



From: Murphy, Melissa@Wildlife
Sent: Wednesday, March 2, 2022 1:19 PM
To: Michelena, Mark
Cc: Torres, Juan@Wildlife; Barker, Kelley@Wildlife; Thomas, Kevin@Wildlife; Wildlife R2 CEQA
Subject: PT 2022-0046 - CDFW's Comments on the IS/MND for the Tentative Parcel Map for Anthony G. and Renette R. Symmes Family Trust (TPM21-0009)

Dear Mr. Michelena:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study/Mitigated Negative Declaration for Tentative Parcel Map for Anthony G. and Renette R. Symmes Family Trust (TPM21-0009) (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that the California Department of Fish and Wildlife (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.

PROJECT DESCRIPTION SUMMARY

The project is a Tentative Parcel Map to divide a 5.93-acre property into three parcels (1.52, 1.89, and 2.52 acres each). The project parcel is developed with a residence and accessory structures. The project parcel fronts on Durham Dayton Highway, a publicly-maintained paved road. Future residences will be served by individual wells until a Durham Irrigation District (DID) waterline is installed on Durham-Dayton Highway along the parcel frontage. The project will be conditioned to require the installation of waterlines to allow for connection to DID water. The parcels will be served by individual septic systems. The parcels will be served a proposed cul-de-sac within a 60-foot easement, The cul-de-sac also serves an additional parcel that is not part of the project.

COMMENTS AND RECOMMENDATIONS

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

Nesting Birds

The nesting season in BIO-1 should be changed to February 1 – August 31. Please note that sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey regardless of the time of year, and a few bird species (e.g., Anna's hummingbird (*Calypte anna*), great horned owl (*Bubo virginianus*), etc.) may nest during the winter and fall months. If an active nest is discovered outside of the typical nesting season, it should be avoided using the same avoidance measures that would be applied during the typical nesting season.

Day Roosting Bats

The Project site contains habitat that may be suitable for tree roosting bats. Disturbance of roost sites during the maternity and hibernation seasons are considered primary factors that may negatively impact bats and have the potential to result in take. During the hibernation period, bats are very slow to respond to disturbance and can lose fat stores needed to survive the winter, while pups in the maternity colony may not have the ability to fly. The disturbance and removal of roost sites may have a significant adverse effect to bats. CDFW recommends the following to reduce impacts to a less than significant level:

- **Habitat Assessment.** A qualified biologist with education and experience in bat biology and identification and approved by CDFW, shall conduct a habitat assessment for potentially suitable bat habitat within six months of Project activities. If the habitat assessment reveals suitable bat habitat, then a qualified bat biologist shall conduct a presence/absence survey between March 1 and October 31. If bats are present anywhere within the Project site, then the qualified biologist shall submit a bat avoidance plan to CDFW for review and approval.
- **Bat Avoidance Plan.** The bat avoidance plan should identify: 1) the location of the-roosting sites; 2) the number of bats present at the time of assessment (count or estimate); 3) species of bats present; 4) the type of roost (e.g. day/night, maternity, hibernaculum, bachelor); 5) proposed Project related impacts to the roost; and 6) species specific measures to-avoid and minimize impacts to bats including but not limited to the following:
 - **No Disturbance Buffer.** No disturbance buffers to be established around occupied roosts in consultation with CDFW. The size of the buffer should be determined by the qualified bat biologist based on the bat species, specific site conditions, and level of disturbance. The buffer should be maintained until the qualified bat biologist determines that the roost is no longer occupied.
 - **Bat Exclusion.** If a bat roost is found in a tree that must be removed, the qualified bat biologist shall prepare a Bat Exclusion Plan outlining the proposed passive exclusion of the bats from the roost. Exclusion shall be scheduled either (1) between March 1 and March 31, prior to parturition of pups and when nighttime lows are above 45°F; or (2) between September 1 and October 31, prior to hibernation, when nighttime lows are above 45°F. The qualified bat biologist shall confirm the absence of bats prior to the start of construction. The Bat Exclusion Plan shall be submitted to CDFW for review and

approval a minimum of 10 days prior to the installation of exclusion devices. CDFW does not support eviction of bats during the maternity or hibernation periods.

- Replacement Roosts Structures. If bat roosts cannot be avoided, replacement roost structures (bat houses or other structures) shall be designed to accommodate the bat species displaced by Project activities and installed onsite. The placement of the constructed roosts shall be determined through consultation with CDFW. Ideally, the project would not be implemented unless and until replacement roost structures on site are documented to be acceptable and used by the bat species of interest.

Valley Oak Woodland

The Project proposes development of parcels that contain greater than 50% canopy cover of mature valley oak woodland. Based on aerial photographs from Google Earth the Project site contains upwards of 3.5 acres of valley oak woodland. Valley oak woodland is an endemic, CDFW-designated rare natural community (CDFG 2010; Standiford et al. 1996; CIWTG). Rare natural communities have limited distribution and are often vulnerable to project impacts (CDFW 2009). Only remnant patches of valley oak woodland remain (CIWTG). Research suggests that valley oak trees are not regenerating enough for eventual replacement (Zavaleta et al. 2007). Therefore, trees removed by the Project may never be replaced, and loss of regenerating trees may further reduce the ability of valley oak woodland to persist. Introduced alien annual grasses that limit available moisture appear to be a causal factor (Danielson and Halvorson 1991). Other factors may include fire suppression, cattle grazing and herbivory of oak shoots by cattle and native mammals (Zack et al. 2002).

Neither a tree inventory or impacts analysis to oak woodlands was included in the MND. Based on the required setbacks from existing agriculture and the small size of the proposed parcels, it is assumed that all of the oak woodland on the site will be either directly or indirectly impacted by the Project. Under Public Resources Code 21083.4 (the California Oak Woodlands Conservation Law), a county shall require one or more oak woodland mitigation alternatives “to mitigate the significant effect of the conversion of oak woodlands.” Alternatives may include: 1) conservation of oak woodlands, 2) plantings, 3) contributions to the Oak Woodlands Conservation Fund, and 4) other mitigation measures developed by the County.

CDFW recommends a tree inventory be prepared to accurately quantify the Project’s reasonably foreseeable impacts to the onsite valley oak woodland. Once the tree inventory is prepared, the Project should be designed so that the loss of oak trees is avoided. Every effort should be made to retain “heritage” oaks in excess of 24 inches diameter at breast height (dbh). Retained oaks should be protected. If the loss of oak trees is unavoidable, then a mitigation plan should be developed which results in the retention of the maximum number of mature oak trees within contiguous areas of no less than one acre. The mitigation should include the following:

- Individual trees or groups of trees that are retained as a function of project design should be protected both during and after construction. During the construction of the project, a temporary protective fence should be established a minimum of 10 feet beyond the drip line of the retained oaks. Within this protective buffer, no grading, trenching, fill, or vegetation alteration should be allowed.
- Individual trees that are unavoidably lost due to project implementation should be mitigated through the planting of oak seedlings that are obtained from local genetic stock. CDFW recommends a mitigation plan be prepared that includes appropriate replacement ratios, the

location of the plantings, monitoring duration, an irrigation plan, and establishes success criteria such as having an 80% survival rate at the end of a five-year monitoring period.

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 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 submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

CONCLUSION

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Please direct written notifications to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the IS/MND to assist in identifying and mitigating project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. If you have any questions regarding these comments, please contact me at (916) 597-6417 or melissa.murphy@wildlife.ca.gov.

Regards,

Melissa Murphy
Senior Environmental Scientist (Specialist)
North Central Region (Region 2)
Phone: 916-597-6417



**As a part of a broader effort by the California Natural Resources Agency and CDFW to go paperless, CDFW will begin accepting electronic notifications for Standard Lake and Streambed Alteration Standard Agreements through CDFW's new online Environmental Permit Information Management System (EPIMS), effective August 1, 2020. As CDFW transitions to EPIMS, CDFW will continue to accept paper notifications for Standard Agreements through August 31, 2020. All notifications for Standard Agreements received on or after September 1, 2020 need to be processed through EPIMS. For more information about EPIMS, or if you need help completing your online notification, please visit the CDFW's EPIMS website at:*

<https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>