



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

February 3, 2022

Feb 04 2022

STATE CLEARINGHOUSE

Mr. Robert Zadnik
City of Belvedere
450 San Rafael Avenue
Belvedere, CA 94920
rzadnik@cityofbelvedere.org

Subject: Belvedere Critical Infrastructure Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2022010159, City of Belvedere, Marin County

Dear Mr. Zadnik:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) from the City of Belvedere (City) for the Belvedere Critical Infrastructure Project (Project).

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Incidental Take Permit (ITP), a Native Plant Protection Act Permit, a Lake and Streambed Alteration (LSA) Agreement, or approval under other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following comments and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The Project would strengthen and raise the San Rafael Avenue and Beach Road levees, create a new coastal flood barrier along segments of West Shore Road, and install a linear park feature on Beach Road in the City of Belvedere, Marin County. Project activities include installing sheet pile walls, concrete floodwalls, and landscaping. The objective of the Project is to protect life and property from flooding due to sea level rise and earthquake risk.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the draft EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description, as applicable:

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- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, floodwalls or levees, and stormwater systems. Include projected sea level rise elevations on plans.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes for each phase of the Project.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA ITP must be obtained if the Project has the potential to result in take¹ of plants or animals listed under CESA, either during construction or over the life of the Project. If the Project will impact CESA listed species, including but not limited to those identified in **Attachment 1: Special-Status Species**, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program.

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 Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

Nesting Birds

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests. Migratory birds are also protected under the federal Migratory Bird Treaty Act.

¹ Take is defined in Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt any of those activities.

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Fully Protected Species

Fully Protected species, such as white-tailed kite (*Elanus leucurus*), California Ridgway's rail (*Rallus obsoletus obsoletus*), California black rail (*Laterallus jamaicensis coturniculus*), American peregrine falcon (*Falco peregrinus anatum*), bald eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila chrysaetos*), California brown pelican (*Pelecanus occidentalis californicus*) and salt-marsh harvest mouse (*Reithrodontomys raviventris*), may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

ENVIRONMENTAL SETTING

The draft EIR should provide sufficient information regarding the environmental setting ("baseline") to understand the Project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the draft EIR provide baseline habitat assessments for special-status plant, fish, and wildlife species located and potentially located within the Project area and surrounding lands, including but not limited to all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The draft EIR should describe aquatic habitats, such as wetlands, salt marsh, tidal mud flats, vernal pools, and/or waters of the U.S. or State, and any sensitive natural communities, eelgrass beds, or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>). Fully protected, threatened or endangered, and other special-status species that are known to occur, or have the potential to occur in or near the Project area, include but are not limited to, those listed in **Attachment 1: Special-Status Species**. The Project area appears to be mostly developed and may not provide habitat or be in close proximity to habitat for all species in Attachment 1. As noted above, the draft EIR should identify whether habitat is present and discuss the potential for special-status species presence.

Habitat descriptions and the potential for species occurrence should include information from multiple sources, such as aerial imagery; historical and recent survey data; field reconnaissance; scientific literature and reports; the U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System; and findings from positive occurrence databases such as the California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the draft EIR should adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols

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if available. Survey and monitoring protocols and guidelines are available at:
<https://wildlife.ca.gov/Conservation/Survey-Protocols>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period for all species potentially impacted by the Project within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrology, and require the identification of reference populations. More than one year of surveys may be necessary given environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants, and survey report requirements (<https://wildlife.ca.gov/Conservation/Plants>).

IMPACT ANALYSIS AND MITIGATION MEASURES

The draft EIR should discuss all direct and indirect impacts (temporary and permanent), including reasonably foreseeable impacts, that may occur with implementation of the Project (CEQA Guidelines, §§ 15126, 15126.2, & 15358). This includes evaluating and describing impacts such as:

- Encroachments into riparian habitats, drainage ditches, wetlands, eelgrass beds, San Francisco Bay, or other sensitive areas.
- Potential for impacts to special-status species or sensitive natural communities.
- Loss or modification of breeding, nesting, dispersal, and foraging habitat, including vegetation removal, alteration of soils and hydrology, and removal of habitat structural features (e.g., snags, rock outcrops, overhanging banks).
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic, or human presence.
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The draft EIR should also identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, § 15355). Although a project's impacts may be less-than-significant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact, e.g., reduction of habitat for a special-status species, should be considered cumulatively considerable.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the Lead Agency to consider and describe all

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feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and mitigate potentially significant impacts of the Project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.4 & 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. Project-specific measures should be incorporated as enforceable Project conditions to reduce impacts to biological resources to less-than-significant levels.

Fully protected species such as white-tailed kite, California Ridgway's rail, California black rail, California brown pelican, bald eagle, golden eagle, American peregrine falcon, and salt-marsh harvest mouse, may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515). Therefore, the draft EIR should include measures to ensure complete avoidance of these species.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at: <https://wildlife.ca.gov/Data/CNDDDB/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 (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

If you have any questions, please contact Amanda Culpepper, Environmental Scientist, at (707) 428-2075 or amanda.culpepper@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

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Attachment 1: Special-Status Species

ec: State Clearinghouse (SCH No. 2022010159)

Arn Aarreberg, CDFW Marine Region, arn.aarreberg@wildlife.ca.gov

Amy Skewes-Cox, City of Belvedere Consultant, amysc@rtasc.com

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Attachment 1: Special-Status Species

Scientific Name	Common Name	Status
Birds		
<i>Rallus obsoletus obsoletus</i>	California Ridgway's rail	CESA and Endangered Species Act (ESA) listed as endangered; California Fully Protected species
<i>Laterallus jamaicensis coturniculus</i>	California black rail	CESA listed as threatened; California Fully Protected species
<i>Haliaeetus leucocephalus</i>	bald eagle	CESA listed as endangered; California Fully Protected species; Bald and Golden Eagle Protection Act
<i>Charadrius nivosus nivosus</i>	western snowy plover	ESA listed as threatened; California Species of Special Concern (SSC)
<i>Aquila chrysaetos</i>	golden eagle	California Fully Protected species; Bald and Golden Eagle Protection Act
<i>Lanius ludovicianus</i>	loggerhead shrike	SSC
<i>Circus hudsonius</i>	northern harrier	SSC
<i>Geothlypis trichas sinuosa</i>	saltmarsh common yellowthroat	SSC
<i>Melospiza melodia samuelis</i>	San Pablo song sparrow	SSC
<i>Coturnicops noveboracensis</i>	yellow rail	SSC
<i>Elanus leucurus</i>	white-tailed kite	California Fully Protected species
<i>Falco peregrinus anatum</i>	American peregrine falcon	California Fully Protected species
<i>Pelecanus occidentalis californicus</i>	California brown pelican	California Fully Protected species

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Fish		
<i>Spirinchus thaleichthys</i>	longfin smelt	CESA listed as threatened; candidate for ESA listing
<i>Oncorhynchus tshawytscha</i> pop. 7	Sacramento River winter-run Chinook salmon	CESA and ESA listed as endangered
<i>Oncorhynchus tshawytscha</i> pop. 11	Central Valley spring-run Chinook salmon	CESA and ESA listed as threatened
<i>Acipenser medirostris</i>	green sturgeon	Southern Distinct Population Segment ESA listed as threatened; SSC
<i>Oncorhynchus mykiss irideus</i> pop. 8	central California coast steelhead	ESA listed as threatened
<i>Culpea pallasii</i>	Pacific herring	Culturally and historically important fishery managed by CDFW
Amphibians		
<i>Rana draytonii</i>	California red-legged frog	ESA listed as threatened; SSC
Mammals		
<i>Reithrodontomys raviventris</i>	salt-marsh harvest mouse	CESA and ESA listed as endangered; California Fully Protected species
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	SSC
<i>Antrozous pallidus</i>	pallid bat	SSC
<i>Lasiurus blossevillii</i>	western red bat	SSC
Reptiles		
<i>Emys marmorata</i>	western pond turtle	SSC

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<i>Invertebrates</i>		
<i>Icaricia icarioides missionensis</i>	Mission blue butterfly	ESA listed as endangered; ICP
<i>Danaus plexippus</i> pop. 1	monarch - California overwintering population	ESA candidate for listing; California Terrestrial and Vernal Pool Invertebrate of Conservation Priority (ICP) ²
<i>Bombus occidentalis</i>	western bumble bee	ICP
<i>Microcina tiburona</i>	Tiburon micro-blind harvestman	ICP
<i>Plants</i>		
<i>Arenaria paludicola</i>	marsh sandwort	CESA and ESA listed as endangered; CRPR 1B.1
<i>Calochortus tiburonensis</i>	Tiburon mariposa-lily	CESA and ESA listed as threatened; CRPR 1B.1
<i>Castilleja affinis</i> var. <i>neglecta</i>	Tiburon paintbrush	CESA listed as threatened; ESA listed as endangered; CRPR 1B.2
<i>Hesperolinon congestum</i>	Marin western flax	CESA and ESA listed as threatened, CRPR 1B.1
<i>Pentachaeta bellidiflora</i>	white-rayed pentachaeta	CESA and ESA listed as endangered; CRPR 1B.1
<i>Streptanthus glandulosus</i> ssp. <i>niger</i>	Tiburon jewelflower	CESA listed as endangered; CRPR 1B.1
<i>Trifolium amoenum</i>	two-fork clover	ESA listed as endangered; CRPR 1B.1
<i>Amorpha californica</i> var. <i>napensis</i>	Napa false indigo	CRPR 1B.2

² The list of California Terrestrial and Vernal Pool Invertebrates of Conservation Priority was collated during CDFW's Scientific Collecting Permit rulemaking process:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157415&inline>

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<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory	CRPR 1B.2
<i>Chloropyron maritimum</i> ssp. <i>palustre</i>	Point Reyes salty bird's-beak	CRPR 1B.2
<i>Cirsium andrewsii</i>	Franciscan thistle	CRPR 1B.2
<i>Collinsia multicolor</i>	San Francisco collinsia	CRPR 1B.2
<i>Eriogonum luteolum</i> var. <i>caninum</i>	Tiburon buckwheat	CRPR 1B.2
<i>Fritillaria lanceolata</i> var. <i>tristulis</i>	Marin checker lily	CRPR 1B.1
<i>Gilia millefoliata</i>	dark-eyed gilia	CRPR 1B.2
<i>Helianthella castanea</i>	Diablo helianthella	CRPR 1B.2
<i>Hypogymnia schizidiata</i>	island tube lichen	CRPR 1B.3
<i>Kopsiopsis hookeri</i>	small groundcone	CRPR 2B.3
<i>Microseris paludosa</i>	marsh microseris	CRPR 1B.2
<i>Plagiobothrys glaber</i>	hairless popcornflower	CRPR 1A
<i>Polemonium carneum</i>	Oregon polemonium	CRPR 2B.2
<i>Polygonum marinense</i>	Marin knotweed	CRPR 3.1
<i>Silene scouleri</i> ssp. <i>scouleri</i>	Scouler's catchfly	CRPR 2B.2
<i>Stebbinsoseris decipiens</i>	Santa Cruz microseris	CRPR 1B.2
<i>Triquetrella californica</i>	coastal triquetrella	CRPR 1B.2