



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**



September 8, 2020

Governor's Office of Planning & Research

**Sep 08 2020**

Mr. Matt Christensen  
Napa Valley Community College District  
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Napa, CA 94558  
[MChristensen@napavalley.edu](mailto:MChristensen@napavalley.edu)

## STATE CLEARINGHOUSE

Subject: Napa Valley College Student Housing Project, Mitigated Negative Declaration, SCH No. 2020080250, Napa County

Dear Mr. Christensen:

California Department of Fish and Wildlife (CDFW) personnel reviewed the Mitigated Negative Declaration (MND) for the Napa Valley College Student Housing Project (Project). CDFW is submitting comments on the MND to inform the Napa Valley Community College District, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW is providing comments as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) 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 would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), 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.

### ENVIRONMENTAL SETTING

The Project site is located on the Napa Valley College campus (Campus) at 2277 Napa-Vallejo Highway/State Route (SR) 221, within the City and County of Napa. Land uses to the west and south of the Project site include the John F. Kennedy Memorial Park and the Napa Valley Vine Trail and Valley Wine Train/Union Pacific Railroad tracks. To the north of the Project site, across SR 121/Imola Avenue, is the South Napa Marketplace shopping center. East of the Project site, across SR 221/Napa-Vallejo Highway, is the Napa State Hospital. The existing Project site is a gently sloping undeveloped lot comprised of annual grassland habitat and is directly adjacent to the riparian corridor of Tulucay Creek, a tributary to the Napa River.

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## PROJECT DESCRIPTION

The Project will result in the construction of approximately 206,000 square feet of residential space on the Campus, a 238-vehicle paved parking lot, water and wastewater utility connections, stormwater infrastructure, energy and telecommunication infrastructure, and landscaping. Construction is anticipated to begin summer of 2021 and continue for approximately 22 months. Approximately 60 trees may need to be removed, including 40 coast live oak trees (*Quercus agrifolia*) and eight valley oak trees (*Quercus lobata*).

## COMMENTS AND RECOMMENDATIONS

### Western Pond Turtle

Tulucay Creek supports several special-status species, including the western pond turtle (*Emys marmorata*; WPT), which is known to use upland habitat for nesting. The Project site is within reasonable dispersal distance of WPT, and therefore, the Project could potentially impact the species. The Project proposes to implement Mitigation Measure BIO-2 (MM BIO-2) to reduce impacts to less-than-significant. MM BIO-2 requires that a qualified biologist conduct a pre-construction survey of the Project site 48 hours prior to the start of construction. If WPT is found during surveys, the qualified biologist will relocate them to suitable habitat outside of the Project area. Additionally, if active nest sites are located, orange construction fencing would be set up around the nest, creating a protective buffer from Project activities. If WPT are found during construction activities, work would cease, and the individual(s) would be relocated. Because the Project is directly adjacent to riparian habitat, which could support special-status species like the WPT, CDFW recommends that wildlife exclusion fencing be installed between the Project site and the riparian areas associated with Tulucay Creek. Furthermore, CDFW recommends the following revisions to MM BIO-2 (added language shown in ***bold italics***, deleted language shown as ~~strikethrough~~):

***No more than 72 hours prior to starting construction activities, a qualified biologist shall survey the Project area, focusing on the presence of western pond turtle and their nests; and other special-status species. If no western pond turtles or other special-status species are found during the survey wildlife exclusion fencing shall be installed between the Project area and riparian areas associated with Tulucay Creek, under the direction of a qualified biologist, to keep western pond turtle and other potentially present special-status species from entering the Project site. After the installation of wildlife exclusion fencing, and prior to the start of construction activities, the College shall ensure a pre-construction survey be performed by a qualified biologist immediately within 48 hours prior to initiation of construction activities (including initial ground disturbing activities) related to the vegetation clearing and grading activities. If western pond turtles or red-bellied newts***

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are found during preconstruction surveys, **the qualified biologist shall first determine if any active nest sites are located within the Project area. If no nest sites are discovered, the qualified biologist shall relocate the individual(s) shall be relocated to the nearest a safe location in suitable habitat outside of the construction zone.** If preconstruction surveys identify active nests, a qualified biologist shall **prepare a project-specific avoidance and minimization plan for CDFW review and written approval prior the start of construction.** ~~establish a no-disturbance buffer zone around the nest, using temporary orange exclusion fencing until the young have left the nest, as determined by the biologist.~~

In the event that a Western pond turtle or **other special-status species red-bellied newt** is observed in an active construction zone, the contractor shall halt construction activities in the immediate area where **the individual was observed and a qualified biologist shall be called to the site to relocate the individual to the nearest suitable habitat** ~~the turtle or newt shall be moved to a safe location in the riparian corridor of Tulucay Creek outside of the construction zone.~~ **Workers shall not attempt to handle or move western pond turtles or any other wildlife at any time.**

**Additionally, a worker who has attended the environmental awareness training shall inspect wildlife exclusion fencing daily during project activities to ensure that such fencing remains in good condition. Any fencing that is not in good condition shall be repaired immediately.**

### **Swainson's Hawk Surveys**

If Project activities are scheduled during the nesting season for Swainson's hawks (*Buteo swainsonii*; SWHA) (March 1 to September 15), prior to beginning work on this Project, a qualified biologist shall survey for Swainson's hawk nesting activity. The qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Survey methods should be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys should be conducted: 1) within a minimum 0.25-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys will occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall implement a 0.25-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist. For a reduced buffer, the Project shall consult with CDFW and provide rationale that considers visual and auditory disturbances. If take of

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Swainson's hawk cannot be avoided, the Project will consult with CDFW pursuant to CESA and obtain an Incidental Take Permit. CDFW Bay Delta Region staff is available to provide guidance on the Incidental Take Permit application process.

### **Valley Oak and Coast Live Oak Tree Removal**

The MND indicates that 40 coast live oak trees and 8 valley oak trees will be removed as a result of the Project. These trees may provide nesting, sheltering, and roosting habitats for birds, bats, and small mammals. They also may be part of a Sensitive Natural Community according to CDFW's Natural Communities List available on CDFW's webpage at: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>.

CDFW recommends that the MND evaluate if trees that would be removed are part of a Sensitive Natural Community and therefore constitute impacts to a Sensitive Natural Community. If the trees being removed are part of a Sensitive Natural Community or provides habitat for nesting birds or bats, replacement should be required. Sufficient trees should be planted to offset: 1) the lost biomass and canopy of the removed trees, and 2) the substantial temporal loss of older growth habitat structure and diversity. 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., 90 percent of the total loss is attributable to 12 bird families including sparrows, warblers, blackbirds, and finches, which may all utilize the trees that would be removed by the project for breeding and foraging.

### **Erosion Control Devices**

Erosion control devices can have a direct impact on wildlife, particularly reptiles and amphibians. CDFW has documented several cases where reptiles and amphibians have become tangled in erosion control devices containing plastic monofilament (e.g. straw wattles wrapped in black plastic mesh). CDFW recommends that all temporary and permanent erosion control measures be free of plastic monofilament netting.

### **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

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you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at [Garrett.Allen@wildlife.ca.gov](mailto:Garrett.Allen@wildlife.ca.gov), or Ms. Karen Weiss, Senior Environmental Scientist (Supervisor), at [Karen.Weiss@wildlife.ca.gov](mailto:Karen.Weiss@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
BE74D4C93C604EA...  
Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse