



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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GAVIN NEWSOM, Governor
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February 28, 2023

Rachel Cohen, Senior Planner
City of San Luis Obispo
919 Palm Street
San Luis Obispo, California 93401
(805) 781-7574

**Subject: French Hospital Expansion Project (Project)
Notice of Preparation (NOP)
SCH No: 2022030277**

Dear Rachel Cohen:

The California Department of Fish and Wildlife (CDFW) received an NOP for a draft Environmental Impact Report (DEIR) from the County of San Luis Obispo (SLO) for the above-referenced Project pursuant to 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, CDFW appreciates 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 Fish and Game Code. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

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,

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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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 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 will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on Project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: Dignity Health Corporation

Objective: The proposed project consists of a request by Dignity Health Corporation (Dignity Health) for a conditional use permit and variance to allow for the phased expansion of the French Hospital Medical Center campus, including the construction of a two-level, 234-space parking structure with space for a future 5,800-square-foot lab and storage area, a 2,000-square-foot helistop (Phase 1), a four-story 89,775-square-foot patient tower, a 1,800-square-foot generator yard, and various related site improvements (Phase 2) (Project). The proposed patient tower would include, but not be limited to, 82 patient rooms, dining and kitchen facilities, staff break rooms, waiting rooms, and medical imaging rooms. The project would result in an increase of approximately 45 additional employees on-site distributed between two 12-

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hour shifts. The Project includes the reconfiguration of surface parking, addition of bicycle parking spaces, realignment of an existing bicycle path and associated open space easement, removal and trimming of on- and off-site trees, , landscaping of the site, and placement of exterior lighting.

The Project also includes the merging of APN 003-568-004 (Parcel 2), APN 003-578-026 (Parcel 3), and a portion of APN 003-578-063 (Parcel 6) to form one 14-acre parcel. The proposed 14-acre parcel would constitute the project site. Project construction would result in approximately 3,260 cubic yards of cut material and would require 2,370 cubic yards of imported material. All proposed earthwork would be balanced on-site to the extent feasible. Project construction is anticipated to occur over a 4-year period. The Project also includes a request for the conditional use permit and variance to have a 3-year permit term, with the opportunity for three separate 1-year extensions thereafter.

Location: The French Hospital Medical Center is located in the northeastern portion of the city of San Luis Obispo, just below the foothills of the Santa Lucia Mountains. The overall development pattern in the project area is an integrated mix of residential single-family, multi-family, commercial, and institutional uses. The institutional development is in the form of medical facilities, educational facilities, public health services, and churches. This variety of uses results in an established suburban visual character surrounding the project. No single architectural theme is evident in the surrounding area. The project site is in an office zone (Assessor's Parcel Number [APN] 003-568-004, 003-568-005, 003-571-025, 003-578-026, 003-578-063, and 003-578-057).

Timeframe: Not specified

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the 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. Editorial comments or other suggestions may also be included to improve the document for this Project.

The NOP indicates that the DEIR for the Project will consider potential environmental effects of the proposed Project to determine the level of significance of the environmental effect and will analyze these potential effects to the detail necessary to make a determination on the level of significance. The DEIR will also identify and evaluate alternatives to the proposed Project. When a DEIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation.

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Federally Listed Species

CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) on potential impacts to Federally listed species, specifically, but not limited to, monarch butterfly-California overwintering population (*Danaus plexippus plexippus*, MOBU). Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS to comply with FESA is advised well in advance of any ground disturbing activities.

Monarch Butterfly (MOBU): Overwintering Population

MOBUs have been observed per the California Natural Diversity Database (CNDDDB) in the Project area (CDFW 2023). Project-related activities, such as eucalyptus tree removal, have the potential to impact special-status species and overwintering habitat. MOBU are FESA candidate species and are identified as a Species of Greatest Conservation Need in CDFW's State Wildlife Action Plan. Monarchs can be found overwintering along the California coast, primarily in groves dominated by non-native eucalyptus trees (Pelton et al., 2016). Overwintering groves must have very specific microclimatic conditions in order to support MOBU populations (Fisher et al., 2018).

CDFW recommends that a qualified biologist conduct a habitat assessment for MOBU as part of the biological technical studies conducted in support of the CEQA document. The qualified biologist should determine if the Project area or its immediate vicinity contains habitat suitable to support the MOBU. The qualified biologist should assess habitat following the Xerces Management Guidelines for Monarch Butterfly Overwintering Habitat (The Xerces Society for Invertebrate Conservation, 2017) or other protocols with prior approval by CDFW. If suitable habitat for MOBU is present, CDFW recommends that surveys for MOBU be conducted by a qualified biologist as part of the biological technical studies conducted in support of the CEQA document. Any potential habitat, particularly roosting trees, shall be marked and avoided during Project activities. CDFW recommends avoiding or minimizing the cutting or trimming of trees within core overwintering habitat except for specific grove management purposes, and/or human health and safety purposes. If necessary, management activities in MOBU habitat should be conducted between March 16 and September 14, in coordination with a qualified biologist (Marcum and Darst, 2021).

Editorial Comments and/or Suggestions

CDFW requests that the DEIR fully identify potential impacts to biological resources, including the above-mentioned species. In order to adequately assess any potential

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impacts to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species and/or suitable habitat features may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to the identification of mitigation, minimization, and avoidance measures, the need for additional or protocol-level surveys, and/or the identification of Project-related impacts under CESA and other SSC.

Therefore, CDFW recommends the DEIR address potential impacts to these species and provide measurable mitigation measures that, as needed, will reduce impacts to less than significant levels. Information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

Lake and Streambed: The Project is subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, as well as those that are perennial in nature.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement. If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code 1602, CDFW will not be able to issue the Final Lake or Streambed Alteration Agreement until CEQA analysis for the project is complete. This may lead to considerable Project delays.

Nesting birds: Per Google and CNDDDB aerials along with Google Street View, the Project site contains numerous trees within the proposed Project boundaries. The Project plans entail removing eucalyptus and oak trees. CDFW recommends that Project implementation occur outside of the nesting bird season. However, if ground-disturbing or vegetation-disturbing activities must occur during the nesting bird season (February 1 through August 31), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct an assessment of nesting habitat during biological surveys in

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support of the project's CEQA document, and then repeated as pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project sites to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction areas would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Project Alternatives Analysis: CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the project's CEQA document be used to develop and modify the project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources should be mitigated to reduce impacts to a less than significant level, if feasible.

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e. less than significant). Cumulative impacts should be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and should be focused specifically on the resource, not the project. An appropriate resource study

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area should be identified and utilized for this analysis. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

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 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>.

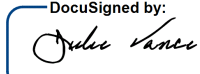
FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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).

CDFW appreciates the opportunity to comment on the Project to assist the City of San Luis Obispo in identifying and mitigating the Project's 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>). If you have any questions, please contact Evelyn Barajas-Perez, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at evelyn.barajas-perez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

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ec: Patricia Cole (patricia_cole@fws.gov)
United States Fish and Wildlife Service

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LITERATURE CITED

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Pelton, E., Jepsen, S., Schultz, C., Fallon, C., & Black, S. H. (2016). State of the monarch butterfly overwintering sites in California. In *The Xerces Society for Invertebrate Conservation*. <http://www.xerces.org/state-of-the-monarch-butterfly-overwintering-sites-in-california/>

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