



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



Governor's Office of Planning & Research

April 21, 2021

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## STATE CLEARINGHOUSE

Mr. John Kearns  
City of Suisun  
701 Civic Center Boulevard  
Suisun City, CA 94585  
[jkearns@suisun.com](mailto:jkearns@suisun.com)

Subject: Highway 12 Logistics Center Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2021040016, City of Suisun, Solano County

Dear Mr. Kearns:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) for the Highway 12 Logistics Center Project (Project).

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Incidental Take Permit (ITP), a Native Plant Protection Act permit, a Lake and Streambed Alteration (LSA) Agreement, or approval under other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

### PROJECT DESCRIPTION AND LOCATION

The Project is the development of agricultural grazing land and undeveloped open space into seven warehouse facilities covering approximately 1.28 million square feet. The City of Suisun (City) is the Lead Agency and Buzz Oats Construction, Inc., is the Project proponent. The Project is located in unincorporated Solano County immediately west of the City's border. The area that will be developed is considered within the City's sphere of influence and will be annexed into the City as part of the Project. The Project is bounded by Ledgewood Creek and Orehr Road to the west, Suisun Marsh to the south, State Route 12 to the north, and the Union Pacific Railroad to the east. The Project area is approximately 482 acres, of which only 129 acres would be annexed into the City. Of those 129 annexed acres, 93 acres will be developed and 36 will be

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permanently preserved as open space. The remaining approximately 353 acres of the Project area will remain unannexed and are not contemplated for development.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the draft EIR incorporate a full project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description:

- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.
- Include the above information for any Project activities proposed on the 36 acres to be designated as open space.
- Clarify if the open space designation would change the types of future activities allowed on the 36 acres compared to its existing designation.
- Clarify whether the Project will affect the unannexed 353 acres that will remain open space.

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act**

Please be advised that a CESA ITP must be obtained if the Project has the potential to result in take<sup>1</sup> of plants or animals listed under CESA, either during construction or over the life of the Project. The Project is within potential upland and breeding habitat of the California tiger salamander (*Ambystoma californiense*), a CESA and federal Endangered Species Act (ESA) listed as threatened species. The Project's ground disturbing activities have the potential for take of California tiger salamander. In addition, tricolored blackbird (*Agelaius tricolor*) and Swainson's hawk (*Buteo swainsoni*), both CESA listed

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<sup>1</sup> Take is defined in Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt any of those activities.

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as threatened species, may nest on or near the Project site. The Project's noise-generating or vegetation-disturbing activities could result in take of nesting tricolored blackbirds or Swainson's hawks. If the Project will impact CESA listed species, including but not limited to California tiger salamander, Swainson's hawk, and tricolored blackbird, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program.

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 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, drainage ditches, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also subject to notification. CDFW, as a responsible agency under CEQA, will consider the draft EIR for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as the responsible agency.

### **Nesting Birds**

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests. Fully protected species such as white-tailed kite (*Elanus leucurus*) may not be taken or possessed at any time (Fish and Game Code, § 3511). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

### **ENVIRONMENTAL SETTING**

The draft EIR should provide sufficient information regarding the environmental setting ("baseline") to understand the Project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 and 15360).

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CDFW recommends that the draft EIR provide baseline habitat assessments for special-status plant, fish, and wildlife species located and potentially located within the Project area and surrounding lands, including but not limited to all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The draft EIR should describe aquatic habitats, such as wetlands, vernal pools, and/or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site. Fully protected, threatened or endangered, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include but are not limited to:

- California tiger salamander, CESA and ESA listed as threatened
- California red-legged frog (*Rana draytonii*), ESA listed as threatened, California Species of Special Concern (SSC)
- Foothill yellow-legged frog, Northwest/North Coast clade (*Rana boylei*), SSC
- California Ridgway's rail (*Rallus obsoletus obsoletus*), CESA and ESA listed as endangered, Fully Protected Species
- California black rail (*Laterallus jamaincensus coturniculus*), CESA listed as threatened, Fully Protected Species
- Tricolored blackbird, CESA listed as threatened
- Swainson's hawk (*Buteo swainsoni*), CESA listed as threatened
- Burrowing owl (*Athene cunicularia*), SSC
- Northern harrier (*Circus hudsonius*), SSC
- Saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*), SSC
- Short-eared owl (*Asio flammeus*), SSC
- Suisun song sparrow (*Melospiza melodia maxillaris*), SSC
- White-tailed kite (*Elanus leucurus*), Fully Protected Species
- Salt-marsh harvest mouse (*Reithrodontomys raviventris*), CESA and ESA listed as endangered, Fully Protected Species
- Suisun shrew (*Sorex ornatus sinuosus*), SSC
- Townsend's big-eared bat (*Corynorhinus townsendii*), SSC
- Western pond turtle (*Emys marmorata*), SSC
- Conservancy fairy shrimp (*Branchinecta conservatio*), ESA listed as endangered,

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California Terrestrial and Vernal Pool Invertebrate of Conservation Priority (ICP)<sup>2</sup>

- Vernal pool tadpole shrimp (*Lepidurus packardii*), ESA listed as endangered, ICP
- Delta green ground beetle (*Elaphrus viridis*), ESA listed as threatened, ICP
- Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), ESA listed as threatened, ICP
- Vernal pool fairy shrimp (*Branchinecta lynchi*), ESA listed as threatened, ICP
- Monarch (*Danaus plexippus pop. 1*), ICP
- Hairy water flea (*Dumontia oregonensis*), ICP
- Western bumble bee (*Bombus occidentalis*), ICP
- Contra Costa goldfields (*Lasthenia conjugens*), ESA listed as endangered, California Rare Plant Rank (CRPR) 1B.1
- Soft salty bird's-beak (*Chloropyron molle ssp. molle*), ESA listed as endangered, California rare, CRPR 1B.2
- Suisun thistle (*Cirsium hydrophilum var. hydrophilum*), ESA listed as endangered, CRPR 1B.1
- Two-fork clover (*Trifolium amoenum*), ESA listed as endangered, CRPR 1B.1
- Baker's navarretia (*Navarretia leucocephala ssp. bakeri*), CRPR 1B.1
- Carquinez goldenbush (*Isocoma arguta*), CRPR 1B.1
- Congdon's tarplant (*Centromadia parryi ssp. congdonii*), CRPR 1B.1
- Coulter's goldfields (*Lasthenia glabrata ssp. coulteri*), CRPR 1B.1
- Mason's lilaeopsis (*Lilaeopsis masonii*), California rare, CRPR 1B.1
- Mt. Diablo buckwheat (*Eriogonum truncatum*), CRPR 1B.1
- Alkali milk-vetch (*Astragalus tener var. tener*), CRPR 1B.2
- Britblescale (*Atriplex depressa*), CRPR 1B.2
- California alkali grass (*Puccinellia simplex*), CRPR 1B.2
- Delta tule pea (*Lathyrus jepsonii var. jepsonii*), CRPR 1B.2

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<sup>2</sup> The list of California Terrestrial and Vernal Pool Invertebrates of Conservation Priority was collated during CDFW's Scientific Collecting Permit rulemaking process:  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157415&inline>

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- Heartscale (*Atriplex cordulata* var. *cordulata*), CRPR 1B.2
- Long-styled sand-spurrey (*Spergularia macrotheca* var. *longistyla*), CRPR 1B.2
- Marsh microseris (*Microseris paludosa*), CRPR 1B.2
- Pappose tarplant (*Centromadia parryi* ssp. *parryi*), CRPR 1B.2
- Saline clover (*Trifolium hydrophilum*), CRPR 1B.2
- San Joaquin spearscale (*Extriplex joaquinana*), CRPR 1B.2
- Suisun marsh aster (*Symphotrichum lentum*), CRPR 1B.2
- Vernal pool smallscale (*Atriplex persistens*), CRPR 1B.2
- Bolander's water-hemlock (*Cicuta maculate* var. *bolanderi*), CRPR 2B.1
- Dwarf downingia (*Downingia pusilla*), CRPR 2B.2
- Slender-leaved pondweed (*Stuckenia filiformis* ssp. *alpina*), CRPR 2B.2

Habitat descriptions and the potential for species occurrence should include information from multiple sources, such as aerial imagery; historical and recent survey data; field reconnaissance; scientific literature and reports; the U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System; and findings from positive occurrence databases such as the California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the draft EIR should adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period for all species potentially impacted by the Project within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrology, and require the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants, and survey report requirements (<https://wildlife.ca.gov/Conservation/Plants>).

## **IMPACT ANALYSIS AND MITIGATION MEASURES**

The draft EIR should discuss all direct and indirect impacts (temporary and permanent), including reasonably foreseeable impacts, that may occur with implementation of the

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Project (CEQA Guidelines, § 15126, 15126.2, & 15358). This includes evaluating and describing impacts such as:

- Encroachments into riparian habitats, drainage ditches, wetlands, or other sensitive areas.
- Potential for impacts to special-status species.
- Loss or modification of breeding, nesting, dispersal, and foraging habitat, including vegetation removal, alteration of soils and hydrology, and removal of habitat structural features (e.g., snags, rock outcrops, overhanging banks).
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic, or human presence.
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The draft EIR should also identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, § 15355). Although a project's impacts may be less-than-significant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact, e.g., reduction of habitat for a special-status species, should be considered cumulatively considerable.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the Lead Agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and mitigate potentially significant impacts of the Project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.4 and 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. The City should also review the draft Solano Habitat Conservation Plan avoidance, minimization, and mitigation measures to inform and guide the Project impacts and measures. Project-specific measures should be incorporated as enforceable Project conditions to reduce impacts to biological resources to less-than-significant levels.

Fully protected species such as white-tailed kite, California Ridgway's rail, California black rail and salt marsh harvest mouse, may not be taken or possessed at any time (Fish and Game Code, § 3511, 4700, 5050, & 5515). Therefore, the draft EIR should include measures to ensure complete avoidance of these species.

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## ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 online field survey form and other methods for submitting data 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 & G. 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.

If you have any questions, please contact Ms. Amanda Culpepper, Environmental Scientist, at [amanda.culpepper@wildlife.ca.gov](mailto:amanda.culpepper@wildlife.ca.gov); or Ms. Melanie Day, Senior Environmental Scientist (Supervisory), at [melanie.day@wildlife.ca.gov](mailto:melanie.day@wildlife.ca.gov).

Sincerely,

DocuSigned by:



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Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse (SCH#2021040016)