



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

September 03 2021

STATE CLEARINGHOUSE

September 3, 2021

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404
ktoomians@srcity.org

Subject: Canine Companions Canine Early Development Center Expansion, Mitigated Negative Declaration, SCH No. 2021080157, Sonoma County

Dear Ms. Toomians:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Santa Rosa (City) for the Canine Companions Canine Early Development Center Expansion (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 CESA listed as threatened species, and Sebastopol meadowfoam (*Limnanthes vinculans*), Burke's goldfields (*Lasthenia burkei*) and Sonoma sunshine (*Blennosperma bakeri*), CESA listed as endangered species, as described in**

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
September 3, 2021
Page 2

further detail below. 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: Canine Companions for Independence

Objective: Develop a new Canine Early Development Center, veterinary clinic, and animal hospital. Construct a new, single-story, 21,991-square foot building with 8,972 square feet of exterior impervious surface areas for dog runs and play areas adjacent to and surrounding the building. Construct a new, 5,180-square foot veterinary clinic and animal hospital.

Location: The project is located at 2965 Dutton Avenue in the southwestern portion of the City of Santa Rosa, in Sonoma County, California. The project site is bound by Colgan Creek and storage and light industrial uses to the west, undeveloped lands to the northwest, commercial and light industrial uses and low-density residential homes to the northeast, commercial and light industrial uses to the east and south, and low-density residential homes to the southwest. The 2.98-acre project site is located on

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
September 3, 2021
Page 3

Assessor's Parcel Number 043-135-031 and centered at approximate coordinates 38.40869, -122.72457.

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.

Mandatory Findings of Significance: Does the project have the potential to substantially reduce the number or restrict the range of a rare or endangered plant or animal?

Mitigation Measures

Comment 1: MND Pages 65-68 and 72

Issue: The project is located within grassland habitat that may support California tiger salamander (CTS), a CESA listed as threatened species; the Sonoma County Distinct Population Segment is also federally listed as endangered. The MND Mitigation Measure (MM) BIO-1b requires purchase of habitat mitigation from a U.S. Fish and Wildlife Service (USFWS) and CDFW-approved mitigation bank; however, it does not address compliance with CESA or the federal Endangered Species Act (ESA) for potential take of CTS as a result of project activities.

Recommendation: To ensure impacts are reduced to less-than-significant, CDFW recommends that MM BIO-1 require the project applicant to obtain a CESA ITP from CDFW for impacts to CTS prior to project construction and comply with all requirements of the ITP. Please be advised that CDFW habitat compensation requirements may differ from those included in the Santa Rosa Plain Conservation Strategy or required by USFWS. The project shall also obtain authorization from USFWS for impacts to CTS pursuant to ESA.

Environmental Setting

Comment 2: MND Page 64 and Appendix B

Issue: According to the MND, the project is located within and adjacent to mesic grassland habitat supporting wetlands. Such habitat may support Sebastopol meadowfoam, Burke's goldfields and Sonoma sunshine, CESA and federally listed as endangered species. A botanical assessment was conducted on April 23, 2020 and

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
September 3, 2021
Page 4

focused surveys for these and other rare plant species were conducted March 31, 2021, April 15, 2021, and April 30, 2021. It is unclear if the surveys were floristic in nature and conducted in conformance with CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* (CDFW protocol survey). The CDFW protocol survey specifies that "botanical field surveys should be floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. 'Focused surveys' that are limited to habitats known to support special status plants or that are restricted to lists of potential special status plants are not considered floristic in nature and are not adequate to identify all plants in a project area to the level necessary to determine if they are special status plants." The MND indicates the wetland habitat onsite is not suitable to support these species, however surveys appear to have occurred because habitat may be suitable. Furthermore, while the 2021 surveys were conducted during the appropriate bloom period and included visits to reference populations, they were conducted in year of substantial drought. The failure to locate a known special-status plant occurrence during one field season does not constitute adequate evidence that the plant species does not occur at a location, particularly if adverse conditions are present. Additionally, the Santa Rosa Plain Conservation Strategy Appendix D requires two years of surveys to substantiate absence of these species ([see: https://www.fws.gov/sacramento/es/Recovery-Planning/Santa-Rosa/santa-rosa-strategy.php](https://www.fws.gov/sacramento/es/Recovery-Planning/Santa-Rosa/santa-rosa-strategy.php)).

Recommendation: To adequately describe the environmental setting and reduce impacts to less-than-significant, CDFW recommends including the following mitigation measure.

Prior to the initiation of project activities, the project proponent shall conduct at least two years of botanical surveys at the project site in conformance with 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](https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants)). If CESA listed plants are detected and may be impacted by the project, including Sebastopol meadowfoam, Burke's goldfields, and Sonoma sunshine, or if CDFW is unable to accept the survey results in writing, the project applicant shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP. Impacts may include direct and indirect impacts (e.g., hydrological modifications).

Impacts to unoccupied suitable habitat for federally listed species shall be mitigated according to the Santa Rosa Plain Conservation Strategy and 2020 USFWS programmatic Biological Opinion for projects on the Santa Rosa Plain, which requires a 1:5:1 ratio for mitigation within the same core area as the impact, and a 3:1 ratio if within a different core area. Impacts to occupied habitat requiring an ITP may require a different mitigation ratio.

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
September 3, 2021
Page 5

Please be advised that for CDFW to accept the results of the two years of surveys, they must be completed in conformance with the CDFW protocol survey requirements, including but not limited to conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts. Surveys conducted during drought conditions may not be acceptable.

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 USFWS?

Environmental Setting

Comment 3: MND Appendix B

Issue: The Biological Assessment and MND do not describe potential impacts to western burrowing owl (*Athene cunicularia*), a California Species of Special Concern (SSC), as a result of project activities. The project is within the wintering distribution of burrowing owl and within and adjacent to grasslands that may be suitable foraging and wintering habitat for the species (Klute et al. 2003).

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 from removal of wintering burrows, or wintering burrow abandonment caused by audio and visual disturbances from project construction activities. Burrowing owl is an SSC and protected under Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act (Klute et al. 2003). 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) analyze the potential for burrowing owl to occur on and adjacent to the project site, and (2) include a mitigation measure requiring a qualified biologist to conduct a habitat assessment, and surveys if habitat is present, following 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 (see <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) prior to project activities occurring during the burrowing owl wintering season from September 1 to January 31. The habitat assessment and surveys shall encompass the project site and a sufficient buffer zone (up to 500 meters or 1,640 feet) 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 before construction equipment mobilizes to

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
September 3, 2021
Page 6

the Project area. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 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.

Comment 4: MND Appendix B

Issue: The project is within and adjacent to grassland habitat that may be suitable to support American badger (*Taxidea taxus*), an SSC; however, the MND does not analyze potential impacts to badgers. The California Natural Diversity Database (CNDDDB) documents an American badger observed in 2009 approximately 2.5 miles southwest of the project site, and in 2003 approximately 3.1 miles to the northwest. These records confirm the species has occurred in the vicinity of the project site and could use it and adjacent habitat.

Specific impacts and why they may occur and be potential significant: The project may result in injury or mortality to adult or young badgers, or burrow abandonment.

American badger is an SSC. Therefore, project impacts to American badger 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 American badger to occur on and adjacent to the project site, and (2) include mitigation measures to ensure impacts are reduced to less-than-significant. These measures may include a qualified biologist surveying for the species including adjacent habitat prior to construction, avoiding occupied burrows including a sufficient buffer approved by CDFW, and preparing and implementing a CDFW-approved relocation plan if badgers are found on or adjacent to the project site.

Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
September 3, 2021
Page 7

Mitigation Measures

Comment 5: MND Pages 69 and 72

Issue: Project activities could have significant impacts on nesting birds if they are conducted during the nesting bird season (identified as February 1 through September 15 in the MND). MM BIO-1b requires pre-construction nesting surveys seven days prior to the initiation of construction. However, it does not address any delays in construction which may allow birds to establish nests.

MND MM BIO-1b also indicates that a qualified biologist shall delineate non-disturbance buffers around active nests depending on the bird species. Other factors, including nest stage and site conditions (e.g., line of sight, type and proximity of activities conducted, baseline ambient noise), may impact the success of preventing disturbance-related nest failure.

Recommendation: To ensure impacts are reduced to less-than-significant, CDFW recommends that MM BIO-1b require nesting bird surveys to be repeated if there is a lapse in project activities of seven days or more. No-disturbance nest buffers should be determined by a qualified biologist based on species, nest stage, and site conditions. Nests shall be monitored daily during project-related activities by a qualified biologist to determine the sufficiency of the buffer and whether it should be expanded to protect the nest based on disruptions to an individual bird's natural nesting behaviors.

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).

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
September 3, 2021
Page 8

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 Ms. Jennifer Rippert, Senior Environmental Scientist (Specialist), at Jennifer.Rippert@wildlife.ca.gov; or Ms. Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Stephanie Fong

CF047D7F8D234E1...
Stephanie Fong
Acting Regional Manager
Bay Delta Region

ec: State Clearinghouse (SCH No. 2021080157)
Vincent Griego, U.S. Fish and Wildlife Service, Vincent.Griego@fws.gov

REFERENCES

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.