

DEVELOPER'S STATEMENT FOR  
DUDYNSKY VARIANCE / DRC2019 00288

The applicant agrees to incorporate the following measures into the project. These measures become a part of the project description and therefore become a part of the record of action upon which the environmental determination is based. All development activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

Per Public Resources Code Section 21081.6 the following measures also constitute the mitigation monitoring and/or reporting program that will reduce potentially significant impacts to less than significant levels. These measures will become conditions of approval (COAs) should the project be approved. The Lead Agency (County) or other responsible Agencies, as specified in the following measures, is responsible to verify compliance with these COAs.

**Project Description:** A request by Ivan Dudynsky and Audrey Morrisey for a Variance (DRC2019-00288) to allow grading on slopes greater than 30 percent for the purpose of constructing two residences with associated utilities, septic leach field, water storage and a ground-mounted photovoltaic array. The project will result in the disturbance of approximately 58,436 square feet on an approximately 13.4-acre property. The proposed project is within the Agriculture land use category and is located at 2281 Kiler Canyon Road about three miles west of the City of Paso Robles. The project site is in the Adelaida Sub-Area of the North County Inland Planning Area.

Note: The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

The following mitigation measures address impacts that may occur as a result of the development of the project.

Air Quality

AQ-1 Fugitive Dust Construction Control Measures

Prior to issuance of grading or construction permits, the following measures shall be incorporated into the construction phase of the [project and shown on all applicable plans:

1. Reduce the amount of disturbed area where possible;
2. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used
3. All dirt stock-pile shall be sprayed daily as needed;
4. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible, and building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
5. All of these fugitive dust mitigation measures shall be shown on grading and building plans and;

6. The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20% opacity, and to prevent transport of dust **offsite**. Their duties shall include holidays and weekend periods when work may not be in progress.

AQ-2 ROG, NO DPM Emissions

The following measures based on the SLOAPCD standard mitigation measures for construction equipment for reducing nitrogen oxides (NOx), reactive organic gases (ROG), and diesel particulate matter (DPM) emissions from construction equipment shall be implemented to reduce exposure of sensitive receptors to substantial pollutant concentrations. Prior to issuance of any grading or construction permits, these measures shall be shown on grading and building plans:

- a. Implement Mitigation Measure AQ-1, as identified above.
- b. On-road diesel vehicles shall comply with Section 2485 of Title 13 of the California Code of Regulations. This regulation limits Idling from diesel-fueled commercial motor vehicles with gross vehicular weight ratings of more than 10,000 pounds and Licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles:
  - i. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,
  - ii. Shall not operate a diesel-fueled auxiliary power system to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 1,000 feet of a restricted area, except as noted in Subsection (d) of the regulation.
- c. Maintain all construction equipment in proper tune according to manufacturer's specifications.
- d. Fuel all off-road and portable diesel-powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road).
- e. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines and comply with the State Off-Road Regulation.
- f. Idling of all on and off-road diesel-fueled vehicles shall not be permitted when not in use. Signs shall be posted in the designated queuing areas and or job site to remind drivers and operators of the no idling limitation.
- g. Electrify equipment when possible.
- h. Substitute gasoline-powered in place of diesel-powered equipment, when available. and,
- i. Use alternatively fueled construction equipment on-site when available, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

AQ-1 through AQ-2 Monitoring/Compliance

Prior to issuance of grading or construction permits, the above measures shall be shown on all applicable plans.

Biological Resources

BIO-1 Environmental Awareness Training

An environmental awareness training shall be presented to all construction personnel by a qualified biologist prior to the start of project activities. The training shall include color photographs and a description of the ecology of all special status species known or determined to have potential to occur, as well as other sensitive resources requiring avoidance near project impact areas. The training shall also include a description of protection measures required by discretionary permits, an overview of the ESA, implications of noncompliance with the ESA, and required avoidance and minimization measures. Training materials shall be provided to the County Planning and Building Department prior to issuance of grading or construction permits.

BIO-2 Site Maintenance and General Operations

Prior to issuance of grading or construction permit, the following measures shall be incorporated into the construction phase of the project and shown on all applicable plans:

The following general measures are recommended to minimize impacts during active construction:

- The use of heavy equipment and vehicles shall be limited to the proposed project limits and defined staging areas/access points. The boundaries of each work area shall be clearly defined and marked with high visibility fencing. No work shall occur outside these limits.
- Project plans, drawings, and specifications shall show the boundaries of all work areas on site and the location of erosion and sediment controls, limit delineation, and other pertinent measures to ensure the protection of sensitive habitat areas and associated resources.
- Secondary containment such as drip pans shall be used to prevent leaks and spills of potential environmental contaminants.
- Washing of concrete, paint, or equipment, and refueling and maintenance of equipment shall occur only in designated areas. Sandbags and/or absorbent pads shall be available to prevent contaminated water and/or spilled fuel from leaving the site.
- Construction equipment shall be inspected by the operator daily to ensure that equipment is in good working order and no fuel or lubricant leaks are present.
- The use of pesticides (including rodenticides) and herbicides on the property shall be in compliance with all local, state, and federal regulations to avoid primary and

secondary poisoning of sensitive species that may be using the site.

BIO-3 Lighting

Prior to issuance of grading or construction permits, plans shall show that any temporary construction lighting or permanent lighting introduced for new developments shall avoid nighttime illumination of suitable habitat features for special-status species (i.e. adjacent grassland, chaparral, and oak woodland). During project construction, temporary construction lighting will be kept to the minimum amount necessary and shall be directed toward active work areas and away from open spaces. To minimize the effects of future exterior lighting on special-status wildlife species, all outdoor lighting fixtures shall be positioned and/or shielded to avoid direct lighting of off-site natural habitat areas. Exterior lighting shall be in accordance with International Dark Sky Association guidelines for reducing light pollution for the benefit of wildlife.

BIO-4 Special-status Botanical Species

Prior to issuance of grading or construction permit, the following measures shall be incorporated into the construction phase of the project and shown on all applicable plans:

The following specific recommendations are made to reduce the anticipated impacts to special status plant populations to the maximum extent feasible:

- Prior to the start of construction, updated botanical surveys will be completed during the appropriate seasons (i.e., approximately April through July) within all proposed disturbance areas. Surveys will include identification and mapping of the current extent of all special-status plant populations.
- To the extent feasible, ground disturbance will be minimized in areas where special-status plant populations have been mapped during 2020 surveys and all subsequent surveys.
- During the appropriate season (i.e., approximately June through August) prior to the start of construction, mature seed will be collected from individual plants that will be removed as a result of the proposed development. This seed will be temporarily stored in paper bags or envelopes in a cool, dry location. Collected seed will be spread in areas of suitable habitat on site that will not be disturbed as part of the proposed development. In particular, the seed should be used to enhance and expand upon existing population patches that were mapped throughout the site.
- The top four to six inches of topsoil will be salvaged during initial grading and stored separately. Stored topsoil will be spread in temporary disturbance areas (e.g., road edges, and utility trench lines) following the completion of construction.

If a mitigation plan is deemed necessary, it will be submitted for approval to the appropriate agencies prior to the start of construction and include the following, at a minimum:

- Discuss the proposed construction methods, construction schedule, and the implementation schedule of activities proposed as part of the plan.

- Quantify the anticipated impacts to special-status plant species, either in acres of occupied habitat or number of individuals impacted.
- include a description of the mitigation activities proposed for each. As appropriate, the measures will include:
  - A detailed description of topsoil salvage procedures and long term soil stockpile storage methods;
  - Methods and timing of any proposed seed collection and storage;
  - Locations and demarcation of full-time avoidance areas during construction;
  - Locations and methods for restoration, replanting, and/or reseeding (e.g., decompaction, recontouring, scarification, mulching, hand broadcasting, hydroseeding, and weed control); and
  - Short- and/or long-term monitoring protocols and/or vegetative growth success criteria.
- include a requirement for photographic documentation and a post-implementation report.

BIO-5 Native Trees - Avoidance Measures

Prior to issuance of grading or construction permit, the following measures shall be incorporated into the construction phase of the project and shown on all applicable plans:

To avoid impacts to individual native (oak) trees, the following aspects will be integrated into the project design:

- a. Locate all structures and construction activities, outside of tree dripline, and where possible outside of the tree's root zone;
- b. Consider siting driveway location outside of the tree dripline(s); where this is not possible, trimming to about 15 vertical feet of any encroaching limbs should be done before any construction activities begin to avoid these limbs being irreparably gaped/broken by large vehicles.
- c. When located in "high" or "very high" fire severity zones, make all efforts to locate development least 30 feet, preferably 100 feet from existing trees to avoid trimming or removing trees as a part of a fuel modification program to protect structures from wildland fires;
- d. Locate all non-native landscaping that requires summer watering and leach lines outside the trees dripline and root zone;
- e. Before siting structure location, consider where utility lines will be located to avoid trenching within the tree dripline/canopy;
- f. When the site requires substantial grading near oaks, consider surface drainage aspects (oaks rely on surface water) to retain similar drainage characteristics to oak's root zones

**BIO-6 Native Trees (Oaks) - Minimizing Impacts**

At the time of building permit application and during construction, the following measures shall be completed to minimize native tree (oak) impacts:

- a. Grading and/or construction plans shall provide a 'Native Tree (Oak) Inventory' and show locations of all native trees within 25 feet of the proposed project limits (including ancillary elements, such as trenching); For each of the trees shown, they shall be marked with one of the following 1) to be removed, 2) to be impacted, or 3) to remain intact/protected. This should be noted as the "Native Tree Impact Plan" on construction plans.
- b. For trees identified as 'impacted' or 'to remain protected' they shall be marked in the field as such and protected to the extent possible. Protective measures shall be visible to work crews and be able to remain in good working order for the duration of the construction work. Waterproof signage at protective edge is recommended (e.g., 'FREE PROTECTION AREA - STAY OUT'). Grading, trenching, compaction of soil, construction material/equipment storage, or placement of fill shall not occur within these protected areas.
- c. To minimize impacts from tree trimming, the following approach shall be used:
  - Removal of larger lower branches shall be minimized to 1) avoid making tree top heavy and more susceptible to "blow-overs" (due to wind), 2) reduce number of large limb cuts that take longer to heal and are much more susceptible to disease and infestation, 3) retain the wildlife that is found only in the lower branches, 4) retain shade to keep summer temperatures cooler (retains higher soil moisture, creates greater passive solar potential, provides better conditions for oak seedling volunteers) and 5) retain the natural shape of the tree.
  - ii. If trimming is unavoidable, no more than 10% of the oak canopy shall be removed.

If trimming is done, either a skilled certified arborist will be used, or trimming techniques accepted by the International Society of Arboriculture will be used. Unless a hazardous or unsafe situation exists, trimming will be done only during the winter for deciduous species.
- d. Smaller native trees (smaller than 5 inches in diameter at four feet six inches above the ground) within the project area are considered to be of high importance, and where possible, will be protected.

**BIO-7 Oak Tree and Rare Plant Mitigation Plan**

The applicant shall implement the Oak Tree and Rare Plant Mitigation Plan (report) dated May 2021 prepared by Terra Verde Environmental Consultants. The plan shall incorporate the following minimum components:

- The collection and re-seeding of Salinas milkvetch in suitable areas of the open space easement.

- A description of implementation methods.

One of the following options for mitigation of oak tree impacts:

- a. Removed oak trees (28) shall be mitigated at a 4 to 1 ratio and other impacted oak trees (30) shall be mitigated at a 2 to 1 ratio, for a total of 172 mitigation trees; and

A maintenance and monitoring plan including criteria for assessing the performance of the mitigation plan and a requirement for annual reporting to the County.

- OR -

- b. Establishment of a permanent open space easement on the project site with a minimum area of 172,000 square feet, or 3.95 acres, of contiguous, viable, mature oak area as determined by the County and outlined in Figure 2 of the project's Oak and Rare Plant Mitigation Plan.

- OR -

- c. Alternatively, up to 25 percent of the mitigation requirement (43 of 172 trees) may be met by protecting small saplings on site. The remaining 129 mitigation trees would be offset as an on-site easement with a minimum area of 129,000 sf (2.96 acres); and

A maintenance and monitoring plan including criteria for assessing the performance of the mitigation plan and a requirement for annual reporting to the County.

BIO-8 Preconstruction Survey for American Badger

A qualified biologist shall complete a preconstruction survey within 30 days prior to the start of initial project activities to ensure American badgers are not present within proposed work areas. If potential dens are discovered, they shall be monitored with a remote camera or tracking medium for at least three days to determine if they are occupied. If the qualified biologist determines that potential dens may be active, an exclusion buffer shall be established within 50 feet of the den and the appropriate resource agencies shall be contacted for further guidance. If active dens are found during the breeding and rearing season, no activity shall occur within 200 feet of the den without agency guidance and approval.

BIO-9 Preconstruction Survey for Monterey Dusky-footed Woodrat

Prior to the start of work within 50 feet of suitable woodrat habitat, a survey shall be conducted by a qualified biologist to identify and flag woodrat middens for avoidance. A minimum 10-foot buffer area shall be clearly delineated around any woodrat middens that are discovered during the survey. Due to the likelihood for woodrats to flee the midden as a result of nearby construction activity, a biologist shall monitor initial vegetation clearing and earth work within 25 feet of woodrat midden. If woodrats are observed fleeing middens, work shall be temporarily halted until woodrats flee outside the area of impact and/or are relocated to nearby suitable habitat areas by the qualified biologist.

Any woodrat houses that are deemed unavoidable shall be carefully dismantled mechanically (e.g., excavator with thumb) or with hand tools from the top down, allowing any woodrats to escape unharmed. A biological monitor shall be present for dismantling. Due to human health concerns associated with disturbance of woodrat middens and Inhalation of dust and particles, the monitor shall not assist in physical woodrat house dismantling and shall position themselves upwind during the activity.

**BIO-10 Special Considerations to Avoid or Minimize Impacts to Mountain Lions**

Because mountain lions are large, highly mobile predators, and no denning habitat exists on site, a preconstruction survey targeted to mountain lions will not produce helpful results. Therefore, assuming mountain lions will use the project site, the general avoidance and minimization measures listed in Section 4.2.1 of the project's Biological Resources Assessment dated September 2020 will avoid or minimize impacts to mountain lions. In particular, the measure related to the use of rodenticides is Important. Anticoagulant rodenticides, such as brodifacoum, bromadiolone, difenacoum, and difethialone as well as other pesticides and herbicides have negative effects on mountain lion populations in Southern California and the Central Coast. Therefore, the use of these products on the property shall be in compliance with all local, state, and federal regulations to avoid primary and secondary poisoning of mountain lions.

Prior to Issuance of grading or construction permit, the general avoidance and minimization measures listed in Section 4.2.1 of the projects Biological Resources Assessment dated September 2020 measures shall be incorporated into the construction phase of the project and shown on all applicable plans.

**BIO-11 Preconstruction Surveys for Pallid Bat**

Prior to the start of work, all suitable roosting habitat for pallid bats (e.g., mature oak or sycamore trees and buildings) within 100 feet of work areas shall be surveyed to determine if bats are roosting in these areas. If bats are detected and impacts are deemed unavoidable, a bat exclusion plan shall be developed and submitted to CDFW for approval prior to implementing any exclusion methods. If no bats are detected, no further action is required.

**BIO-12 Preconstruction Survey and Monitoring for Special-status Amphibians and Reptiles**

A qualified biologist shall conduct a preconstruction survey immediately prior to the start of work within 50 feet of suitable habitat for Northern California legless lizard, coast horned lizard, coast range newt, and CRLF. Surveys will be conducted by gently disturbing scrub understory and upper layers of oak tree duff. Construction monitoring shall also be conducted by a qualified biologist during all initial ground disturbing and vegetation removal activities (e.g., grading, grubbing, vegetation trimming, or vegetation removal including tree removal) within suitable habitat. If Northern California legless lizards, coast horned lizards, or coast range newts are discovered during surveys and monitoring, they will be hand captured and relocated to suitable habitat outside the area of impact. If CRLF are discovered, they shall be allowed to leave on their own volition and the resource agencies shall be contacted.



BIO-13 Preconstruction Survey for Sensitive and Nesting Birds

If work is planned to occur between February 1 and September 15, a qualified biologist shall survey the area for nesting birds within one week prior to activity beginning on site. In addition, if work is planned to occur as early as January 1, a qualified biologist shall complete a focused survey for nesting golden eagles within one-quarter mile of the project site, as feasible based on access. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active. A non-disturbance buffer of 150 feet will be placed around non-listed, passerine species and a 500-foot buffer will be implemented for raptor species. All activity will remain outside of that buffer until a qualified biologist has determined that the young have fledged or that proposed construction activities would not cause adverse impacts to the nest adults, eggs, or young. If special-status avian species are identified and nesting within the work area, no work will begin until an appropriate buffer is determined in consultation with CDFW, and/or the USFWS.

BIO-1 through BIO-13 Monitoring/Compliance

Prior to issuance of grading or construction permits, the above measures shall be shown on all applicable plans.

Compliance: Department of Planning and Building shall verify compliance (BIO-1 thru BIO-13) in consultation with the Environmental Coordinator.

Geology and Soils

GEO-1 Prior to issuance of grading and construction permits, the applicant shall show evidence that the material proposed for export associated with the project has an approved receiver site with a valid grading permit to receive the material. Construction permits shall not be issued until the applicant has provided proof that any exported material will be placed on an approved site with valid permit (City or County project).

GEO-2 Prior to issuance of grading and construction permits, all plans submitted for grading and construction permits shall incorporate the recommendations of the Geotechnical Engineering Report prepared for the project site dated by Beacon Geotechnical, Inc. dated March 10, 2020.

GEO-1 through GEO-2 Monitoring/Compliance

Prior to issuance of a construction permit, the applicant shall provide a letter from the project geologist / engineer indicating that all conditions have been met.

Hazards and Hazardous Materials

HAZ-J Equipment Maintenance and Refueling

During all construction activities, the cleaning, refueling, and maintenance of equipment and vehicles shall occur only within designated staging areas. The staging areas shall conform to all Best Management Practices applicable to attaining zero discharge of

Environmental Determination: ED21- 159-PL

Date: October 8 2021

stormwater runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills.

HAZ-2 Spill Response Protocol

During all construction activities, all project-related spills of hazardous materials shall be cleaned up immediately. Appropriate spill prevention and cleanup materials shall be onsite at all times during construction.

HAZ-J and HAZ-2 Compliance

Prior to issuance of grading or construction permits, the above measures shall be shown on all applicable plans.

The applicant understands that any changes made to the project description subsequent to this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.



Signature of Agent(s) or Applicant(s)

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Date

\_\_\_\_\_  
Name (Print)