



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



February 8, 2023

Eric Gage
Sonoma County
2550 Ventura Avenue
Santa Rosa, CA 95403
Eric.Gage@sonoma-county.org

Subject: Housing Element Update, Draft Program Environmental Impact Report,
SCH No. 2022060323, Sonoma County

Dear Mr. Gage:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a draft Program Environmental Impact Report (EIR) for the Housing Element Update Project (Project) pursuant to the California Environmental Quality Act (CEQA).¹

CDFW is submitting comments on the draft Program EIR to inform Sonoma County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Permit, a Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA including candidate species, either during construction or over the life of the Project. **The Project has the potential to impact the following CESA listed species, as further described in the Comments and Recommendations Section below.**

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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- Coho salmon (*Oncorhynchus kisutch*), CESA listed as endangered
- California tiger salamander – Sonoma County Distinct Population Segment (DPS) (*Ambystoma californiense* pop. 3), CESA listed as threatened
- California freshwater shrimp (*Syncaris pacifica*), CESA listed as endangered
- Swainson's hawk (*Buteo swainsoni*), CESA listed as threatened
- tricolored blackbird (*Agelaius tricolor*), CESA listed as threatened
- northern spotted owl (*Strix occidentalis caurina*), CESA listed as threatened
- several CESA listed plant species

Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

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 CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code section 2080.

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The Project would impact streams; therefore, an LSA Notification(s) is warranted, as further described below.** CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or CESA Incidental Take Permit (ITP) until it has complied with CEQA as a Responsible Agency.

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Raptors and Other Nesting Birds

CDFW also has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests 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). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION SUMMARY

Proponent: Sonoma County

Objective: To update Sonoma County's current housing element, including rezoning of 59 sites located in designated Urban Services Areas throughout unincorporated Sonoma County for medium density housing. Current designations of sites include agricultural, residential, commercial, and industrial Use. In addition, 20 additional sites would be added to the Housing Element inventory but would not be rezoned. The Project is intended to facilitate and encourage housing development that could be developed over an 8-year period, commencing in 2023 and ending in 2031.

Location: The Project encompasses all of Sonoma County, located on the northern coast of California. The County is bordered by Mendocino County to the north, Lake and Napa counties to the east, and the Pacific Ocean to the west.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist Sonoma County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources, in part through implementation of CDFW's recommendations described below and in **Attachment 1: Draft Mitigation and Monitoring Reporting Plan**, CDFW concludes that an EIR is appropriate for the Project.

Mitigation Measure and Environmental Setting Shortcomings

Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

And,

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Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

Comment 1: Section 4.4, page 30

Issue: Mitigation Measure (MM) BIO-2 may not reduce impacts to CESA listed and other special-status plant species such as Burke's goldfields (*Lasthenia burkei*), congested-headed hayfield tarplant (*Hemizonia congesta* ssp. *congesta*), and Pacific grove clover (*Trifolium polyodon*), to less-than-significant because appropriate survey methodology, specific protocols, and adequate review and approval by CDFW are not included.

Recommended Mitigation Measure: (Additions made in **BOLD**, deletions made with ~~strikethrough~~)

BIO-2 Special-Status Plant Species Surveys

If the Project-Specific Biological Resources Screening and Assessment (Mitigation Measure BIO-1) determines that there is potential for ~~significant~~ impacts to federally or state-listed plants or ~~regional population level impacts to~~ species with a CRPR of 1B or 2B from Project development, a qualified biologist shall complete surveys for special-status plants prior to any vegetation removal, grubbing, or other construction activity (including staging and mobilization). **Surveys shall be conducted following CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) and, as applicable, the Santa Rosa Plain Conservation Strategy Appendix D: Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain, including, but not limited to, conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts, such as altering off-site hydrological conditions where these species may be present, or any formal updates of these protocols.** The surveys shall be floristic in nature and shall be seasonally timed to coincide with the target species identified in the Project-specific biological analysis. All plant surveys shall be conducted by a qualified biologist during the blooming season prior to initial ground disturbance. **More than one year of surveys may be required to establish that plants are absent, and the above Santa Rosa Plain Conservation Strategy Appendix D requires a minimum of two years of surveys, which shall be implemented unless otherwise approved in writing by CDFW.** All special-status plant species identified on site

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shall be mapped onto a site-specific aerial photograph or topographic map with the use of Global Positioning System unit. Surveys shall be conducted in accordance with the most current protocols established by the CDFW, USFWS, and the local jurisdictions if said protocols exist. A report of the survey results shall be submitted to the County, and the CDFW and/or USFWS, as appropriate, for review and/or approval. **The Project shall obtain written approval of the survey reports from CDFW prior to the start of construction, unless otherwise approved in writing by CDFW. If any special-status plants are observed, the Project shall: 1) avoid all direct and indirect impacts to the special-status plants, and 2) prepare and implement an avoidance plan that is approved in writing by CDFW prior to Project start. If CESA listed plants are observed and impacts cannot be avoided, the Project shall obtain a CESA ITP from CDFW. For impacts to federal Endangered Species Act (ESA) listed plants, the Project shall obtain authorization from USFWS.**

Comment 2: Section 4.4, pages 30-31

Issue: MM BIO-4 may not reduce impacts to CESA listed and other special-status plant species to less-than-significant because adequate mitigation ratios for impacts to CESA listed special-status plant species are not included. Restoration at the proposed 1:1 ratio may result in a significant net loss of the impacted special-status plant species and higher ratios are often applied.

Recommended Mitigation Measure: (Additions made in **BOLD**, deletions made with ~~strikethrough~~)

BIO-4 Restoration and Monitoring, and Habitat Compensation

Development and/or restoration activities shall be conducted in accordance with a site-specific Habitat Restoration Plan. If federally or state-listed plants or non-listed special-status CRPR 1B and 2 plant populations cannot be avoided, and will be impacted by development, all impacts shall be mitigated by the applicant at a ratio not lower than ~~4~~**3**:1 and to be determined by the County (in coordination with CDFW and USFWS as ~~and~~ if applicable) for each species as a component of habitat restoration, **unless otherwise approved in writing by CDFW. For impacts to state-listed plants, habitat compensation at a minimum 3:1 mitigation to impact ratio shall be provided, which may include either the purchase of credits at a CDFW-approved mitigation or conservation bank or purchasing appropriate habitat and conserving it in perpetuity through a conservation easement and management plan, which shall be prepared, funded, and implemented by the Project in perpetuity, unless otherwise approved in writing by CDFW.** A qualified biologist shall prepare and submit a restoration plan to the County **and CDFW** for review and approval. (Note: if a

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federally and/or state-listed plant species will be impacted, the restoration plan shall be submitted to the USFWS and/or CDFW for review, and federal and/or state take authorization ~~may~~ **will be obtained from** ~~required by~~ these agencies). The restoration plan shall include, at a minimum, the following components [...]

Comment 3: Section 4.4, page 31

Issue: MM BIO-5 may not reduce impacts to California tiger salamander (CTS) to less-than-significant because adequate survey and habitat compensation requirements for impacts to CTS are not included.

Recommended Mitigation Measure: (Additions made in **BOLD**, deletions made with strikethrough)

BIO-5 Endangered/Threatened Species Habitat Assessments and Protocol Surveys, **CDFW and USFWS Authorization, and Habitat Compensation**

Specific habitat assessments and survey protocols are established for several federally and state listed endangered or threatened species. If the results of the Project-specific biological analysis determine that suitable habitat may be present for any such species, protocol habitat assessments/surveys shall be completed in accordance with CDFW, National Marine Fisheries Service (NMFS), and/or USFWS protocols prior to issuance of any construction permits. If projects are located within the Santa Rosa Plain (**SRP**) Area, surveys shall be conducted for CTS in accordance with the Santa Rosa Plain Conservation Strategy (2005) **with prior written approval from CDFW and USFWS. Due to numerous documented occurrences of CTS in the SRP in conjunction with the documented dispersal distances for the species of up to 1.3 miles, it has been established that CTS are present within many grassland and vernal pool habitats within the SRP rendering surveys unnecessary, and therefore any protocol CTS surveys shall be approved in writing by CDFW and USFWS prior to conducting the survey and habitat compensation for impacts to CTS habitat shall be provided by the Project pursuant to the SRP Conservation Strategy even if survey results are negative, unless otherwise approved in writing by CDFW and USFWS. If impacts to grassland or vernal pool habitat will occur, the Project shall consult with CDFW to determine if a CESA ITP for CTS is warranted. If CESA listed animal species such as CTS cannot be avoided, the Project shall obtain a CESA ITP from CDFW prior to Project construction. For impacts to ESA listed wildlife species such as CTS, the Project shall obtain authorization from USFWS. While often consistent with the SRP Conservation Strategy, the CESA ITP habitat compensation requirements may differ from it based on a site-specific analysis.** If through consultation with the CDFW, NMFS,

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and/or USFWS it is determined that protocol habitat assessments/surveys are not required, the applicant shall complete and document this consultation and submit it to the County prior to issuance of any construction permits. Each protocol has different survey and timing requirements. The applicant shall be responsible for ensuring they understand the protocol requirements and shall hire a qualified biologist to conduct protocol surveys.

Comment 4: Section 4.4, pages 31-33

Issue: MM BIO-6 may not reduce impacts to endangered or threatened animal species such as Coho salmon and steelhead (*Oncorhynchus mykiss irideus* pop. 8) and their associated habitat to less-than-significant because adequate mitigation measures to avoid seasonally timed migration of salmonids are not included.

Recommended Mitigation Measure: (Additions made in **BOLD**, deletions made with strikethrough)

BIO-6 Endangered/Threatened Animal Species Avoidance and Minimization

The following measures shall be applied to aquatic and/or terrestrial animal species as determined by the Project-specific Biological Resources Screening and Assessment required under Mitigation Measure BIO-1 [...]

2. All projects occurring within/adjacent to aquatic habitats (including riparian habitats and wetlands) shall be completed between ~~April 4~~ **June 15** and October ~~31~~ **15** to avoid impacts to sensitive aquatic species. Any work outside these dates would require Project-specific approval from the County and ~~may~~ **shall** be subject to regulatory agency approval [...]

CDFW also recommends adding the following species specific mitigation measures to reduce impacts to CESA listed species to less-than-significant:

No-Disturbance of California Freshwater Shrimp Habitat. No vegetation shall be disturbed or removed from habitat that may support California freshwater shrimp. Sediment shall be prevented from entering habitat supporting California freshwater shrimp. Streambank shape and form shall not be disturbed or altered within habitat supporting California freshwater shrimp. If impacts to California freshwater shrimp cannot be avoided, a CESA ITP shall be obtained by the Project before Project activities commence.

Swainson's Hawk Avoidance. If Project activities in Sonoma, Agua Caliente, or Glenn Ellen are scheduled during the nesting season for Swainson's hawks (March 1 to August 31), then prior to beginning work on the Project, a qualified biologist shall survey for Swainson's hawk nesting activity. The survey area shall

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include a 0.5-mile distance surrounding the Project site, unless otherwise approved in writing by CDFW. The qualified biologist shall conduct surveys according to the 2000 *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (see: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) or, if proposing an alternate survey methodology, shall submit the proposed survey timing and methods to CDFW for review and written approval at least 30 days prior to initiation of surveys. Survey results shall be submitted to CDFW for review and written acceptance prior to starting Project activities. If the qualified biologist identifies nesting Swainson's hawks, then a no-disturbance buffer of 0.5-mile radius shall be implemented and no Project work shall occur within the buffer area, or an alternative buffer may be submitted to CDFW for written acceptance taking into account existing visual or noise barriers or other factors justifying a reduced buffer, and the Project shall implement the CDFW-approved buffer. Project activities shall be prohibited within the approved buffer between March 1 and August 31, unless otherwise approved in writing by CDFW, which may include consultation pursuant to CESA and the Project obtaining an ITP, or a qualified biologist determining that the nest is no longer active.

Northern Spotted Owl Surveys. No Project activities within 0.25 miles of northern spotted owl (NSO) nesting habitat, such as in the vicinity of Guerneville, shall occur from March 15 to July 31, unless NSO surveys have been completed by a qualified biologist following USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012, and the survey report is accepted in writing by CDFW. Surveys shall be conducted in accordance with Section 9 of the survey protocol, Surveys for Disturbance-Only Projects. If breeding NSO are detected during surveys, a quarter mile no-disturbance buffer zone shall be implemented around the nest. Survey results shall be provided to CDFW and to the Spotted Owl Observations Database (<https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info>). No Project activities shall occur within the buffer zone until the end of breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. If take of NSO cannot be avoided by Project activities, the Project shall obtain a CESA ITP from CDFW prior to starting Project activities, and authorization from USFWS may be required.

Alternate buffer zones may be proposed by a qualified biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to NSO and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW.

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Tricolored Blackbird Surveys. If nesting tricolored blackbird or evidence of their presence is found, CDFW shall be notified immediately, and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If take of tricolored blackbird cannot be avoided by Project activities, the Project shall obtain a CESA ITP from CDFW prior to starting Project activities.

Comment 5: Section 4.4, pages 33-34

Issue, specific impacts, and evidence of significant impacts: Wintering burrowing owl (*Athene cunicularia*) are documented to occur in Sonoma County. MM BIO-7 may not reduce impacts to wintering burrowing owl to less-than-significant because the Project could result in disturbance or mortality of wintering burrowing owl and adequate avoidance and mitigation measures for the species are not included. Burrowing owl is a California Species of Special Concern and; therefore, if wintering burrowing owl occurs on or adjacent to the Project site, impacts to burrowing owl would be potentially significant.

Recommended Mitigation Measure: To reduce impacts to wintering burrowing owl to less-than-significant, CDFW recommends including the following mitigation measure:

Burrowing Owl Surveys. Where grasslands or other suitable wintering burrowing owl habitat occurs on the Project site or within 500 meters (1,640 feet) of the Project site, as determined by a qualified biologist, a qualified biologist shall conduct a habitat assessment, and surveys if warranted based on the habitat assessment, pursuant to the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)* survey methodology prior to Project activities beginning during the non-breeding wintering season (September 1 to January 31), unless otherwise approved in writing by CDFW. Any deviations from the survey methodology must be approved in writing by CDFW. If burrowing owl is detected, CDFW shall be immediately notified and a qualified biologist shall establish suitable buffers pursuant to the above survey methodology to ensure the owl is not disturbed by Project activities, unless otherwise approved in writing by CDFW. To prevent encroachment, the established buffers shall be clearly marked by high visibility material. Detected burrowing owls shall be avoided, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site-specific conditions, and completed before Project construction unless otherwise approved

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in writing by CDFW. It shall also include placement of a conservation easement and preparation, implementation, and funding of a long-term management plan prior to Project construction.

Comment 6: Section 4.4, page 35

Issue: MM BIO-10 may not reduce impacts to special-status and other nesting birds such as white-tailed kite (*Elanus leucurus*) a California Fully Protected Species, to less-than-significant because adequate survey areas and avoidance buffers are not included.

Recommended Mitigation Measure: (Additions made in **BOLD**, deletions made with strikethrough)

BIO-10 Pre-Construction Surveys for Nesting Birds for Construction Occurring within Nesting Season

For projects that require **construction, grading, vegetation removal, or other project-related improvements**, construction activities shall occur outside of the nesting season (September 16 to January 31), and no mitigation activity is required. If construction activities must occur during the nesting season (February 1 to September 15), a qualified biologist shall conduct surveys for nesting birds covered by the CGFC ~~no more than~~ **within 714** days prior to ~~project activities~~ **vegetation removal and shall conduct additional surveys if there is a lapse of 7 days or more in construction activities**. The surveys shall include the entire disturbance area plus ~~at least a 200~~ **at least a 500**-foot buffer around the **project** site. If active nests are located, all construction work shall be conducted outside a buffer zone from the nest to be determined by the qualified biologist. The buffer shall be a minimum of ~~50~~ **250** feet for non-raptor bird species and at least ~~150~~ **500** feet for raptor species, **unless determined otherwise by the qualified biologist. Buffer distances for bird nests shall be site-specific and an appropriate distance, as determined by a qualified biologist. The buffer distances shall be specified to protect the bird's normal behavior thereby preventing nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or**

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young) until an appropriate buffer is established. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The buffer area(s) shall be closed to all construction personnel and equipment until the adults and young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer. The biologist shall submit a report of these pre-construction nesting bird surveys to the County to document compliance within 30 days of its completion.

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by CDFW or USFWS?

Comment 7: Section 4.4, page 37

Issue: MM-BIO 14 may not reduce impacts to riparian habitat to less-than-significant. Additionally, the Project may result in a violation of Fish and Game Code section 1600 et seq. because the draft Program EIR does not require projects to submit an LSA Notification to CDFW and comply with the related LSA Agreement, if issued, prior to Project construction. Additionally, MM-BIO-14 does not require an adequate mitigation to impact ratio based on the acreage and linear feet of impacts to riparian habitat to offset loss of canopy cover and temporal habitat loss, or adequate revegetation ratios for riparian tree removal.

Recommended Mitigation Measures: To reduce impacts to less-than-significant, CDFW recommends revising MM BIO 14 to read as follows (Additions made in **BOLD**, deletions made with strikethrough):

BIO-14 Permitting and Restoration for Impacts to Sensitive Natural Communities, Waters, and Wetlands

Impacts to sensitive natural communities (including riparian areas and waters of the state or waters of the U.S. under the jurisdiction of the CDFW, USFWS, RWQCB, or **U.S. Army Corps of Engineers (USACE) (hereafter “agency” or “agencies”)**) shall require that the Project: **1) submit an LSA Notification to CDFW (for impacts to streams or lakes and associated riparian habitat) and comply with the Final LSA Agreement, and 2) obtain authorization from RWQCB and the USACE (for impacts to Waters of the U.S. or State including wetlands pursuant to the Clean Water Act). Impacts shall be mitigated as required by agency permits and at a minimum 3:1 mitigation to impact ratio** through the funding of the acquisition and in-perpetuity management of similar habitat, **in-kind credits purchased from a conservation or mitigation bank, or on-site or off-site habitat restoration based on area**

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and linear distance for permanent impacts, unless otherwise approved in writing by the agencies. Temporary impacts shall be restored on-site. The applicant shall provide funding and management of off-site mitigation lands through purchase of credits from an existing, approved mitigation bank or land purchased by the County and placed into a conservation easement or other covenant restricting development (e.g., deed restriction). Internal mitigation lands (internal to the Rezoning Sites), or in lieu funding sufficient to acquire lands, shall provide habitat at a minimum 34:1 ratio for impacted lands, comparable to habitat to be impacted by individual Project activity. The applicant shall submit documentation of mitigation funds to the County. **Please be advised that CDFW may not accept in-lieu fees as an appropriate method to mitigate impacts to streams or lakes and associated riparian habitat [...]**

Habitat restoration shall occur in the same calendar year as the impact on-site or as close to the site as possible within the same stream or watershed and may consist of restoration or enhancement of riparian habitat. If mitigation is not possible within the same stream or watershed, mitigation ratios may increase at the discretion of CDFW.

To mitigate for the removal of trees, replacement trees shall be planted at the below minimum replacement to removal ratios:

- **1:1 for removal of non-native trees;**
- **1:1 for removal of native trees other than oak (*Quercus* sp.) up to 3 inches DBH (diameter at breast height);**
- **3:1 for removal of native trees other than oak 4 to 6 inches DBH;**
- **6:1 for removal of native trees other than oak greater than 6 inches DBH;**
- **4:1 for removal of oak trees up to 6 inches DBH;**
- **5:1 for removal of oak trees greater than 6 inches to 15 inches DBH; and**
- **10:1 for removal of oak trees greater than 15 inches in diameter**

Replacement tree plantings shall consist of 5-gallon or greater saplings and locally-collected seeds, stakes, or other suitable nursery stock as appropriate, and shall be native species to the area adapted to the lighting, soil, and hydrological conditions at the replanting site. If acorns are used for oak tree replanting, each planting will include a minimum of three

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acorns planted at an approximately two-inch depth to minimize predation risk. Large acorns shall be selected for plantings. Replacement oaks shall come from nursery stock grown from locally-sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted.

The Project shall monitor and maintain, as necessary, all plants for five years to ensure successful revegetation. Planted trees and other vegetation shall each have a minimum of 85 percent survival at the end of five years. If revegetation survival and/or cover requirements do not meet established goals as determined by CDFW, the Project is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.

Please be advised that an LSA Agreement obtained for this Project would likely require the above recommended mitigation measures, as applicable.

ENVIROMENTAL DATA

CEQA requires that information developed in EIR 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 California Natural Diversity Database (CNDDDB). The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link: <https://wildlife.ca.gov/data/CNDDDB/submitting-data>.

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.

CONCLUSION

CDFW appreciates the opportunity to comment on the draft Program EIR to assist Sonoma County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to James Hansen, Environmental Scientist, at (707) 576-2869 or

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James.Hansen@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

Attachment 1: Draft Mitigation Monitoring and Reporting Program

ec: State Clearinghouse #2022060323

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM-BIO-2	<p>Special-Status Plant Species Surveys</p> <p>If the Project-specific Biological Resources Screening and Assessment (Mitigation Measure BIO-1) determines that there is potential for significant impacts to federally or state-listed plants or regional population-level impacts to species with a CRPR of 1B or 2B from Project development, a qualified biologist shall complete surveys for special-status plants prior to any vegetation removal, grubbing, or other construction activity (including staging and mobilization). Surveys shall be conducted following CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants) and, as applicable, the Santa Rosa Plain Conservation Strategy Appendix D: <i>Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain</i>, including but not limited to conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts, such as altering off-site hydrological conditions where these species may be present, or any formal updates of these protocols. The surveys shall be floristic in nature and shall be seasonally timed to coincide with the target species identified in the Project-specific biological analysis. All plant surveys shall be conducted by a qualified biologist during the blooming season prior to initial ground disturbance. More than one year of surveys may be required to establish that plants are absent,</p>	Prior to Ground Disturbance	Project Applicant

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	<p>and the above Santa Rosa Plain Conservation Strategy Appendix D requires a minimum of two years of surveys, which shall be implemented unless otherwise approved in writing by CDFW. All special-status plant species identified on site shall be mapped onto a site-specific aerial photograph or topographic map with the use of Global Positioning System unit. Surveys shall be conducted in accordance with the most current protocols established by the CDFW, USFWS, and the local jurisdictions if said protocols exist. A report of the survey results shall be submitted to the County, and the CDFW and/or USFWS, as appropriate, for review and/or approval. The Project shall obtain written approval of the survey reports from CDFW prior to the start of construction, unless otherwise approved in writing by CDFW. If any special-status plants are observed, the Project shall: 1) avoid all direct and indirect impacts to the special-status plants, and 2) prepare and implement an avoidance plan that is approved in writing by CDFW prior to Project start. If CESA listed plants are observed and impacts cannot be avoided, the Project shall obtain a CESA ITP from CDFW. For impacts to federal Endangered Species Act (ESA) listed plants the Project shall obtain authorization from USFWS.</p>		
<p>MM-BIO-4</p>	<p>Restoration and Monitoring, and Habitat Compensation</p> <p>Development and/or restoration activities shall be conducted in accordance with a site-specific Habitat Restoration Plan. If federally or state-listed plants or non-listed special-status CRPR 1B and 2 plant populations cannot be avoided, and will be impacted by development, all impacts shall be mitigated by the applicant at a ratio not lower than 433:1 and to be determined by the County (in coordination with CDFW and USFWS as and if applicable) for each species as a component of habitat restoration, unless otherwise approved in writing by CDFW. For impacts to state-listed plants, habitat compensation at a minimum 3:1 mitigation to impact ratio shall be provided, which may include either the purchase of</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>credits at a CDFW-approved mitigation or conservation bank or purchasing appropriate habitat and conserving it in perpetuity through a conservation easement and management plan, which shall be prepared, funded, and implemented by the Project in perpetuity, unless otherwise approved in writing by CDFW.</p> <p>A qualified biologist shall prepare and submit a restoration plan to the County and CDFW for review and approval. (Note: if a federally and/or state-listed plant species will be impacted, the restoration plan shall be submitted to the USFWS and/or CDFW for review, and federal and/or state take authorization may will be obtained from required by these agencies.) The restoration plan shall include, at a minimum, the following components [...]</p> <p><i>Note to County, please add remaining mitigation measure from Draft EIR.</i></p>		
<p>MM-BIO-5</p>	<p>Endangered/Threatened Species Habitat Assessments and Protocol Surveys, CDFW and USFWS Authorization, and Habitat Compensation</p> <p>Specific habitat assessments and survey protocols are established for several federally- and state listed endangered or threatened species. If the results of the Project-specific biological analysis determine that suitable habitat may be present for any such species, protocol habitat assessments/surveys shall be completed in accordance with CDFW, NMFS, and/or USFWS protocols prior to issuance of any construction permits. If projects are located within the Santa Rosa Plain (SRP) Area, surveys shall be conducted for CTS in accordance with the Santa Rosa Plain Conservation Strategy (2005) with prior written approval from CDFW and USFWS. Due to numerous documented occurrences of CTS in the SRP in conjunction with the documented dispersal distances for the species of up to 1.3 miles, it has been established that CTS are present within many grassland and vernal pool habitats within the SRP rendering surveys unnecessary, and therefore any protocol CTS surveys shall be</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>approved in writing by CDFW and USFWS prior to conducting the survey and habitat compensation for impacts to CTS habitat shall be provided by the Project pursuant to the SRP Conservation Strategy even if survey results are negative, unless otherwise approved in writing by CDFW and USFWS. If impacts to grassland or vernal pool habitat will occur, the Project shall consult with CDFW to determine if a CESA ITP for CTS is warranted. If CESA listed animal species such as CTS cannot be avoided, the Project shall obtain a CESA ITP from CDFW prior to Project construction. For impacts to ESA listed wildlife species such as CTS the Project shall obtain authorization from USFWS. While often consistent with the SRP Conservation Strategy, the CESA ITP habitat compensation requirements may differ from it based on a site-specific analysis. If through consultation with the CDFW, NMFS, and/or USFWS it is determined that protocol habitat assessments/surveys are not required, the applicant shall complete and document this consultation and submit it to the County prior to issuance of any construction permits. Each protocol has different survey and timing requirements. The applicant shall be responsible for ensuring they understand the protocol requirements and shall hire a qualified biologist to conduct protocol surveys.</p>		
<p>MM-BIO-6</p>	<p>Endangered/Threatened Animal Species Avoidance and Minimization</p> <p>The following measures shall be applied to aquatic and/or terrestrial animal species as determined by the Project-specific Biological Resources Screening and Assessment required under Mitigation Measure BIO-1 [...]</p> <p>2. All projects occurring within/adjacent to aquatic habitats (including riparian habitats and wetlands) shall be completed between April 4 June 15 and October 31 15 to avoid impacts to sensitive aquatic species. Any work outside these dates would require project-specific approval from the County</p>	<p>Project Implementat ion</p>	<p>Project Applicant</p>

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	<p>and may shall be subject to regulatory agency approval [...]</p> <p><i>Note to County, please add remaining mitigation measure from Draft EIR.</i></p>		
MM-BIO-6A	<p>No-Disturbance of California Freshwater Shrimp Habitat</p> <p>No vegetation shall be disturbed or removed from habitat that may support California freshwater shrimp. Sediment shall be prevented from entering habitat supporting California freshwater shrimp. Streambank shape and form shall not be disturbed or altered within habitat supporting California freshwater shrimp. If impacts to California freshwater shrimp cannot be avoided, a CESA ITP shall be obtained by the Project before Project activities commence.</p>	Prior to Ground Disturbance	Project Applicant
MM-BIO-6B	<p>Swainson's Hawk Avoidance</p> <p>If Project activities in Sonoma, Agua Caliente, or Glenn Ellen are scheduled during the nesting season for Swainson's hawks (March 1 to August 31), then prior to beginning work on the Project, a qualified biologist shall survey for Swainson's hawk nesting activity. The survey area shall include a 0.5-mile distance surrounding the Project site, unless otherwise approved in writing by CDFW. The qualified biologist shall conduct surveys according to the 2000 <i>Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley</i> (see: https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds) or, if proposing an alternate survey methodology, shall submit the proposed survey timing and methods to CDFW for review and written approval at least 30 days prior to initiation of surveys. Survey results shall be submitted to CDFW for review and written acceptance prior to starting project activities. If the qualified biologist identifies nesting Swainson's hawks, then a no-disturbance buffer of 0.5-mile radius shall be implemented and no project work shall occur within the buffer area, or an alternative buffer may be submitted to CDFW for written acceptance taking into account existing visual or</p>	Prior to Tree Removal and Ground Disturbance	Project Applicant

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	<p>noise barriers or other factors justifying a reduced buffer, and the project shall implement the CDFW approved buffer. Project activities shall be prohibited within the approved buffer between March 1 and August 31, unless otherwise approved in writing by CDFW, which may include consultation pursuant to CESA and the project obtaining an ITP, or a qualified biologist determining that the nest is no longer active.</p>		
<p>MM-BIO-6C</p>	<p>Northern Spotted Owl Surveys</p> <p>No Project activities within 0.25 miles of northern spotted owl (NSO) nesting habitat, such as in the vicinity of Guerneville, shall occur from March 15 to July 31, unless NSO surveys have been completed by a qualified biologist following USFWS <i>Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls</i>, dated (revised) January 9, 2012, and the survey report is accepted in writing by CDFW. Surveys shall be conducted in accordance with Section 9 of the survey protocol, Surveys for Disturbance-Only Projects. If breeding NSO are detected during surveys, a quarter mile no-disturbance buffer zone shall be implemented around the nest. Survey results shall be provided to CDFW and to the Spotted Owl Observations Database (https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info). No Project activities shall occur within the buffer zone until the end of breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. If take of NSO cannot be avoided by Project activities, the Project shall obtain a CESA ITP from CDFW prior to starting Project activities, and authorization from USFWS may be required.</p> <p>Alternate buffer zones may be proposed by a Qualified Biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, <i>Estimating the Effects of Auditory and Visual Disturbance to NSO and Marbled Murrelets in Northwestern California</i>, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW.</p>	<p>Prior to Tree Removal and Ground Disturbance</p>	<p>Project Applicant</p>

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MM-BIO-6D	<p>Tricolored Blackbird Surveys</p> <p>If nesting tricolored blackbird or evidence of their presence is found, CDFW shall be notified immediately, and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If take of tricolored blackbird cannot be avoided by Project activities, the Project shall obtain a CESA ITP from CDFW prior to starting Project activities.</p>	Prior to Tree Removal and Ground Disturbance	Project Applicant
MM-BIO-7	<p>Burrowing Owl Surveys</p> <p>Where grasslands or other suitable wintering burrowing owl habitat occurs on the Project site or within 500 meters (1,640 feet) of the Project site, as determined by a qualified biologist, a qualified biologist shall conduct a habitat assessment, and surveys if warranted based on the habitat assessment, pursuant to the <i>Department of Fish and Game Staff Report on Burrowing Owl Mitigation</i> (2012) survey methodology prior to Project activities beginning during the non-breeding wintering season (September 1 to January 31), unless otherwise approved in writing by CDFW. Any deviations from the survey methodology must be approved in writing by CDFW. If burrowing owl is detected, CDFW shall be immediately notified and a qualified biologist shall establish suitable buffers pursuant to the above survey methodology to ensure the owl is not disturbed by Project activities, unless otherwise approved in writing by CDFW. To prevent encroachment, the established buffers shall be clearly marked by high visibility material. Detected burrowing owls shall be avoided, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on</p>	Prior to Ground Disturbance	Project Applicant

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	<p>site-specific conditions and completed before Project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and preparation, implementation, and funding of a long-term management plan prior to Project construction.</p>		
<p>MM-BIO-10</p>	<p>Pre-Construction Surveys for Nesting Birds for Construction Occurring within Nesting Season</p> <p>For projects that require construction, grading, vegetation removal, or other project-related improvements, construction activities shall occur outside of the nesting season (September 16 to January 31), and no mitigation activity is required. If construction activities must occur during the nesting season (February 1 to September 15), a qualified biologist shall conduct surveys for nesting birds covered by the CGFC no more than within 744 days prior to project activities vegetation removal and shall conduct additional surveys if there is a lapse of 7 days or more in construction activities. The surveys shall include the entire disturbance area plus at least a 200 500-foot buffer around the project site. If active nests are located, all construction work shall be conducted outside a buffer zone from the nest to be determined by the qualified biologist. The buffer shall be a minimum of 50 250 feet for non-raptor bird species and at least 150 500 feet for raptor species, unless determined otherwise by the qualified biologist. Buffer distances for bird nests shall be site-specific and an appropriate distance, as determined by a qualified biologist. The buffer distances shall be specified to protect the bird's normal behavior thereby preventing nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the</p>	<p>Prior to Tree Removal and Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The buffer area(s) shall be closed to all construction personnel and equipment until the adults and young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer. The biologist shall submit a report of these preconstruction nesting bird surveys to the County to document compliance within 30 days of its completion.</p>		
<p>MM-BIO-14</p>	<p>Permitting and Restoration for Impacts to Sensitive Natural Communities, Waters, and Wetlands</p> <p>Impacts to sensitive natural communities (including riparian areas and waters of the state or waters of the U.S. under the jurisdiction of the CDFW, USFWS, RWQCB, or USACE (hereafter “agency” or “agencies”)) shall require that the Project: 1) submit an LSA Notification to CDFW (for impacts to streams or lakes and associated riparian habitat) and comply with the Final LSA Agreement, and 2) obtain authorization from RWQCB and the USACE (for impacts to Waters of the U.S. or State including wetlands pursuant to the Clean Water Act). Impacts shall be mitigated as required by agency permits and at a minimum 3:1 mitigation to impact ratio through the funding of the acquisition and in-perpetuity management of similar habitat, in-kind credits purchased from a conservation or mitigation bank, or on-site or off-site habitat restoration based on area and linear distance for permanent impacts, unless otherwise approved in writing by the agencies. Temporary impacts shall be restored on-site. The applicant shall provide funding and management of off-site</p>	<p>Prior to Tree Removal and Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>mitigation lands through purchase of credits from an existing, approved mitigation bank or land purchased by the County and placed into a conservation easement or other covenant restricting development (e.g., deed restriction). Internal mitigation lands (internal to the Rezoning Sites), or in lieu funding sufficient to acquire lands, shall provide habitat at a minimum 34:1 ratio for impacted lands, comparable to habitat to be impacted by individual Project activity. The applicant shall submit documentation of mitigation funds to the County. Please be advised that CDFW may not accept in-lieu fees as an appropriate method to mitigate impacts to streams or lakes and associated riparian habitat [...]</p> <p>Habitat restoration shall occur in the same calendar year as the impact on-site or as close to the site as possible within the same stream or watershed and may consist of restoration or enhancement of riparian habitat. If mitigation is not possible within the same stream or watershed, mitigation ratios may increase at the discretion of CDFW.</p> <p>To mitigate for the removal of trees, replacement trees shall be planted at the below minimum replacement to removal ratios:</p> <ul style="list-style-type: none"> • 1:1 for removal of non-native trees; • 1:1 for removal of native trees other than oak (<i>Quercus</i> sp.) up to 3 inches DBH (diameter at breast height); • 3:1 for removal of native trees other than oak 4 to 6 inches DBH; • 6:1 for removal of native trees other than oak greater than 6 inches DBH; • 4:1 for removal of oak trees up to 6 inches DBH; • 5:1 for removal of oak trees greater than 6 inches to 15 inches DBH; and • 10:1 for removal of oak trees greater than 15 inches in diameter 		
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	<p>Replacement tree plantings shall consist of 5-gallon or greater saplings and locally-collected seeds, stakes, or other suitable nursery stock as appropriate, and shall be native species to the area adapted to the lighting, soil, and hydrological conditions at the replanting site. If acorns are used for oak tree replanting, each planting will include a minimum of three acorns planted at an approximately two-inch depth to minimize predation risk. Large acorns shall be selected for plantings. Replacement oaks shall come from nursery stock grown from locally-sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted.</p> <p>The Project shall monitor and maintain, as necessary, all plants for five years to ensure successful revegetation. Planted trees and other vegetation shall each have a minimum of 85 percent survival at the end of five years. If revegetation survival and/or cover requirements do not meet established goals as determined by CDFW, the Project is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.</p> <p><i>Note to County, please add remaining mitigation measure from Draft EIR.</i></p>		
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