



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

Feb 04 2022

STATE CLEARINGHOUSE

February 4, 2022

Elisabeth Towers, Assistant Planner
Shasta County Department of Resource Management
Planning Division
1855 Placer Street, Suite 103
Redding, CA 96001
etowers@co.shasta.ca.us

SUBJECT: Review of the Mitigative Negative Declaration for Parcel Map 21-0002 (Lavoie), State Clearinghouse 2022010026, Shasta County

Dear Elisabeth Towers:

The California Department of Fish and Wildlife (Department) has reviewed the Mitigated Negative Declaration (MND) dated January 3, 2022, for the above-referenced project (Project). As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a responsible agency, the Department administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code §21000 et seq.

Project Description

The Project as proposed *"is the subdivision of an approximately 28.97-acre parcel into four parcels of 5.95 acres, 6.30 acres, 7.56 acres and 9.16 acres. The property is in the Limited-Agriculture (A-1) district and has a Part-Time Agriculture (A-cg) General Plan Land Use Designation. Proposed improvements include an approximately 890-foot-long access road off Kimberly Road with a crossing over the Anderson Cottonwood Irrigation District (A.C.I.D.) canal. The proposed parcels would be serviced by individual onsite wastewater treatment systems and private wells."* The Project is located approximately 0.15 miles southwest of the intersection of Kimberly Road and Balls Ferry Road on the southeast side of Kimberly Road, Anderson, California, on Assessor's Parcel Number 091-310-012.

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Comments and Recommendations

The Department has the following recommendations and comments as they pertain to biological resources:

Tricolored blackbird (*Agelaius tricolor*)

Tricolored blackbird is listed under CESA as a threatened species. During the early consultation referral period, the Department recommended that a habitat assessment be conducted to determine if habitat was present onsite for tricolored blackbirds. If habitat was present, additional focused surveys for tricolored blackbirds would need to be conducted, at the appropriate time of year, to determine presence. The habitat assessment did not occur, and instead, is part of the mitigation measures. The Department is unable to determine the impacts to this listed species without these studies and cannot determine what appropriate mitigation measures may be required to reduce the impacts to less than significant if present.

The Lead Agency has determined, without the necessary data, that there are no significant impacts to this listed species if the habitat assessment takes place per Mitigation Measure IV.a-b. The Department disagrees with this assessment.

The Department recommends the surveys be conducted first before the Project is approved. If there is no habitat for the tricolored blackbirds, then no additional surveys are warranted and there would be no additional redesign of the Project. If, however, there is habitat, a focused survey by a qualified biologist would need to take place during the nesting season for this species which is generally Mid-March through August, with the peak of nesting occurring April through June. If the species is present, the Department would require a minimum 60-foot buffer around the colony. This may impact the design of the Project. If the Project applicant wants to remove the colony, they may need to obtain an Incidental Take Permit (<https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>). Further, issuance of a CESA permit is subject to CEQA documentation; the CEQA document must specify impacts, compensatory mitigation measures, and a mitigation monitoring and reporting program.

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Mitigation Measures

Mitigation measure IV.a-b.1) states, “*In order to avoid impacts to the Tricolored Blackbird (*Agelaius tricolor*) one of the following shall be implemented:*

- a. Prior to the start of construction, a qualified biologist shall conduct a biological survey for the presence of tricolored blackbird habitat during the months of April-March; or*
- b. Prior to the start of construction, demonstrate through consultation with CDFW that it can clearly be shown that the potential habitat is not present onsite.*

The above mitigation measure is saying the same thing in both a and b. The mitigation measure should be changed to read:

Prior to the start of construction, a qualified biologist shall conduct a habitat assessment and/or focused nesting survey for the tricolored blackbird.

- a) If habitat is **not** present, no further studies are warranted.
- b) If habitat **is** present, a focused presence/absence survey shall be conducted during the nesting season, which peaks April through June.
 - i. If the species is not present, no further studies are needed.
 - ii. If the species is present, consultation with the Department is required.


Mitigation measure IV.d.1)(b) states in part, “*a pre-construction nesting survey shall be conducted by a qualified biologist within 14 days of vegetation removal or construction activities.*” The Department recommends 14 days is replaced with seven (7) days so the measure should read as follows (bold is recommended):

If vegetation removal or ground disturbance activities occur during the nesting season (February 1 through August 31), **a pre-construction nesting survey shall be conducted seven (7) days prior to the removal of vegetation. If more than seven days pass before the start of vegetation removal, the surveys shall be repeated.** If an active nest is located during the preconstruction surveys, a non-disturbance buffer shall be established around the nest by a qualified biologist in consultation with the Department of Fish and Wildlife (CDFW). No vegetation removal or construction activities shall occur within this non-disturbance buffer until the young have fledged, as determined through additional monitoring by the qualified biologist. The results of the pre-construction surveys shall be sent electronically to CDFW at R1CEQARedding@wildlife.ca.gov.

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If you have any questions, please contact Amy Henderson, Senior Environmental Scientist, at (530) 598-7194, or by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Tina Bartlett, Regional Manager
Northern Region

ec: State Clearinghouse
state.clearinghouse@opr.ca.gov

Amy Henderson
California Department of Fish and Wildlife

Habitat Conservation Planning Branch