



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



September 10, 2024

Michelle Levenson  
County of Marin  
3501 Civic Center Drive, Room 308  
San Rafael, CA 94903  
[envplanning@marincounty.org](mailto:envplanning@marincounty.org)

Subject: North Coast Land Holdings Master Plan and Community Amendment Project,  
Draft Environmental Impact Report, SCH No. 2020090488, Marin County

Dear Ms. Levenson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (EIR) from the County of Marin (County) for North Coast Land Holdings Master Plan and Community Amendment Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Preparation of the EIR (NOP) in a letter dated October 19, 2020.

CDFW is submitting comments on the draft EIR to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

## **CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under CEQA 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) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** North Coast Land Holdings, LLC

**Objective:** The Project will develop a residential care facility for senior citizens, residential housing, pre-school, and fitness center on the 127-acre Golden Gate Baptist

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<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.

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Seminary property. Pre-existing buildings, including seminary dorm rooms, residences, and a maintenance building will be demolished or renovated.

**Location:** The Project is located at 201 Seminary Drive, Mill Valley, CA 94941. While identified as within Mill Valley, the Project occurs in unincorporated Marin County in census-designated Strawberry. The Project is approximately bounded by Richardson Bay to the west, Seminary Drive to the south, Storer Drive to the east, and Ricardo Road to the north. It is east of U.S. Route 101 and centered at approximately 37.890498°N, -122.508840°W.

## REGULATORY REQUIREMENTS

### California Endangered Species Act and Native Plant Protection 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 or NPPA either during construction or over the life of the Project. **According to the draft EIR, the Project has the potential to impact Santa Cruz tarplant (*Holocarpha macradenia*) and San Francisco popcornflower (*Plagiobothrys diffuses*), both CESA listed as endangered species, North Coast semaphore grass (*Pleuropogon hooverianus*), a CESA listed as threatened species, and Adobe sanicle (*Sanicula maritima*), an NPPA listed as rare species.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an 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, & 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.

### California Fully Protected Species

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock, or

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- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish and Game Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish and Game Code § 2081.15). Project proponents should consult with CDFW early in the Project planning process. **The Project has the potential to impact California Ridgway's rail (*Rallus obsoletus obsoletus*), a California fully protected and CESA listed as endangered species, and California black rail (*Laterallus jamaicensis coturniculus*), a California fully protected and CESA listed as threatened species.**

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below, which are also included in **Attachment 1 Draft Mitigation Monitoring and Reporting Program**, 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.

### I. Mitigation Measure and Environmental Setting Related Impact Shortcomings

***MANDATORY FINDINGS OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species? Does the Project have impacts that are individually limited, but cumulatively considerable?***

**AND**

***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?***

**COMMENT 1: Santa Cruz tarplant, San Francisco popcornflower, North Coast semaphore grass, and Adobe sanicle, draft EIR pages 3.4-17 and 3.4-18.**

**Issue:** The draft EIR mitigation measure 3.4-1a does not adequately mitigate potential impacts to Santa Cruz tarplant, San Francisco popcornflower, North Coast semaphore grass, and Adobe sanicle.

**Specific impacts, why they may occur and be potentially significant:** If habitat assessments or surveys for the Santa Cruz tarplant, San Francisco popcornflower, North Coast semaphore grass, and Adobe sanicle are not conducted accurately or if the Project does not obtain a CESA ITP for impacts to the above plant species, potential impacts

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these species may not be mitigated to less-than-significant. These plant species are considered threatened, endangered, or rare under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if they are present on or directly adjacent to the project site where they would be directly or indirectly impacted, the Project may substantially reduce the number or restrict the range of these species, which would be a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** To reduce potential impacts to Santa Cruz tarplant, San Francisco popcornflower, North Coast semaphore grass, and Adobe sanicle to less-than-significant and comply with CESA and NPPA, CDFW recommends including the following mitigation measure in the draft EIR, in addition to the draft EIR's existing mitigation measures for plants.

*CESA and NPPA listed plants habitat assessment, surveys, and permitting:* The Project shall obtain CDFW's written approval of habitat assessments and survey reports for Santa Cruz tarplant, San Francisco popcornflower, North Coast semaphore grass, and Adobe sanicle prior to Project construction. Surveys shall be conducted during appropriate conditions and include, but not be limited to, visiting reference populations, and adhere to CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (see: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>), unless otherwise approved in writing by CDFW. If the Project would directly or indirectly impact Santa Cruz tarplant, San Francisco popcornflower, North Coast semaphore grass, and Adobe sanicle, which are CESA and NPPA listed plants, the Project shall obtain a CESA ITP from CDFW prior to Project construction and comply with the ITP.

**COMMENT 2: California Ridgway's rail and California black rail, draft EIR Appendix F, Page A-14.**

**Issue:** The draft EIR did not identify potential impacts to California Ridgway's rail (CRR) and California black rail that may nest within 700 feet of Project site, the distance at which these species may be disturbed. California black rail were detected in 2022 within the Bothin Marsh Preserve, located approximately 3,000 feet west of the Project site, according to Point Blue survey data and California Ridgway's rail was detected in 2006 and 2008 within the same area according to California Natural Diversity Data Base (CNDDDB) unprocessed records. These detections indicate that California black rail and California Ridgway's rail occur in the vicinity of the Project, and there is potentially suitable nesting habitat for them, at approximately 37.890024°N, -122.513562°W, within 700 feet of the Project site.

**Specific impacts, why they may occur and be potentially significant:** The Project has the potential to impact nesting California black rail and California Ridgway's rail through auditory or visual disturbances above ambient levels. Disturbances from Project

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activities within 700 feet of suitable nesting habitat may result in California black rail and California Ridgway's rail nest abandonment and loss of eggs or reduced health and vigor and loss of young. Although residential development and Seminary Drive are located between the Project site and potentially suitable nesting habitat, audio and visual disturbances may not be significantly reduced because the Project site appears to be on a hill within directly line of site of such habitat. California black rail and California Ridgway's rail are CESA listed as threatened and endangered species and therefore are considered to be a threatened or endangered species pursuant to CEQA Guidelines section 15380. Therefore, if an active California black rail or California Ridgway's rail nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened or endangered species, which is considered a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measures:** To reduce potential impacts to California Ridgway's rail and California black rail to less-than-significant and comply with Fish and Game Code section 3511 (fully protected avian species), CDFW recommends including the following mitigation measures in the draft EIR.

*California Ridgway's rail and California black rail habitat assessment, surveys, and avoidance:* The Project shall map the location of potentially suitable California Ridgway's rail and California black rail nesting habitat within 700 feet of the Project site and obtain CDFW's written approval of the mapping prior to Project construction. Any Project activities within 700 feet of potentially suitable California black rail and California Ridgway's rail nesting habitat shall be avoided during the breeding season, (January 15 to August 31 for California Ridgway's rail, February 1 to August 31 for California black rail), each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted in writing by CDFW, or the Project implements noise and visual avoidance measures below. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that California Ridgway's rail or California black rail are not nesting in these locations.

If breeding California Ridgway's rail or California black rail are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where California Ridgway's rail or California black rail have been detected during the breeding season.

If work must be done during the breeding season within 700 feet of California Ridgway's rail or California black rail nesting habitat, and annual surveys have not documented California Ridgway's rail and California black rail absence, noise levels shall not exceed 10 dBA over existing ambient noise levels and a noise attenuating fence and/or visual barrier shall be installed to reduce visual and/or acoustic impacts. In this case, the Project

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shall prepare a noise and visual avoidance plan and obtain CDFW's written approval of the plan, and implement the CDFW- plan, prior to conducting Project 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 filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **ENVIRONMENTAL DOCUMENT FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (See Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the draft EIR to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist, at [Jordan.Beaton@wildlife.ca.gov](mailto:Jordan.Beaton@wildlife.ca.gov) or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov) or (707) 210-4415.

Sincerely,

DocuSigned by:  
*Erin Chappell*  
B77E9A6211EF486...  
Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

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ec: Office of Planning and Research, State Clearinghouse, Sacramento (SCH No.  
2020090488)

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**ATTACHMENT 1**

**Draft Mitigation and Monitoring Reporting Plan**

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
3.4-1a	<p><b>CDFW recommends including the following mitigation measure in the EIR, in addition to the EIR’s existing mitigation measures for plants.</b></p> <p><i>CESA and NPPA listed plants habitat assessment, surveys, and permitting:</i> The Project shall obtain CDFW’s written approval of habitat assessments and survey reports for Santa Cruz tarplant, San Francisco popcornflower, North Coast semaphore grass, and Adobe sanicle prior to Project construction. Surveys shall be conducted during appropriate conditions and include, but not be limited to, visiting reference populations, and adhere to CDFW’s 2018 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (see: <a href="https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants">https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants</a>), unless otherwise approved in writing by CDFW. If the Project would directly or indirectly impact Santa Cruz tarplant, San Francisco popcornflower, North Coast semaphore grass, and Adobe sanicle, which are CESA and NPPA listed plants, the Project shall obtain a CESA ITP from CDFW prior to Project construction and comply with the ITP.</p>	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
3.4-11	<p><i>California Ridgway’s rail and California black rail habitat assessment, surveys, and avoidance:</i> The Project shall map the location of potentially suitable California Ridgway’s rail and California black rail nesting habitat within 700 feet of the Project site and obtain CDFW’s written approval of the mapping prior to Project construction.</p>	Prior to Ground Disturbance and for Duration of Construction	Project Applicant



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	<p>Any Project activities within 700 feet of potentially suitable California black rail and California Ridgway's rail nesting habitat shall be avoided during the breeding season, (January 15 to August 31 for California Ridgway's rail, February 1 to August 31 for California black rail), each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted in writing by CDFW, or the Project implements noise and visual avoidance measures below. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that California Ridgway's rail or California black rail are not nesting in these locations.</p> <p>If breeding California Ridgway's rail or California black rail are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where California Ridgway's rail or California black rail have been detected during the breeding season.</p> <p>If work must be done during the breeding season within 700 feet of California Ridgway's rail or California black rail nesting habitat, and annual surveys have not documented California Ridgway's rail and California black rail absence, noise levels shall not exceed 10 dBA over existing ambient noise levels and a noise attenuating fence and/or visual barrier shall be installed to reduce visual and/or acoustic impacts. In this case, the Project shall prepare a noise and visual avoidance plan and obtain CDFW's written approval of the plan, and implement the CDFW- plan, prior to conducting Project activities.</p>		
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