



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

**Jul 12 2023**

**STATE CLEARINGHOUSE**

July 11, 2023

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
2222 M Street  
Merced, California 95340  
Tiffany.Ho@countyofmerced.com

**Subject: Bradbury Ranch Master Plan (Project)  
Supplemental Environmental Impact Report (EIR) to the Delhi  
Community Plan EIR  
State Clearinghouse No.: 2022040085**

Dear Tiffany Ho:

The California Department of Fish and Wildlife (CDFW) received a draft Supplemental EIR from the Merced County Community and Economic Development Department (County) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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.

### **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

---

<sup>1</sup> 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.

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
July 11, 2023  
Page 2

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, 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).

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** RBK Development and Belgravia Land and Development

**Objective:** The proposed Project will change land use and development capacity within the Bradbury Ranch Master Plan area; the Master Plan boundary is within the broader Delhi Community Plan which the County certified an EIR for the Community Plan in 2006. Based on preliminary calculations of the anticipated amendment, the total number of dwelling units in the Bradbury Ranch Master Plan area would increase, from 869 to 1,069, and the potential amount of non-residential development would decrease from 594,060 square feet to 136,680 square feet.

No applications for individual development projects within the Bradbury Ranch Master Plan boundary have been submitted. Future individual projects would be subject to CEQA review.

The proposed Project partially re-envisioned land use for the Bradbury Ranch Master Plan area to accommodate projected population, housing, and employment, and address infrastructure and open space public service needs (school, fire station, parks, etc.), and to be more responsive to expected market conditions. The proposed Project would revise density and intensity of residential uses for the Bradbury Ranch Master Plan area. It would also adjust timing and phasing for installation of parks and public services to appropriately meet demand. Transportation facilities, including roads and bike paths, would be reconfigured to better serve the Project and existing and planned surrounding land uses.

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
July 11, 2023  
Page 3

**Location:** The Project site is located in the community of Delhi. The Project site is bounded by Bradbury Road on the north, Vincent Road on the east, Shanks Road on the south, and State Route 99 and Union Pacific Railroad tracks on the west.

**Timeframe:** N/A

## **COMMENTS AND RECOMMENDATIONS**

After reviewing the provided CEQA document, CDFW has determined that the mitigation measures as currently documented in the draft Supplemental EIR are sufficient for mitigation of impacts to listed species, with the exception of the State threatened tricolored blackbird (*Agelaius tricolor*). Please keep in mind that certain measures such as, relocation of listed species and erecting exclusion fencing among others, can result in inadvertent take of listed species under CESA if an Incidental Take Permit (ITP) for those species is not acquired. If that is the case, it is recommended to consult with CDFW before any ground-disturbing activities commence.

### **Tricolored Blackbird**

Tricolored blackbird (TRBL) have the potential to nest within and adjacent to the Project site (CDFW 2023). Without appropriate avoidance and minimization measures for TRBL, potential significant impacts include nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

TRBL are known to nest in alfalfa, wheat, and other low agricultural crop fields. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014). Approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). Increasingly, TRBL are forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). In 2017, approximately 30,000 TRBL were distributed among only 16 colonies in Merced County (Meese 2017). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Meese et al. 2014). CDFW recommends the following avoidance and minimization measures be incorporated into the final Supplemental EIR for developers of future projects.

CDFW recommends that future project construction be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a survey for suitable habitat be conducted as part of the biological technical studies conducted by a qualified wildlife biologist with knowledge of TRBL natural history and behaviors. If suitable habitat is present, CDFW recommends a qualified wildlife biologist conduct focused surveys for nesting TRBL and then repeat those surveys no more than 10 days prior to the start of

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
July 11, 2023  
Page 4

ground-disturbing activities. If an active TRBL nesting colony is found during pre-construction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer around the colony in accordance with CDFW's "*Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015*" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time. For this reason, CDFW also recommends conducting surveys of an identified nesting colony within 10 days prior to the start of ground- or vegetation-disturbing activities to reassess the colony's areal extent. If a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground-disturbing activities.

CDFW appreciates the opportunity to comment on the Project to assist the County in identifying and mitigating the Project's impacts on biological resources. If you have any questions, please contact Jim Vang, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (559) 580-3203, or by electronic mail at [Jim.Vang@wildlife.ca.gov](mailto:Jim.Vang@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
E9964E60293D40A...

for Julie A. Vance  
Regional Manager

ec: State Clearinghouse  
Governor's Office of Planning and Research  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

Tiffany Ho, Planner III  
Merced County Community and Economic Development Department  
July 11, 2023  
Page 5

References:

California Department of Fish and Wildlife (CDFW). 2015. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015. March 19, 2015.

CDFW. 2023. Biogeographic Information and Observation System (BIOS).  
<https://www.wildlife.ca.gov/Data/BIOS>. Accessed June 30, 2023.

Kelsey, R. 2008. Results of the tricolored blackbird 2008 census. Report submitted to U.S. Fish and Wildlife Service, Portland, OR, USA.

Meese, R. J., E.C. Beedy, and W.J. Hamilton, III. 2014. Tricolored blackbird (*Agelaius tricolor*), *The Birds of North America* (P. G. Rodewald, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America: <https://birdsna-org.bnaproxy.birds.cornell.edu/Species-Account/bna/species/tribla>. Accessed December 15, 2017.

Meese, R.J. 2017. Results of the 2017 Tricolored Blackbird Statewide Survey. California Department of Fish and Wildlife, Wildlife Branch, Nongame Wildlife Program Report 2017-04, Sacramento, CA. 27 pp. + appendices.

Orians, G.H. 1961. The ecology of blackbird (*Agelaius*) social systems. *Ecol. Monogr.* 31:285-312.

Weintraub, K., T.L. George, and S.J. Dinsmore. 2016. Nest survival of tricolored blackbirds in California's Central Valley. *The Condor* 118(4): 850–861.