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August 26, 2020

Governor's Office of Planning & Research

Aug 26 2020

STATE CLEARINGHOUSE

Mr. Zach Tusinger
City of Calistoga
1232 Washington Street
Calistoga, CA 94515
ztusinger@ci.calistoga.ca.us

Dear Mr. Tusinger:

Subject: The Veranda Hotel at Indian Springs, Draft Mitigated Negative Declaration, SCH No. 2020070509, City of Calistoga, Napa County

In a letter dated March 24, 2020, the California Department of Fish and Wildlife (CDFW) responded to the City of Calistoga's request for pre-application consultation on The Veranda Hotel at Indian Springs Project (Project). Since then, CDFW personnel have reviewed the draft Mitigated Negative Declaration (MND) for the Project and CDFW is submitting the following comments to inform the City of Calistoga, as Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

Pursuant to the California Environmental Quality Act (CEQA), CDFW is a Trustee Agency and is responsible for the conservation, protection, and management of the State's biological resources (Pub. Resources Code, § 21070, Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a Responsible Agency if a project requires discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or approval under 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

CESA (Fish and Game Code, § 2050 et seq.) prohibits unauthorized take of candidate, threatened, and endangered species. Therefore, if "take" or adverse impacts to Calistoga popcorn flower (*Plagiobothrys strictus*) or Napa blue grass (*Poa napensis*), listed as threatened and endangered under CESA, respectively, or any other species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA Incidental Take Permit (ITP) must be obtained pursuant to Fish and Game Code Section 2080 et seq. However, CDFW cannot issue a CESA ITP if the issuance would jeopardize the continued existence of a species [Fish and Game Code, § 2081, subd. (c); Cal. Code Regs., tit.14, § 783.4 subd. (b)]. Additionally, it is the policy

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of the Legislature that public agencies like the City of Calistoga “should not approve projects as proposed which would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy.” [Fish and Game Code, § 2053, subd. (a)].

CDFW believes The Veranda Hotel at Indian Springs Project may jeopardize the continued existence of Calistoga popcorn flower and Napa blue grass. Therefore, CDFW recommends redesigning the Project to avoid direct and indirect impacts to these species as outlined below or providing information within the MND supporting an assertion that impacts would not jeopardize their continued existence, in addition to the below recommendations.

Issuance of a CESA ITP is subject to CEQA; therefore, in order to issue an ITP for the Project, CDFW must rely on the environmental analysis contained in the Lead Agency’s CEQA document, including impacts, mitigation measures, and a mitigation monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required to obtain a CESA ITP. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

CEQA requires a Mandatory Finding of Significance if a project has the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare or threatened species (Pub. Resources Code, §§ 21001, subd. (c) and 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 and a Statement of Overriding Consideration (SOC). The CEQA Lead Agency’s SOC does not eliminate the project proponent’s obligation to comply with CESA.

Lake and Streambed Alteration Agreement

CDFW requires an entity to notify CDFW before commencing any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a lake, river, or stream or use material from a streambed. Ephemeral and/or intermittent streams and drainages (that are dry for periods of time or only flow during periods of rainfall) are also subject to Fish and Game Code section 1602; and CDFW may require an LSA Agreement with the applicant, pursuant to Section 1600 et seq. of the Fish and Game Code. If the Project may include alterations to the “Fairway Extension Ditch” (e.g. construction of storm drain outfalls into

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the channel), such activities are subject to Notification to CDFW, prior to conducting such activities. **CDFW recommends that the MND include a measure requiring Notification to CDFW for any proposed impacts to the “Fairway Extension Ditch” or associated riparian habitat.**

Issuance of an LSA Agreement is subject to CEQA. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. The CEQA document should identify the potential impacts to lake, stream, or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for completion of the agreement. To obtain information about the LSA notification process, please access our website at <https://www.wildlife.ca.gov/conservation/lsa>.

ENVIRONMENTAL SETTING

The proposed Project is located on 6.97 acres in downtown Calistoga, immediately east of Lincoln Avenue and south of the Resort at Indian Springs. The former Calistoga Gliderport (Gliderport) property to the east overlaps with a portion of the Project site and consists of seasonal wetland and annual grassland habitat that supports two State and federally listed plant species: Calistoga popcorn flower and Napa blue grass. The Gliderport property may also support additional plant species including saline clover (*Trifolium hydrophilum*), Pappose tarplant (*Centromadia parryi* ssp. *parryi*), both California Rare Plant Rank (CRPR) 1B.2 species that are considered endangered or rare pursuant to CEQA guidelines section 15380 (see <https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>) and woolly headed lessingia (*Lessingia hololeuca*) and Brewer’s milk vetch (*Astragalus breweri*), CRPRs 3 and 4 respectively, which should also be evaluated under CEQA.

Along the south-southeastern border of the Project site exists an ephemeral channel, which the draft MND refers to as the “Fairway Extension Ditch.” This channel originates from a street drain inlet and series of culverts, and conveys stormwater in an easterly direction until it outlets into a second ephemeral channel referred to as the “Diablo Ditch”, which flows approximately 0.45 miles before entering the Napa River.

Most of the Project site consists of asphalt, ruderal grassland, and existing buildings and structures. However, the Project proposes two off-site Project related improvements within annual grassland habitat on the Gliderport property.

PROJECT DESCRIPTION

The proposed Project includes the expansion of the existing Resort at Indian Springs onto the 6.97-acre Project site to the south by constructing a new 96-room hotel and associated amenities (i.e. restaurant, bar, retail space, interior courtyard, event lawn, two pools with a pool-side snack shack, parking and ancillary improvements). Additionally, the Project includes two off-site related improvements on the Gliderport

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property to the east, including a paved emergency vehicle access (EVA) road and a storm drain outfall structure that is proposed to discharge stormwater from the Project site onto the Gliderport property. The EVA road would connect Fairway Drive to a mobile home park located east of the existing Indian Springs Resort and would be limited to emergency vehicle access, as well as pedestrian and bicycle access. A fence would be installed along the EVA road to keep people out of the Gliderport property. Construction would occur over an approximately 24-month period.

COMMENTS AND CONCERNS

Calistoga popcorn flower and Napa blue grass

In the March 24, 2020 letter, CDFW raised concerns over the Project's potential direct and indirect impacts to Calistoga popcorn flower and Napa blue grass. While the Project has been designed to avoid direct impacts to these species, potential indirect impacts, described in greater detail below, include: 1) long-term introduction of pollutants and harmful chemicals to habitat, 2) changes in surface or subsurface hydrology affecting habitat, and 3) unintentional introduction and spread of invasive plant species into habitat.

Even seemingly minor alterations to the Gliderport property could result in the take¹ of these species under CESA, potentially jeopardizing their continued existence and ultimately contributing to their extinction. In our letter, CDFW recommended that the Project's CEQA document include a scientifically comprehensive analysis outlining the habitat and potential impacts to the species.

Pollutants/Chemical Concentration and Dispersal onto the Gliderport Property

Chemicals, pesticides, automobile fluids, and other pollutants from the parking lots, landscaping (including the use of natural or organic fertilizers), buildings, and other hardscaping that is washed into the storm drain system and not properly treated due to the engineering design, negligence, or system failure, could accumulate and disperse onto Calistoga popcorn flower and Napa blue grass habitat, resulting in potentially significant impacts. The draft MND proposes to implement Mitigation Measure (MM) BIO-3 to reduce impacts to less-than-significant:

“Enhanced treatment of the runoff discharged via the new storm drain outfall shall be incorporated into the stormwater control plan (SWCP) including but not limited to the following to ensure the health of the popcorn flower and Napa blue grass:

¹ Fish and Game Code section 86: “Take” is defined as catch, capture, kill, or attempt to hunt, pursue, catch, capture, or kill.

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- *Pollutants and contaminants shall be monitored and shall fall below detectable levels*
- *Filtration shall be incorporated into all drains within the parking area to remove any oils, lubricant, and other fuels and liquids*
- *Landscaping maintenance shall utilize only natural fertilizers and shall preclude the application of pesticides and herbicides.”*

The *Biological Resources Constraints Analysis – The Veranda at Indian Springs – 1522, 1510, 1506, 1502, 1504 Lincoln Ave., Calistoga, California*, prepared by Monk and Associates, Inc., dated July 16, 2020 (henceforth referred to as the “BRCA”) mentions the use of a “real-time water quality monitoring system” which emits an audio alert if limits of pollutants and harmful chemicals are exceeded. Please clarify how such a system would be monitored and maintained in perpetuity to ensure pollutants and harmful chemicals in stormwater are not detected. Additionally, should pollutants and chemicals be detected, please describe how stormwater would be shut off from flowing into the storm drain system where it would discharge onto the Gliderport property; and in this instance, where would the stormwater be redirected? Furthermore, please provide details on how the filtration would capture the vast suite of harmful chemicals that could be present at the Project site, including chemicals that are water-soluble and difficult to remove from stormwater. To ensure that such pollutants and chemicals are not discharged into listed and rare plant species habitat on the Gliderport property, **CDFW recommends that the MND: 1) provide a scientifically comprehensive analysis of the Project’s potential indirect impacts to the listed plant species including the above information, 2) provide sufficient detail in MM BIO-3 as to how runoff will be treated for pollutants and harmful chemicals, and 3) include a revised SWCP requiring that stormwater discharge be redirected to a different location in the event pollutants and chemicals are detected (i.e., not onto the Gliderport property or areas containing listed or rare plant species habitat).**

Changes in Surface or Subsurface Hydrology

CDFW is concerned that the Project, particularly the construction of the EVA road and storm drain outfall on the Gliderport property, and other hardscape associated with the Project, would result in changes in the amount of runoff, the size of the local watershed where Calistoga popcorn flower and Napa blue grass occur, and unseasonal water discharges onto the Gliderport property, resulting in potentially significant impacts to listed and rare plant species.

Based on the BRCA and *The Influence of Precipitation and Soil Content on the Distribution and Population Status of the Calistoga popcorn flower (Plagiobothrys strictus)* (Wyrick-Brownworth, Maxam, Maniego, Kim, and Garcia, 2018) (henceforth referred to as the “Report”), the draft MND concludes that additional stormwater

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discharge onto the Gliderport property would benefit Calistoga popcorn flower because the species produces more seed under wet conditions and water helps disperse the seeds. However, the MND and Report do not support this conclusion because: 1) demographic data, such as actual viable seeds produced by the population per year, seed longevity, etc., was not collected, 2) despite the data in the Report showing that plants were taller in 2017, which was a wet year, the actual number of plants in 2017 was approximately 3 to 4 times less than in the previous two monitoring years, which had significantly less rainfall, and 3) groundwater data was not collected. Providing year-round surface and groundwater flow to the areas containing Calistoga popcorn flower and Napa blue grass may adversely impact these species as native plants can be sensitive to unseasonal water application. Many of California's plants are adapted to dry conditions for approximately six months without water from precipitation. Adding water in the summer can therefore be harmful to populations of these plants. Most landscaping is watered year-round or at least during the dry season, and operation of pools and spas could also result in additional surface water discharge during the summer, leading to infestations of invasive plant species (Garrett Allen pers. comm. with Jeb Bjerke, CDFW Botanist, August 11, 2020).

Based on the limited information presented in the MND and Report, broad conclusions about the hydrological conditions that are most suitable for the Calistoga popcorn flower should be avoided. **CDFW recommends that more experimental science be done on the ecology and habitat requirements of Calistoga popcorn flower and Napa blue grass, and the surface and subsurface hydrology of the Gliderport population, before any changes to the hydrology of the area can be properly analyzed or considered. Alternatively, hydrological modifications should be avoided.**

Unintentional Introduction and Spread of Invasive Plants

CDFW is concerned about the Project's potentially significant impacts to listed and rare plant species from the potential introduction and spread of invasive plants. Invasive plant species introduction can occur both in the short-term (e.g. from construction activities), as well as in the long-term (e.g. from vehicles driving on roads adjacent to grassland and wetland habitats). Invasive plant species are a major concern because they out-compete native species and can alter soil structure and chemistry, which is unfavorable for a habitat-narrow-endemic species, such as the Calistoga popcorn flower (Garrett Allen, pers. comm. with Gene Cooley, CDFW Botanist, August 10, 2020).

For the reasons stated above, the Report's recommendation that "*A low-impact removal approach (for invasive plant species) could be to increase year-round surface and groundwater flow to the area and make the habitat unavailable to these invasive species*" could actually adversely impact Calistoga popcorn flower and Napa blue grass. While year-round water may preclude some invasive plant species, it would also create

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favorable conditions for wetland invasive plants and potentially unfavorable conditions for Calistoga popcorn flower and Napa blue grass, which are adapted to unique hydrological conditions. The proposed EVA road has the greatest potential to contribute to long-term dispersal and spread of invasive plant seeds. **CDFW recommends that the EVA road be relocated away from the Gliderport property. If the proposed location for the EVA road is the only feasible location, then the draft MND should include measures pertaining to invasive plant species monitoring and control in perpetuity. Use of herbicides should not be used to control invasive plant species due to the presence of listed and rare plant species.**

Based on the foregoing, CDFW has determined that the Project, as designed, would require a Mandatory Finding of Significance for short-term and long-term potentially significant indirect impacts to Calistoga popcorn flower and Napa blue grass. Impacts from pollutants and harmful chemical discharge into an area containing listed and rare plant species, changes in surface and subsurface hydrology, and the unintentional introduction and spread of invasive plant species into listed and rare plant species habitat would have the *“potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species [CEQA Guidelines, § 15065, subd. (a)(1)].* Due to the potentially significant impacts raised in this letter, an EIR would be warranted for the Project. However, as outlined above, CDFW cannot issue a CESA ITP for the Project if the issuance would jeopardize the continued existence of a species. Therefore, proceeding with the Project under an EIR and potential SOC could result in unauthorized impacts to CESA listed species. **CDFW recommends redesigning the Project to avoid direct and indirect impacts to Calistoga popcorn flower and Napa blue grass as described above, and in such case an MND may be appropriate. If the Project may result in direct or indirect impacts to listed plant species, the CEQA document should include a mitigation measure requiring consultation with CDFW and compliance with CESA.**

Roosting bats

The draft MND states that trees, buildings, structures, and inoperable vehicles with openings could provide potential bat roosting habitat. Furthermore, the draft MND identifies that the pallid bat (*Antrozous pallidus*), a California Species of Special Concern, could occur on the Project site, thus necessitating mitigation measures to ensure bat take avoidance and potentially significant impacts to the species. MM BIO-2 requires that the Project conduct activities that could impact roosting bats during seasonal periods of bat activity and/or that pre-construction surveys be conducted prior to construction. While CDFW generally agrees with MM BIO-2, we are concerned about the measure's wording; for example, it appears to only give protection to special-status

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bat species, such as the pallid bat. Please note that Fish and Game Code section 4150 prohibits the take of all bats, regardless of species status. Additionally, MM BIO-2 suggests that only building removal will be conducted during seasonal periods of bat activity, thus not accounting for bats that could be roosting in trees, structures, or vehicles. As written, this could result in potentially significant impacts to special-status bat species. **Therefore, CDFW recommends the following changes to MM BIO-2** (amended language in ***bold italics***, deleted language in ~~strikethrough~~):

To avoid impacts to roosting pallid bats or other special-status bat species, a qualified biologist with documented experience conducting bat habitat assessments shall perform a bat habitat assessment of all trees, buildings, structures, and vehicles proposed for removal at least 30 days prior to the start of construction, to determine if any such structures contain suitable bat roosting habitat. If any buildings, structures, or vehicles contain suitable bat roosting habitat, they shall be inspected thoroughly, during appropriate times of day, to determine if roosting bats are present. If roosting bats are present, the qualified biologist shall develop an avoidance and minimization plan for CDFW review and approval prior to removal of such structures. Removal of trees containing suitable bat roosting habitat, and buildings, structures, and vehicles containing roosting bats building removal shall only be conducted during seasonal periods of bat activity, between August 31 and October 15, when bats would be able to fly and feed independently, and between March 1 and April 15 to avoid hibernating bats, and prior to the formation of maternity colonies. A biologist, one with at least two years of experience surveying for bats, shall conduct a preconstruction survey of the structures, vehicles and trees that would be impacted within 14 days prior to demolition or commencement of site improvement activities. If no special-status bats are found during the surveys, then the biologist shall provide a memo summarizing the results of the survey to the City, and construction activities may commence. If bat roosts are found, then a plan shall be developed for removal and exclusion and exclusion, in conjunction with the CDFW.

If removal of trees, buildings, structures, and vehicles containing suitable bat roosting habitat or roosting bats removal must occur outside the seasonal activity periods (i.e., between October 16 and the end of February, or between April 2 and August 30), then a qualified biologist, shall do preconstruction surveys at least within 14 days prior to construction activities to of building demolition, and determine if there are young present (i.e., the biologist will determine if there are maternal roosts). If a maternity site is found, impacts to the maternity site shall be avoided by establishment of a fenced, non-disturbance buffer, or similar method as deemed appropriate by the qualified biologist, until the young have reached independence (i.e., are flying and feeding on their own), as determined by a qualified biologist. The size of the buffer zone shall be determined by a qualified biologist at the time of the surveys. If the qualified biologist finds evidence of roosting bats but not a maternity site or winter torpor (or hibernating) site with young, then the qualified biologist shall develop an

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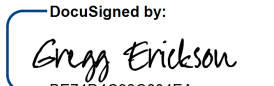
avoidance and minimization plan for CDFW review and approval prior to starting construction activities. ~~a plan shall be developed for removal and exclusion, in conjunction with the CDFW. The biologist shall provide the City with a report detailing the results of the survey and any recommendations, as warranted, required for establishment of protective buffers for bat roosts, if identified.~~

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.

CDFW appreciates the opportunity to provide comments on the draft MND for the proposed Project and is available to meet with you to further discuss our concerns. If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at garrett.allen@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at karen.weiss@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93G604EA
Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH No. 2020070509)