ensure impacts are reduced to less-than-significant, such as a qualified biologist surveying for the species including adjacent habitat prior to construction, avoiding occupied burrows including a sufficient buffer approved by CDFW, and preparing and implementing a CDFW-approved relocation plan if badgers are found on or adjacent to the project site.

**Comment 4:** MND Page 31

The project is located within and adjacent to grassland habitat that may be suitable foraging, overwintering, and nesting habitat for burrowing owls (*Athene cunicularia*), a

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California Species of Special Concern and also protected under Fish and Game Code section 3503, 3503.5, and the federal Migratory Bird Treaty Act (MBTA). CNDDDB documents a 2002 burrowing owl approximately 4.8 miles southeast of the project site, indicating that the species may inhabit the general area.

The project may result in burrowing owl nest or wintering burrow abandonment, loss of young, and reduced health and vigor of adults or young from audio and visual disturbances caused by construction activities. Therefore, project impacts to burrowing owl would be potentially significant.

**Recommendation:** For an adequate environmental setting and impact analysis, and to reduce impacts to less-than-significant, CDFW recommends that the MND include a mitigation measure requiring a qualified biologist to conduct surveys following the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation survey methodology (see <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>). Surveys shall encompass the project area and a sufficient buffer zone to detect owls nearby that may be impacted. Time lapses between surveys or project activities shall trigger subsequent surveys including but not limited to a final survey within 24 hours prior to ground disturbance before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 survey methodology resulting in detections.

Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Offsite habitat compensation shall also be required for any nest burrows used within the last three year that would be removed. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site specific conditions, and completed before project construction. It shall also include placement of a conservation easement and preparation and implementation of a long-term management plan.

*Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?*

**Comment 5:** MND Page 39

The MND identifies an existing ditch on the western boundary of the project site which contains 0.007 acres of wetlands. The ditch may constitute a stream subject to Fish and Game Code section 1602 for lake and streambed alteration.

**Recommendation:** For an adequate environmental setting and impact analysis, and to reduce impacts to less-than-significant, CDFW recommends that the MND discuss any project impacts to the ditch and describe its connectivity to other waterways. If connectivity to Colgan Creek or another stream is present and there would be impacts, the MND should include a mitigation measure requiring an LSA Notification to CDFW and compliance to a final LSA Agreement. If the ditch will be impacted or removed, the mitigation measure should include on-site or off-site restoration at a ratio of 2:1 for the linear distance of ditch removed, and a restoration plan approved by CDFW including the below elements.

- Tree plantings shall consist of 5-gallon or greater saplings, unless otherwise approved in writing by CDFW, and locally-collected seeds, stakes, or other suitable nursery stock as appropriate, and shall be native species to the area adapted to the lighting, soil, and hydrological conditions at the planting site.
- The applicant shall monitor and maintain, as necessary, all plants for a minimum of five years. At the end of the five years of monitoring, with at least three years without supplemental irrigation, the plantings shall attain:
  - 80 percent site cover of the treatment area,
  - 80 percent survival success each for non-tree species,
  - 85 percent survival each for non-oak tree species and oak species, and
  - no more than 5 percent relative cover of plants listed on Cal-IPC high or moderate lists.
- If revegetation survival and/or cover requirements do not meet established goals as determined by CDFW, the project is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements, unless otherwise approved in writing by CDFW. Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.

### **Mitigation Measures**

*Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

### **Comment 6:** MND Page 35

The MND Mitigation Measure (MM) BIO-3 includes protective measures for nesting birds.

**Recommendation:** In addition to existing requirements, CDFW recommends that MM BIO-3 include the requirement for nesting bird surveys no more than seven days before

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project construction begins and anytime a lapse of seven days or more in construction occurs.

In addition to the above recommendations, CDFW encourages landscaping using native trees and shrubs to benefit native nesting birds and other wildlife. The removal of habitat for birds from human activities has contributed to the loss of a significant proportion of birds in the United States and Canada since the 1970s. According to a study published in 2019 entitled *Decline of the North American Avifauna* authored by Kenneth V. Rosenberg et al., ninety percent of the total loss is attributable to 12 bird families including sparrows, warblers, blackbirds, and finches. Planting native trees and shrubs is an opportunity to improve conditions for them.

## **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**

To ensure significant impacts are adequately mitigated to a level less-than-significant, CDFW recommends the feasible mitigation measures described above be incorporated as enforceable conditions into the final CEQA document for the project. CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Melanie Day, Senior Environmental Scientist (Specialist), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov); or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at [Karen.Weiss@wildlife.ca.gov](mailto:Karen.Weiss@wildlife.ca.gov).

Sincerely,

Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse (SCH# 2020070275)  
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## **REFERENCES**

California Department of Fish and Wildlife (CDFW 2010). A Status Review of the California Tiger Salamander. Accessible online at:  
<http://www.elkhornsloughctp.org/uploads/files/1304721618CTS-StatusEvaluation.pdf>

Orloff, Susan. 2007. Migratory movements of California tiger salamander in upland habitat – a five-year study (Pittsburg, California). Ibis Environmental, Inc., prepared for Bailey Estates LLC. Dated May. 47 pp. + appendices.