



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

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



Governor's Office of Planning & Research

February 19, 2021

**Feb 22 2021**

## STATE CLEARINGHOUSE

Mr. Terrance DeGray  
San José Evergreen Community College District  
40 S. Market Street  
San José, CA 95113  
[Terrance.DeGray@sjeccd.edu](mailto:Terrance.DeGray@sjeccd.edu)

Subject: Evergreen Valley College Facilities Master Plan, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2021010261, Santa Clara County

Dear Mr. DeGray:

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) from the San José Evergreen Community College District (District) for the Evergreen Valley College Facilities Master Plan (Project) pursuant 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 resources. Likewise, we appreciate 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 the Fish and Game Code.

### CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA §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 the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Agreement and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

### PROJECT DESCRIPTION SUMMARY

**Proponent:** San José Evergreen Community College District

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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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**Objective:** The Project includes demolition and renovation of existing structures, construction of new structures, improvements to vehicular and pedestrian access and circulation systems, and expansion of parking facilities.

**Location:** 3095 Yerba Buena Road, San José, CA 95135, Santa Clara County. The coordinates are 37.300278° N latitude and 121.764167 W longitude (NAD 83 or WGS 84). The Assessor's Parcel Numbers are 66021023, 66021016, 66021014, and 66021022.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

### **NOP Page 2, Environmental Effects and the Scope of the EIR**

The NOP states that potentially significant environmental effects will be identified, and mitigation measures or alternatives will be developed to reduce effects to a less-than-significant level. The topics listed that are considered significant, in which measures and alternatives will be developed, does not include Biological Resources. NOP page 2 also states that specific topics are expected to have less than significant impacts and will be discussed only in the Initial Study, including Biological Resources.

The Initial Study, Biological Resources section, starting on page 26, clearly shows that the Project will result in significant impacts to biological resources, including special-status species and potential conflict with Natural Community Conservation Plans. CDFW recommends further impact analysis and potential measures be included in the draft EIR, as described below.

### **Initial Study, Biological Resources, Mitigation Measures, starting page 34**

#### *Special-Status Species, Discussion, page 31*

The Initial Study states that there is suitable habitat in the Project study area for several special-status species. The Initial Study generally states potential direct impacts (e.g., vegetation removal, ground disturbance, building demolition) and indirect impacts (e.g., noise, vibration, and increased human activity) to special-status wildlife species. Specific Project impacts to each special-status species and their habitat is not discussed. Appropriate mitigation measures should be developed based upon the specific impacts expected on each species and their habitat. As described further below it is difficult to discern how the mitigation measures reduce impacts to less-than-significant due to lack of specificity in describing direct and indirect impacts for each

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species. CDFW recommends that the draft EIR include a description of the specific impacts on each species within this Special-Status Species Discussion section.

*Mitigation Measure BIO-1b: Western Burrowing Owl Surveys*

This measure states that nesting western burrowing owls will not be disturbed until nesting season is over or until young have fledged. However, the measure does not describe how disturbance will be avoided. The draft EIR should describe implementation of measures, such as buffers, that will be implemented to avoid take and reduce impacts to less-than-significant.

This measure states that, outside of the nesting season, individual owls will be excluded from the “disturbance area”. The specific types of disturbance that would result in exclusion, direct or indirect, is not specified. CDFW recommends clarifying this distinction. This measure appears to indicate that direct impacts to western burrowing owl habitat would occur. The draft EIR should describe the type of habitat to be impacted (e.g., nesting or foraging), area to be impacted (e.g. acres or square feet), and the type of type of impact (e.g. temporary or permanent). In order to reduce impacts to a less-than-significant level, the draft EIR should propose compensatory mitigation for loss of nesting and foraging habitat.

*California Red-Legged Frog*

The Initial Study does not discuss the likelihood of presence of California red-legged frog (CRLF, *Rana draytonii*, Federally Threatened, State Species of Special Concern) within or near the Project area. There are CRLF California Natural Diversity Database (CNDDDB) occurrences to the east of the Project site (CDFW 2021) and potential riparian habitat is present along the northern and southern border of the Project area (unnamed drainage and Yerba Buena Creek). CDFW recommends that the draft EIR include an analysis of the potential for CRLF to be present within riparian areas adjacent to the Project site and the potential for CRLF dispersal onto the Project site. If CRLF may be present, the draft EIR should analyze how Project implementation may directly and indirectly impact CRLF. The draft EIR should include measures to avoid, minimize, or mitigate for impacts to CRLF to reduce impacts to a less-than-significant level.

*California Tiger Salamander*

The Initial Study does not discuss the likelihood of presence of California tiger salamander (CTS, *Ambystoma californiense*, Federal Threatened, State Threatened) within or near the Project area. There are CTS CNDDDB occurrences to the east of the Project site (CDFW 2021) and ponds are present within one mile of the Project area. However, as seen on Biogeographic Information and Observation System aerials, the presence of Yerba Buena Road may prevent dispersal of CTS into the Project area.

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CDFW recommends that the draft EIR include an analysis of the potential for CTS to be present in ponds near the Project site and the potential for CTS to disperse into the Project area. If CTS may be present, the draft EIR should analyze how Project implementation may directly and indirectly impact CTS. The draft EIR should include measures to avoid, minimize, or mitigate for impacts to CTS to reduce impacts to a less-than-significant level.

## ENVIRONMENTAL DATA

CEQA requires that information developed in draft environmental impact reports be incorporated into a data base 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, online field survey form, and contact information for CNDDDB staff can be found 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://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## 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.

## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the District in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Ms. Kristin Garrison, Environmental Scientist, at (707) 944-5534 or [Kristin.Garrison@wildlife.ca.gov](mailto:Kristin.Garrison@wildlife.ca.gov); or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541 or [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov).

Sincerely,

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

cc: Office of Planning and Research, State Clearinghouse, Sacramento

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## **LITERATURE CITED**

California Department of Fish and Wildlife (CDFW). 2021. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed February 11, 2021.