



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Ave
Fresno, California 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 16, 2021

Governor's Office of Planning & Research

Nov 16 2021

Emi Sugiyama
County Planner
County of San Luis Obispo
976 Osos Street, Room 300
San Luis Obispo, California 93408

STATE CLEARINGHOUSE

SUBJECT: DUDYNSKY, VARIANCE, ED21-159-PL, DRC2019-00288 (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH No.: 2021100272

Dear Ms. Sugiyama:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from County of San Luis Obispo for the Project pursuant 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, we appreciate 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 the 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 & 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.

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

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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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 may be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Ivan Dudynsky

Objective: The objective of the Project is to construct two residences with associated utilities, septic field, water storage, and ground mounted solar array.

Location: 2281 Kiler Canyon Road Paso Robles, CA 93446

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist County of San Luis Obispo in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Mitigation Measure BIO-4: CDFW is concerned regarding Mitigation Measure BIO-4 where it states that mature seed will be collected from individual plants that will be removed as a result of the proposed development. If you encounter any special status plants, CDFW advises that Mitigation Measure BIO-4 has the potential to result in unauthorized take if the removed plant species is listed pursuant to either the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA). Take of threatened or endangered plant species listed pursuant to CESA or designated rare pursuant to NPPA require acquisition of an Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2081 subdivision (b) to comply with Fish and Game Code. Therefore, we recommend that Mitigation Measure BIO-4 be edited to require consultation with CDFW if any plants listed pursuant to CESA or NPPA are observed on or immediately adjacent to the Project site to determine if the Project can avoid take. If take cannot be avoided, an ITP is required to comply with Fish and Game Code.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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

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during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed 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

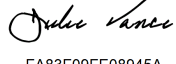
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist County of San Luis Obispo in identifying and mitigating Project 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>). Questions regarding this letter or further coordination should be directed to Aimee Braddock, Environmental Scientist at (559) 578-0416 or aimee.braddock@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento