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

November 29, 2022

Georgia McDaniel
Sonoma County
2550 Ventura Avenue
Santa Rosa, CA 95403
Georgia.McDaniel@sonoma-county.org

Subject: Guernewood Park Resort, Mitigated Negative Declaration, SCH No. 2021080556, Town of Guerneville, Sonoma County

Dear Ms. McDaniel:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) for the Guernewood Park Resort Project (project) pursuant to the California Environmental Quality Act (CEQA).[1]

CDFW is submitting comments on the MND to inform Sonoma County (County), as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive biological resources associated with the 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 a California Endangered Species Act (CESA) Permit, a Lake and Streambed Alteration (LSA) Agreement, 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 Permit 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 impacts to northern spotted owl (*Strix occidentalis caurina*), a CESA listed as threatened species, as further described below.** Issuance of a CESA permit is subject to CEQA

[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.

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 Permit.

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, & 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 CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with Fish and Game Code section 2080.

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. **The project would impact riparian habitat associated with Hulbert Creek and the Russian River; therefore, an LSA Notification is warranted, as further described below.** CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or CESA Incidental Take Permit (ITP)) until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW also has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests 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). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION SUMMARY

Proponent: Sonoma County

Objective: Development of a 108-room resort on 3.74 acres of a 9.61-acre property. The project includes construction of two main hotel buildings, four separate smaller

hotel buildings, accessory buildings including restrooms, public access improvements including trails, landscaping, driveways, and parking lots. The project also includes implementation of a Streamside Conservation Plan to mitigate for the approximately 0.42 acres of permanent impacts to riparian habitat.

Location: The project is located at 17155 Highway 116, in the Town of Guerneville, a census-designated place in Sonoma County. The Project is centered at approximate coordinates 38.494505 degrees latitude and -123.007683 degrees longitude.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the County 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 which are also included in **Attachment 1** Draft Mitigation and Monitoring Reporting Plan, CDFW concludes that an MND is appropriate for the project.

I. MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare or threatened species?

Mitigation Measures and Related Impact Shortcoming

Comment 1: Section 4.a

Issue: Mitigation Measure (MM) BIO-1 may not reduce impacts to northern spotted owl (NSO) to less-than-significant.

Specific impact: The project could result in impacts to nesting NSO including mortality of young and a violation of CESA, and loss of nesting habitat.

Why impact would occur: The project is within and near potential nesting habitat for NSO. The closest NSO occurrences documented in the California Natural Diversity Database (CNDDB) are less than 0.7 miles south of the project, and there are additional documented NSO occurrences within the project vicinity. Although typically associated with old-growth or mature forests, NSO can utilize a wide variety of habitat types. They exhibit flexibility in their use of different forested areas for nesting, roosting, and feeding requirements. Typical habitat characteristics include a multi-storied structure and high canopy cover. The project may cause adverse impacts to NSO, such as disturbance from elevated sound levels or human presence near nest sites. The project also includes removing 76 trees which are potential NSO nesting habitat and may result in direct removal of a nesting site and loss of NSO eggs or young.

Evidence impact would be significant: NSO qualifies as a threatened animal under CEQA because it is listed as threatened under CESA and the federal Federal Endangered Species Act (ESA) (CEQA Guidelines, § 15380). If NSO are nesting on or near the project site during construction, the project could result in take of the species and a substantial reduction in its population, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measures: To reduce impacts to NSO to less-than-significant, CDFW recommends including the following mitigation measure:

> Northern Spotted Owl Habitat Assessment: At least 30 days prior to commencement of Project Activities, an NSO habitat assessment shall be conducted to determine the type of NSO habitat present on-site. The habitat assessment shall identify potential habitat as described on page 31 of the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*. If no suitable habitat exists within 0.25 miles of the project, then no surveys or avoidance measures would be required. If the habitat assessment does identify suitable NSO habitat within 0.25 miles of the project, then the type of habitat within that 0.25-mile area would need to be identified. Results shall be submitted to CDFW for review and approval prior to commencement of project activities. If nesting habitat is identified on-site and will be impacted, two years of protocol surveys shall be conducted and compensatory mitigation for loss or downgraded quality of nesting habitat shall be provided at a minimum 3:1 mitigation to impacts ratio including permanent protection of nesting habitat through a conservation easement and providing funding for, preparing, and implementing a long-term management plan in perpetuity, unless otherwise approved in writing by CDFW.
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> Northern Spotted Owl Surveys: No project activities within 0.25 miles of NSO nesting habitat shall occur from March 15 to August 31, unless NSO surveys have been completed by a qualified biologist following the U.S. Fish and Wildlife Service (USFWS) *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012, and the survey report is accepted by CDFW in writing. If breeding NSOs are detected during surveys, a 0.25-mile no-disturbance buffer zone shall be implemented around the nest. NSO surveys shall be conducted for each year project construction occurs. No Project activities shall occur within the buffer zone until the end of breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. Alternate buffer zones may be proposed by a qualified biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternate

buffers must be approved in writing by CDFW. Survey results shall be provided to the Spotted Owl Observations Database at https://wildlife.ca.gov/Data/CNDDB/Spotted-Owl-Info). If NSO are detected, CDFW and the USFWS shall be immediately notified. If Project activities may impact NSO, or NSO nesting habitat, the project shall apply for and obtain an ITP from CDFW, as well as authorization from the USFWS, before starting project activities.

Alternate buffer zones may be proposed by a Qualified Biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW.

II. 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 USFWS?

Environmental Setting and Related Impact Shortcoming

Comment 2: Section 4.a

Issue: The MND does not evaluate potential impacts to California red-legged frog (*Rana draytonii*).

Specific impact and why impact would occur: Removal of riparian habitat adjacent to Hubert Creek and the Russian River could result in injury or direct mortality of California red-legged frogs if they occur on-site. Frogs can migrate long distances and occupy riparian habitat and any area with persistent summer moisture as they search for new breeding habitat. The MND does not require a survey for California red-legged frog prior to the commencement of project activities.

Evidence impact would be potentially significant: California red-legged frog is listed as threatened under the ESA and is a California Species of Special Concern (SSC), and their populations throughout the State have experienced ongoing and drastic declines and many have been extirpated (Thompson et al. 2016). Habitat loss from growth of cities and suburbs, mining, overgrazing by cattle, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to the species (Thompson et al. 2016; USFWS 2017b). Therefore, if California red-legged frog is present in the Project area and would be impacted, Project impacts to California red-legged frog would be potentially significant.

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to California red-legged to less-than-significant, CDFW recommends including the following mitigation measure:

> California Red-legged Frog Habitat Assessment and Surveys. At least two weeks prior to the commencement of ground-disturbing activities, the Project area and nearby vicinity, including a minimum 500-foot radius surrounding the Project activity area, shall be assessed by a Qualified Biologist for the presence of California red-legged frog individuals and habitat features. Habitat features include both aquatic habitat such as plunge pools and ponds and terrestrial habitat such as burrows or other refugia. If habitat occurs, then no more than 48 hours prior to ground-disturbing activities the area shall be surveyed by a Qualified Biologist. The results of the habitat feature assessment and survey shall be submitted to CDFW for written acceptance prior to starting Project activities. Burrows and refugia sites shall be flagged or otherwise marked for avoidance; Project activities shall avoid habitat features to the extent feasible. If California red-legged frogs are encountered during the assessment or Project activities, the Project shall not proceed or all work shall cease, and CDFW shall immediately be notified. Work shall not proceed until the frog, through its own volition, moves out of harm's way and CDFW has provided permission in writing to proceed with the Project. If California red-legged frog is encountered or the Qualified Biologist determines that impacts to the species are likely to occur, the Project shall consult with USFWS pursuant to the federal Endangered Species Act and receive written approval from CDFW prior to the impact. In this case, CDFW may require additional protection measures which shall be implemented by the Project.

Comment 3: Section 4.a

Issue: The MND does not evaluate potential impacts to foothill yellow-legged frog (*Rana boylii*) North Coast distinctive population segment (DPS).

Specific impact and why impact would occur: Removal of riparian habitat adjacent to Hubert Creek and the Russian River could result in direct mortality of foothill yellow-legged frog. After breeding occurs in the spring, juvenile frogs can migrate long distances and occupy riparian habitat, moist grassland habitat, and any area with persistent summer moisture as they search for new breeding habitat. The MND does not require a survey for foothill yellow-legged frog prior to the commencement of project activities.

Evidence impact would be potentially significant: Foothill yellow-legged frog North Coast DPS is as an SSC. The SSC designation is given to species native to California satisfying one or more of the following criteria: 1) is extirpated from the State or, in the

case of birds, is extirpated in its primary season or breeding role; 2) is listed as Federally-, but not State threatened or endangered; 3) meets the State definition of threatened or endangered but has not formally been listed; 4) is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; or 5) has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. Therefore, if foothill yellow-legged frog is present in the Project area and would be impacted, Project impacts to foothill yellow-legged frog would be potentially significant.

Recommended Mitigation Measures: For an adequate environmental setting and to reduce impacts to foothill yellow-legged frog to less-than-significant, CDFW recommends including the following mitigation measure:

> Foothill Yellow-Legged Frog - Survey Methodology: A CDFW-approved Qualified Biologist shall provide a foothill yellow-legged frog (FYLF) survey methodology for CDFW review and written approval at least 30 days prior to conducting project activities, unless otherwise approved in writing by CDFW. Project activities shall not begin until FYLF surveys have been completed using a methodology approved by CDFW. Survey methodology is not required if the stream is dry and there are no areas of persistent summer moisture present in or within 500 feet upstream and downstream of the project area. Survey methodology shall target all life stages and shall include carefully searching under rocks, within vegetation such as sedges and other clumped vegetation, and under undercut banks, no less than 50 feet from the streambed, where appropriate, and at least 500 feet upstream and downstream of the project area. Surveys should be conducted at different times of day and under variable weather conditions, if possible. Surveys should avoid windy days (15 miles per hour or greater), as ripples in the water make it more challenging to detect frogs.
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> Foothill Yellow-Legged Frog Surveys: Prior to starting project activities, a CDFW-approved Qualified Biologist shall conduct surveys for FYLF using a CDFW-approved methodology. The results of the surveys shall be emailed to a CDFW representative, and the project shall receive written acceptance of the survey results from CDFW prior to starting project activities. The project shall install exclusionary fencing and prepare and implement a FYLF Relocation and Habitat Improvement Plan if FYLF or their eggs are found, if required and approved by CDFW.
>
> If documentation is provided to CDFW that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist

areas within the streambed exist within 500 feet upstream and downstream of the Project site, then surveys for foothill yellow-legged frogs are not necessary.

Comment 4: Section 4.a

Issue: The MND does not evaluate potential impacts to Townsend's big-eared bat (*Corynorhinus townsendii*).

Specific impact and why impact would occur: The project would remove up to 76 trees, which are potential roosting habitat for Townsend's big-eared bat, which could result in bats being injured or killed. The MND does not require a habitat assessment or roosting survey for Townsend's big-eared bats prior to the commencement of project activities.

Evidence impact would be potentially significant: Removal of trees may significantly reduce suitable roosting habitat for Townsend's big-eared bat and could result in the direct mortality of Townsend's big-eared bat individuals if removed without proper habitat assessments and surveys being conducted prior to removal. Townsend's big-eared bat is an SSC. Townsend's big-eared bat also has a State Ranking of S2, meaning it is at high risk of extirpation in the state due to a fairly restricted range, relatively few populations or occurrences, recent and widespread declines, threats, or other factors. Based on the foregoing, if Townsend's big-eared bats are roosting within the trees that would be removed, project impacts to Townsend's big-eared bat would be potentially significant.

Recommended Mitigation Measures: For an adequate environmental setting and to reduce impacts to Townsend's big-eared bat to less-than-significant, CDFW recommends including the following mitigation measure:

> Bat Protection: Prior to any tree removal, a qualified bat biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, or exfoliating bark for colonial species, and suitable canopy for foliage-roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. Trees may be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable bat habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified bat biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence

surveys or complete visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under direct supervision and instruction by a qualified bat biologist with experience conducting two-step tree removal limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.

Comment 5: Section 4.a

Issue: The MND does evaluate potential impacts to western pond turtle (*Emys marmorata*).

Specific impact and why impact would occur: The project would result in the removal of riparian habitat, which is potential dispersal habitat for western pond turtle and could result in direct mortality of the species. The MND does not require a survey for western pond turtle prior to the commencement of project activities.

Evidence impact would be potentially significant: Removal of riparian habitat adjacent to Hubert Creek and the Russian River could result in direct mortality of western pond turtle. Western pond turtle is as an SSC. Therefore, if western pond turtle is present in the Project area and would be impacted, Project impacts to western pond turtle would be potentially significant.

Recommended Mitigation Measures: For an adequate environmental setting and to reduce impacts to western pond turtle to less-than-significant, CDFW recommends including the following mitigation measure:

Western Pond Turtle Surveys. A Qualified Biologist shall conduct a pre-construction survey for the western pond turtle and their nests within 48 hours of the commencement of project activities. If western pond turtle or their nests are detected at any time CDFW shall be notified immediately, and the Qualified Biologist shall relocate the turtle to appropriate habitat within the stream it was found. The project shall prepare and implement a Western Pond Turtle Habitat Improvement Plan, if western pond turtle or their nests are found, if required and approved by CDFW.

Comment 6: Section 4.a

Issue: The MND does not evaluate potential impacts to Sonoma tree vole (*Arborimus pomo*).

Specific impact and why impact would occur: Removal of up to 76 redwood (*Sequoia sempervirens*), Douglas-fir (*Pseudotsuga menziesii*), and other conifer trees

could result in direct mortality of Sonoma tree vole and destruction of active nests. The MND does not require a survey for Sonoma tree vole prior to the commencement of project activities.

Evidence impact would be potentially significant: Sonoma tree vole is as an SSC. Therefore, if Sonoma tree vole is present in the Project area and would be impacted, Project impacts to Sonoma tree vole would be potentially significant.

Recommended Mitigation Measures: For an adequate environmental setting and to reduce impacts to Sonoma tree vole to less-than-significant, CDFW recommends including the following mitigation measure:

> Sonoma Tree Vole Surveys: A Qualified Biologist shall conduct a pre-construction survey for the Sonoma tree vole and their nests within 48 hours of the removal of trees on-site. If Sonoma tree vole or their nests are detected at any time CDFW shall be notified immediately. The project shall prepare and implement a Sonoma tree vole relocation plan, if Sonoma tree vole or their nests are found, if required and approved by CDFW.

I. Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS?

Mitigation Measures and Related Impact Shortcoming

Comment 7: Section 4.b

Issue: Mitigation Measure (MM) BIO-2 may not reduce impacts to riparian habitat to less-than-significant because it does not require specific replacement ratios for riparian trees removed. Additionally, the project may result in a violation of Fish and Game Code section 1600 et seq. because the MND does not require submittal of an LSA Notification to CDFW and compliance with the related LSA Agreement, if issued, prior to project construction.

Specific impact and why impact would occur: The project will result in approximately 0.42 acres of permanent impacts to riparian habitat from construction of hotel buildings, accessory buildings, public access improvements, landscaping, driveways, and parking lots. MM BIO-2 does not require: 1) mitigation ratios for riparian tree removal, or 2) submittal of an LSA Notification to CDFW prior to initiation of Project activities.

Evidence impact would be potentially significant: Riparian habitat is of critical importance to protecting and conserving the biotic and abiotic integrity of an entire watershed. When riparian habitat is substantially altered, riparian functions become impaired, thereby likely substantially adversely impacting aquatic and terrestrial species.

Removal of trees and other vegetation may significantly reduce suitable nesting and roosting habitat for many bird and bat species, such as Townsend's big-eared bat, an SSC, and causes the loss of important refugia for small mammals such as the Sonoma tree vole, also an SSC. Mature riparian trees and mid canopy vegetation would take considerable time to reestablish and grow to function. The project may substantially adversely affect riparian habitat by permanently removing riparian habitat as described above, resulting in the loss or degradation of this vulnerable habitat type. Therefore, if the above impacts to riparian habitat occur, project impacts to riparian habitat would be potentially significant.

Recommended Mitigation Measures: To reduce impacts to riparian habitat to less-than-significant, CDFW recommends that the MND explicitly require the project to submit an LSA Notification to CDFW and comply with the LSA Agreement if issued, prior to the initiation of project activities. Additionally, CDFW recommends including the following language:

> Riparian Tree Replacement: To mitigate for the removal of riparian trees, replacement trees shall be planted at the below minimum replacement to removal ratios, unless otherwise approved in writing by CDFW:
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> - 1:1 for removal of non-native trees;
> - 1:1 for removal of native trees other than oak (*Quercus* sp.) up to 3 inches DBH (diameter at breast height);
> - 3:1 for removal of native trees other than oak 4 to 6 inches DBH;
> - 6:1 for removal of native trees other than oak greater than 6 inches DBH;
> - 4:1 for removal of oak trees up to 6 inches DBH;
> - 5:1 for removal of oak trees greater than 6 inches to 15 inches DBH; and
> - 10:1 for removal of oak trees greater than 15 inches in diameter
>
> Replacement tree plantings shall consist of 5-gallon or greater saplings and locally-collected seeds, stakes, or other suitable nursery stock as appropriate, and shall be native species to the area adapted to the lighting, soil, and hydrological conditions at the replanting site. If acorns are used for oak tree replanting, each planting will include a minimum of three acorns planted at an approximately two-inch depth to minimize predation risk. Large acorns shall be selected for plantings. Replacement oaks shall come from nursery stock grown from locally-sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted.

The project shall monitor and maintain, as necessary, all plants for five years to ensure successful revegetation. Planted trees and other vegetation shall each have a minimum of 80 percent survival at the end of five years. If revegetation survival and/or cover requirements do not meet established goals as determined by CDFW, the project is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.

Please be advised that an LSA Agreement obtained for this project would likely require the above recommended mitigation measures, as applicable.

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 CNDDB. The CNDDB field survey form, online field survey form, and contact information for CNDDB staff can be found at the following link: https://wildlife.ca.gov/data/CMNDDB/submitting-data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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. 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 environmental document filing 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).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating project impacts on biological resources. 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 in the final CEQA document for the project.

Questions regarding this letter or further coordination should be directed to James Hansen, Environmental Scientist, at (707) 576-2869 or

James.Hansen@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: State Clearinghouse #2021080556

Attachment 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	**Description**	**Timing**	**Responsible Party**
MM-BIO-1	Northern Spotted Owl Habitat Assessment: At least 30 days prior to commencement of Project Activities, an NSO habitat assessment shall be conducted to determine the type of NSO habitat present on-site. The habitat assessment shall identify potential habitat as described on page 31 of the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*. If no suitable habitat exists within 0.25 miles of the project, then no surveys or avoidance measures would be required. If the habitat assessment does identify suitable NSO habitat within 0.25 miles of the project, then the type of habitat within that 0.25-mile area would need to be identified. Results shall be submitted to CDFW for review and approval prior to commencement of project activities. If nesting habitat is identified on-site and will be impacted, two years of protocol surveys shall be conducted and compensatory mitigation for loss or downgraded quality of nesting habitat shall be provided at a minimum 3:1 mitigation to impacts ratio including permanent protection of nesting habitat through a conservation easement and providing funding for, preparing, and implementing a long-term management plan in perpetuity, unless otherwise approved in writing by CDFW.	Prior to Ground Disturbance	Project Applicant
MM-BIO-1A	Northern Spotted Owl Surveys: No project activities within 0.25 miles of NSO nesting habitat shall occur from March 15 to August 31, unless NSO surveys have been completed by a qualified biologist following the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012, and the survey report is accepted by CDFW	Prior to Ground Disturbance and Continuing over the	Project Applicant

	in writing. If breeding NSOs are detected during surveys, a 0.25-mile no-disturbance buffer zone shall be implemented around the nest. NSO surveys shall be conducted for each year project construction occurs. No Project activities shall occur within the buffer zone until the end of breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. Alternate buffer zones may be proposed by a qualified biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW. Survey results shall be provided to the Spotted Owl Observations Database at https://wildlife.ca.gov/Data/CNDDB/Spotted-Owl-Info). If NSO are detected, CDFW and the USFWS shall be immediately notified. If Project activities may impact NSO, or NSO nesting habitat, the project shall apply for and obtain an ITP from CDFW, as well as authorization from the USFWS, before starting project activities. Alternate buffer zones may be proposed by a Qualified Biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW.	Course of the Project	
MM-BIO-2	California Red-legged Frog Habitat Assessment and Surveys. At least two weeks prior to the commencement of ground-disturbing activities, the Project area and nearby vicinity, including a minimum 500-foot radius surrounding the Project activity area, shall be assessed by a Qualified Biologist for the presence of California red-legged frog individuals and habitat features. Habitat features include both aquatic habitat such as plunge pools and ponds and terrestrial habitat such as burrows or other refugia. If habitat occurs, then no more than 48 hours prior to ground-disturbing	Prior to Ground Disturbance and Continuing over the Course of the Project	Project Applicant

	activities the area shall be surveyed by a Qualified Biologist. The results of the habitat feature assessment and survey shall be submitted to CDFW for written acceptance prior to starting Project activities. Burrows and refugia sites shall be flagged or otherwise marked for avoidance; Project activities shall avoid habitat features to the extent feasible. If California red-legged frogs are encountered during the assessment or Project activities, the Project shall not proceed or all work shall cease, and CDFW shall immediately be notified. Work shall not proceed until the frog, through its own volition, moves out of harm's way and CDFW has provided permission in writing to proceed with the Project. If California red-legged frog is encountered or the Qualified Biologist determines that impacts to the species are likely to occur, the Project shall consult with USFWS pursuant to the federal Endangered Species Act and receive written approval from CDFW prior to the impact. In this case, CDFW may require additional protection measures which shall be implemented by the Project.		
MM-BIO-3	<u>Foothill Yellow-Legged Frog - Survey Methodology:</u> A CDFW-approved Qualified Biologist shall provide a foothill yellow-legged frog (FYLF) survey methodology for CDFW review and written approval at least 30 days prior to conducting project activities, unless otherwise approved in writing by CDFW. Project activities shall not begin until FYLF surveys have been completed using a methodology approved by CDFW. Survey methodology is not required if the stream is dry and there are no areas of persistent summer moisture present in or within 500 feet upstream and downstream of the project area. Survey methodology shall target all life stages and shall include carefully searching under rocks, within vegetation such as sedges and other clumped vegetation, and under undercut banks, no less than 50 feet from the streambed, where appropriate, and at least 500 feet upstream and downstream of the project area. Surveys should be conducted at different times of day and under variable weather conditions, if possible. Surveys should avoid windy days (15 miles per hour or	Prior to Ground Disturbance	Project Applicant

	greater), as ripples in the water make it more challenging to detect frogs.		
MM-BIO-3A	Foothill Yellow-Legged Frog Surveys: Prior to starting project activities, a CDFW-approved Qualified Biologist shall conduct surveys for FYLF using a CDFW-approved methodology. The results of the surveys shall be emailed to a CDFW representative, and the project shall receive written acceptance of the survey results from CDFW prior to starting project activities. The project shall install exclusionary fencing and prepare and implement a FYLF Relocation and Habitat Improvement Plan if FYLF or their eggs are found, if required and approved by CDFW. If documentation is provided to CDFW that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the Project site, then surveys for foothill yellow-legged frogs are not necessary.	Prior to Ground Disturbance and Continuing over the Course of the Project	Project Applicant
MM-BIO-4	Bat Protection: Prior to any tree removal, a qualified bat biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, or exfoliating bark for colonial species, and suitable canopy for foliage-roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. Trees may be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable bat habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified bat biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence surveys or complete visual examination of roost features that	Prior to Tree Removal	Project Applicant

	establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under direct supervision and instruction by a qualified bat biologist with experience conducting two-step tree removal limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.		
MM-BIO-5	Western Pond Turtle Surveys. A Qualified Biologist shall conduct a pre-construction survey for the western pond turtle and their nests within 48 hours of the commencement of project activities. If western pond turtle or their nests are detected at any time CDFW shall be notified immediately, and the Qualified Biologist shall relocate the turtle to appropriate habitat within the stream it was found. The project shall prepare and implement a Western Pond Turtle Habitat Improvement Plan, if western pond turtle or their nests are found, if required and approved by CDFW.	Prior to Ground Disturbance and Continuing over the Course of the Project	Project Applicant
MM-BIO-6	Sonoma Tree Vole Surveys: A Qualified Biologist shall conduct a pre-construction survey for the Sonoma tree vole and their nests within 48 hours of the removal of trees on-site. If Sonoma tree vole or their nests are detected at any time CDFW shall be notified immediately. The project shall prepare and implement a Sonoma tree vole relocation plan, if Sonoma tree vole or their nests are found, if required and approved by CDFW.	Prior to Tree Removal and Ground Disturbance	Project Applicant
MM-BIO-7	LSA Compliance: The project shall submit an LSA Notification to CDFW and comply with the LSA Agreement if issued, prior to the initiation of project activities. Riparian Tree Replacement: To mitigate for the removal of riparian trees, replacement trees shall be planted at the below minimum replacement to removal ratios, unless otherwise approved in writing by CDFW: • 1:1 for removal of non-native trees;	Within the Same Calendar Year as Project Impacts	Project Applicant

	• 1:1 for removal of native trees other than oak (*Quercus* sp.) up to 3 inches DBH (diameter at breast height); • 3:1 for removal of native trees other than oak 4 to 6 inches DBH; • 6:1 for removal of native trees other than oak greater than 6 inches DBH; • 4:1 for removal of oak trees up to 6 inches DBH; • 5:1 for removal of oak trees greater than 6 inches to 15 inches DBH; and • 10:1 for removal of oak trees greater than 15 inches in diameter Replacement tree plantings shall consist of 5-gallon or greater saplings and locally-collected seeds, stakes, or other suitable nursery stock as appropriate, and shall be native species to the area adapted to the lighting, soil, and hydrological conditions at the replanting site. If acorns are used for oak tree replanting, each planting will include a minimum of three acorns planted at an approximately two-inch depth to minimize predation risk. Large acorns shall be selected for plantings. Replacement oaks shall come from nursery stock grown from locally-sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted. The project shall monitor and maintain, as necessary, all plants for five years to ensure successful revegetation. Planted trees and other vegetation shall each have a minimum of 80 percent survival at the end of five years. If revegetation survival and/or cover requirements do not meet established goals as determined by CDFW, the project is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.		