



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



July 20, 2021

Mr. Joel Galbraith, Senior Planner
City of Cotati
Community Development Department
201 W. Sierra Avenue
Cotati, CA 94931
planner@cotaticity.org

Subject: Zoning Code Text Amendment and Sandell Distribution Warehouse,
Mitigated Negative Declaration, SCH No. 2021060662, City of Cotati,
Sonoma County

Dear Mr. Galbraith:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Cotati (City) for the Zoning Code Text Amendment and Sandell Distribution Warehouse Project (project) pursuant to the California Environmental Quality Act (CEQA).

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) 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), Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

REGULATORY REQUIREMENTS

California Endangered Species 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, either during construction or over the life of the project. The project has the potential to result in take of California tiger salamander (*Ambystoma californiense*), a listed as threatened species and has applied for an ITP. CDFW appreciates that the MND Mitigation

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Measure BIO-2 includes the requirement to obtain an ITP from CDFW prior to construction. Issuance of a CESA 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 a CESA 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, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings and a Statement of Overriding Consideration (SOC). The CEQA Lead Agency's SOC 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, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

PROJECT DESCRIPTION SUMMARY

Proponent: Albert Sandell

Objective: Construct a 50,064-square-foot warehouse building to operate as a moving and storage company. The project includes loading areas, outdoor storage, paved parking areas, sidewalks, and landscaping, and the construction of a cul-de-sac to terminate the west end of Blodgett Street. Amend Section 17.22.020 (Allowable Land Uses and Planning Permit Requirements) of the Cotati Municipal Code to allow Storage-Warehouse, Indoor Storage within the CI Zoning District.

Location: The project is located at 597 Helman Lane at the west terminus of Blodgett Street approximately 990 feet west of the intersection of Blodgett Street and Trebino Court, City of Cotati, Sonoma County. It is on Assessor Parcel Number 046-073-006 and centered at approximate coordinates 38.340577, - 122.719374.

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COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the City in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the project's avoidance of significant impacts on biological resources, in part through implementation of CDFW's below recommendations, CDFW concludes that an MND is appropriate for the project.

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 U.S. Fish and Wildlife Service?

Environmental Setting

Comment 1: MND Page 40

Issue: The project is within the wintering distribution of burrowing owl (*Athene cunicularia*) and adjacent to grasslands that may be suitable wintering habitat for the species (Klute et al. 2003). The MND indicates that burrowing owl would not be impacted by the project because no suitably sized burrows or evidence of potential burrows are present on or immediately adjacent to the project site. A biological consultant and representative of the project also communicated to CDFW that the soils are unsuitable for burrowing owl wintering habitat because burrowing mammals like American badger (*Taxidea taxus*), which can provide suitable wintering refugia for burrowing owl, do not typically create dens in soils with high clay content which occur on-site. However, suitable sandy loam soils for badger dens are mapped within the distance at which burrowing owls could be impacted (500 meters or 1,640 feet¹) according to the U.S. Department of Agriculture Web Soil Survey mapping online tool (see: <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>), and badgers may create dens within a single day (Ministry of Environment Ecosystems 2007 as cited in Brehme et al. 2015). Therefore, burrowing owls could occupy suitable wintering refugia in adjacent habitat prior to project construction.

The California Natural Diversity Database (CNDDDB) documents a burrowing owl observed: 1) in 2002 approximately 1.9 miles east of the project site, and 2) in 2017 at the Sonoma County Airport, confirming the species has occurred in the vicinity of the project site and could occupy suitable refugia in adjacent habitat.

Specific impacts and why they may occur and be potentially significant: The project may result in reduced health and vigor, or mortality, of owls resulting wintering

¹ See California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation for impact distances at <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>.

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burrow abandonment caused by audio and visual disturbances from project construction activities. Burrowing owl is a California Species of Special Concern and protected under Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act. Therefore, project impacts to burrowing owl would be *potentially significant*.

Recommendation: For an adequate environmental setting and impact analysis, and to reduce impacts to less-than-significant, CDFW recommends that the MND: (1) further analyze the potential for burrowing owl to occur adjacent to the project site, and (2) include a mitigation measure requiring a qualified biologist to conduct a habitat assessment, and surveys if wintering habitat is present. The qualified biologist shall follow the California Department of Fish and Game (now CDFW) *2012 Staff Report on Burrowing Owl Mitigation* (CDFW 2012 Staff Report) habitat assessment and survey methodology prior to project activities occurring during the burrowing owl wintering season from September 1 to January 31. The habitat assessment and surveys shall encompass a sufficient buffer zone to detect owls nearby that may be impacted. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance and before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections.

Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site-specific conditions, and completed before project construction. It shall also include placement of a conservation easement and preparation and implementation of a long-term management plan.

Mitigation Measures

Comment 2: MND Page 42

Issue: Mitigation Measure BIO-1 requires a pre-construction nesting bird survey within 250 feet of the project site, which may not be adequate to avoid impacts to common and special-status nesting raptors such as white-tailed kite (*Elanus leucurus*), a California Fully Protected species.

Recommendation: To reduce impacts to less-than-significant, CDFW recommends increasing the nesting bird survey distance to a minimum of 500 feet from the project site. The survey shall be required within no more than 7 days prior to construction, and

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if a lapse of 7 days or more in construction occurs, another survey shall be conducted. Any active nests shall be monitored by a qualified biologist daily at a minimum for the first week to ensure the buffer is adequate to avoid nest disturbance, and then weekly thereafter. Any impacts to nesting birds shall be reported to CDFW within 24 hours.

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 the 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>.

FILING FEES

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

CONCLUSION

To ensure significant impacts are adequately mitigated to a level less-than-significant, CDFW recommends the feasible mitigation measures described above be incorporated as enforceable conditions into the final CEQA document for the project. CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov; or Craig Weightman, Environmental Program Manager, at Craig.Weightman@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Stephanie Fong for

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Stacy Sherman
Acting Regional Manager
Bay Delta Region

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ec: State Clearinghouse (SCH No. 2021060662)
Vincent Griego, U.S. Fish and Wildlife Service, Vincent_Griego@fws.gov

REFERENCES

- Brehme, C.S., S.A. Hathaway, R. Booth, B.H. Smith and R.N. Fisher. 2015. Research of American Badgers in Western San Diego County, 2014. Data Summary prepared for California Department of Fish and Wildlife and the San Diego Association of Governments. 24pp. (42pp. with Appendix)
- Klute, D. S., L. W. Ayers, M. T. Green, W. H. Howe, S. L. Jones, J. A. Shaffer, S. R. Sheffield, and T. S. Zimmerman. 2003. Status Assessment and Conservation Plan for the Western Burrowing Owl in the United States. U.S. Department of Interior, Fish and Wildlife Service, Biological Technical Publication FWS/BTP-R6001-2003, Washington, D.C.