



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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Fresno, California 93710
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www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

May 25 2021

May 24, 2021

STATE CLEARINGHOUSE

Arielle Goodspeed, Planner
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, California 95023
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**Subject: Initial Study (IS) PLN 190056 – Kawahara Agricultural Facility Project
(Project)
Mitigated Negative Declaration (MND)
SCH No.: 2021040621**

Dear Ms. Goodspeed:

The California Department of Fish and Wildlife (CDFW) received an IS/MND from the County of San Benito, Resource Management Agency for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates 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 Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish and G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

¹ 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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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Objective:

The proposed project consists of an application for a Conditional Use Permit for the development of the proposed Kawahara Agricultural Facility. The project proposes to relocate its nursery operations from Morgan Hill to the proposed location. The new location is zoned as Agricultural Productive (AP) and would include the construction of several buildings and site improvements in support of the agricultural facility project, including a 18,000 square-foot (sq. ft.) covered shipping/staging area, a 36,000 sq. ft. shipping and handling greenhouse, a 18,000 sq. ft. production greenhouse and a total of 518,400 sq. ft. of growing block greenhouses in three main blocks. Other project improvements would include widening San Juan Highway/Chittenden Road at the project entrance. The proposed site is generally flat and consists of existing agricultural uses. No trees or vegetation are proposed for removal.

The block greenhouses will include a gravel bottom and the shipping and handling greenhouse will include a concrete slab. The greenhouses will be 15 feet tall. Nine (9) outdoor field areas will surround the proposed greenhouses and other buildings. The project site will be graded to drain toward San Juan Creek, which is consistent with the natural drainage pattern of the site. A stormwater channel running parallel to the creek will intercept, detain, and infiltrate runoff water. In addition to the facilities described above, the proposed project includes several site improvements. These

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improvements would include a dedicated center turn lane at the project entrance. The new turn lane would be constructed in compliance with California Department of Transportation (“Caltrans”) highway design standards. A 24-foot-wide paved driveway from the project entrance to the proposed loading dock, parking areas, and shipping buildings is also proposed.

The purpose of this land use designation is to maintain the productivity of agricultural land, especially prime farmland, in the County. Other surrounding 2035 General Plan land use designations include Agricultural Rangeland to the northeast and Industrial to the north.

Location:

The proposed project is located on a 104-acre property near the interchange of San Juan Highway and Chittenden Road/Anzar Road, in an unincorporated area of San Benito County, California. The project site is located on the west side of San Juan Highway and just north of Anzar Road. U.S. Route 101 is located immediately west of the property, San Juan Highway on the east, Chittenden Road to the north, and Anzar Road to the south (APN No. 012-030-045).

Timeframe:

None listed.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist San Benito County in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

The Department is concerned regarding special-status species that may utilize the Project site, and the resources it provides. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to wetland and riparian habitat including Arroyo willow thicket.

I. Environmental Setting and Related Impact

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 the United States Fish and Wildlife Service (USFWS)?

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Comment 1: Wetland and Riparian Habitats

Issue: San Juan Creek runs through the southwest portion of the Project area. While this drainage is described as a maintained ditch, it may contain wetland habitat and/or wetland areas. Riparian habitat is present in the northwestern portion of the Project area. This area contains Arroyo willow thicket, which is considered sensitive under the CDFW Natural Communities List.

Specific impact: It is not anticipated that the Project will permanently impact wetland features located in the southwest portion of the Project site; however, there may be a potential for temporary impacts to these features during Project construction or operation. Approximately 1.7-acres of riparian habitat is located in the northwest portion of the Project site. Project activities have the potential to result in the loss of riparian vegetation, in addition to the potential degradation of wetland and riparian areas through construction activities.

Evidence impact is potentially significant: The Project area includes stream and wetland features. Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow. (Edminster 2002). The Fish and Game Commission policy regarding wetland resources discourages development or conversion of wetlands that results in any net loss of wetland acreage or habitat value. Construction activities within these features also have the potential to impact downstream waters as a result of Project site impacts leading to erosion, scour, and changes in stream morphology.

Recommended Mitigation Measure 1: Stream and Wetland Mapping

CDFW recommends that formal stream mapping and wetland delineation be conducted by a qualified biologist or hydrologist, as warranted, to determine the baseline location, extent, and condition of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that while there is overlap, State and Federal definitions of wetlands differ, and complete stream mapping commonly differs from delineations used by the United States (U.S.) Army Corps of Engineers specifically to identify the extent of Waters of the U.S. Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as the extent of all streams including floodplains, if present, within the Project area. CDFW advises that site map(s) depicting the extent of any activities that may affect wetlands, lakes, or streams be included with any Project site evaluations, to clearly identify areas where stream/riparian and wetland habitats could be impacted from Project activities.

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Recommended Mitigation Measure 2: Stream and Wetland Habitat Mitigation

CDFW recommends that the potential direct and indirect impacts to stream/riparian and wetland habitat be analyzed according to each Project activity. Based on those potential impacts, CDFW recommends that the CEQA document prepared for the Project include measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat (i.e., biotic and abiotic features) take into account the effects to stream function and hydrology from riparian habitat loss or damage, as well as potential effects from the loss of riparian habitat to special-status species already identified herein. CDFW recommends that any losses that may occur to stream and wetland habitats be offset with corresponding riparian and wetland habitat restoration incorporating native vegetation to replace the value to fish and wildlife provided by the habitats lost from Project implementation. If on-site restoration to replace habitats is not feasible, CDFW recommends offsite mitigation by restoring or enhancing in-kind riparian or wetland habitat and providing for the long-term management and protection of the mitigation area, to ensure its persistence.

II. Editorial Comments and/or Suggestions

Lake and Streambed Alteration: The Project is subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, as well as those that are perennial in nature.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement. If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code 1602, CDFW will not be able to issue the Final LSAA Lake and Streambed Alteration Agreement until CEQA analysis for the project is complete. This may lead to considerable Project delays.

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 found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed

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form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

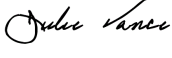
FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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 fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist Fresno County Department of Public Works and Planning in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

Attachment 1

ec: Leilani@fws.gov
United States Fish and Wildlife Service

Linda Connolly
California Department of Fish and Wildlife

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LITERATURE CITED

CDFW. 2021. Biogeographic Information and Observation System (BIOS).
<https://www.wildlife.ca.gov/Data/BIOS>. Accessed May 17, 2021.

Wetland and Riparian Literature Citations

Edminster, R.J. 2002. Streams of the San Joaquin. Second Edition. Quercus Publications, Los Banos, California.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

**PROJECT: Kawahara Agricultural Facility– MND
State Clearinghouse No: 2021040621**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Stream and Wetland Mapping	
Mitigation Measure 2: Stream and Wetland Habitat Mapping	
<i>During Construction</i>	