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Alexandra Owens

STATE CLEARINGHOUSE

From: Wood, Dylan@Wildlife <Dylan.Wood@wildlife.ca.gov>
Sent: Monday, August 15, 2022 4:19 PM
To: Scott Johnson
Cc: Wildlife R2 CEQA; Torres, Juan@Wildlife; Garcia, Jennifer@Wildlife; Thomas, Kevin@Wildlife; OPR State Clearinghouse
Subject: Comments on the MND for the Dry Creek Estates Project (SCH: 2022070251)
Attachments: Attachment 1 Homegrown Plant List_Final-1.pdf

Categories: Purple Category

Dear Mr. Johnson:

The California Department of Fish and Wildlife (CDFW) received the Mitigated Negative Declaration (MND) for the Dry Creek Estates Project (Project) in Sacramento County pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the project that may affect California fish and wildlife.

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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) Although not anticipated, CDFW may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed and to the extent implementation of the Project as proposed may result in take² as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Lead Agency 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.

Comment 1: Mitigation Measure BIO-5 revisions needed to mitigate impacts to Swainson's hawk nesting to a level of less-than-significant. As identified in the MND, California Natural Diversity Database (CNDDB) records indicate a Swainson's hawk nest approximately 1 mile from the Project area. Swainson's hawk is a species listed as *threatened* under CESA, so potential take of the species resulting from the construction disturbance described in the MND could constitute a potentially significant impact under CEQA. Since onsite surveys have not been completed, CDFW recommends additional assessment of the species

prior to Project construction. This assessment would more accurately assess nesting activity onsite and nearby areas where Swainson's hawk could be nesting.

To address this, CDFW recommends making the following additions to Biological Resources Mitigation Measure BIO-5 (or adding as a new measure) to more effectively mitigate to a level-of-less than significant:

"If equipment staging, site preparation, grading, excavation or other project-related activities are scheduled during the Swainson's hawk nesting season (typically March 1 through September 15) surveys for active nests of such birds shall be conducted by a Qualified Biologist in accordance with the typical survey protocol: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000). Surveys shall be conducted at the appropriate radius (0.5 miles) and time periods listed in the survey protocol.

If an active Swainson's hawk nest is found during project surveys, the Qualified Biologist shall consult with CDFW and demonstrate compliance with CESA. If during consultation it is determined that implementation of the project as proposed may result in take of Swainson's hawk, the project may seek related take authorization as provided by the Fish and Game Code."

Comment 2: Revisions needed to mitigate impacts to Swainson's hawk foraging to a level of less-than-significant. CDFW notes that the MND states that "due to a lack of suitable nesting habitat, this species is presumed to be absent from the Project area" while also stating that there is "limited foraging potential within the Project area." Due to the CNDDB occurrence of Swainson's hawk described above and the proximity of the nearby creek and wetland corridors, foraging opportunities are likely to still exist within the Project area, even if suitable nesting trees are not present within the development area. These foraging opportunities could include small mammals (e.g. voles, ground squirrels) which could have burrow networks in unplowed areas of the Project site such as the wetland corridor, insects such as grasshoppers using the plowed areas, and small mammals (field mice, jackrabbits, etc.) which could be living in the creek corridor but can foraging in the plowed fields. As such impacts to Swainson's hawk foraging habitat are currently not mitigated in the MND.

As such, CDFW recommends adding an appropriate analysis and reference to the studies of local Swainson's hawk activity onsite and subsequent determination of an appropriate mitigation ratio (if applicable) and considerations. In the event mitigation for loss of foraging habitat is indicated by further analysis, CDFW recommends indicating that the project proponent shall mitigate by purchasing Swainson's hawk foraging habitat credits at a CDFW-approved conservation site or CDFW-approved mitigation or conservation bank at a ratio appropriate to mitigate the biological impact to a level of less-than-significant.

Comment 3: CDFW recommends implementation of a bird impact avoidance strategy.

The proposed Project footprint will ultimately border existing open space areas within the City of Sacramento including Magpie Creek and an avoided wetland corridor through the center of the Project area. These open space areas provide suitable habitat for nesting birds. Placement of buildings adjacent to suitable nesting bird habitat may adversely affect bird populations by introducing sources of common bird mortalities such as domestic cats for residents at the facility and reflective windows that birds may collide with. Given declines in segments of the overall bird population³ and ecological benefits of healthy bird activity⁴⁵⁶, CDFW recommends consideration of bird enhancement and mortality reduction strategies in Project design and implementation. Incorporation of these strategies can reduce anthropogenic effects on birds and promote sustainable development in California.

Local bird populations are severely impacted by domestic cats, which are estimated to cause over one billion bird mortalities every year in the United States and may be the single biggest cause of global bird mortality after habitat destruction⁷. Unlike natural predators, whose populations fluctuate with prey levels, cat populations are artificially sustained through introduction of new individuals or feeding of feral individuals. Therefore, cats can contribute not only to direct bird mortality but also to the imbalance of natural factors in the birds' ecosystem. Keeping domestic cats indoors and out of native ecosystems is a key consideration for reducing environmental impacts and promoting responsible pet ownership in the community.

Collisions with clear and reflective sheet glass and plastic is also a leading cause in human-related bird mortalities⁸. Many types of windows, sheet glass, and clear plastics are invisible to birds resulting in casualties or injuries from head trauma after an unexpected collision. Birds may collide with windows as little as one meter away in an attempt to reach habitat seen through, or reflected in, clear and tinted panes, so even taking small measures to increase visibility of windows to birds can make a substantial difference in minimizing long-term impacts of urban development near natural environments.

As such, CDFW recommends the Project incorporate bird and wildlife friendly strategies:

- An education program for residents to keep domestic cats indoors
- Install screens, window patterns, or new types of glass such as acid-etched, fritted, frosted, ultraviolet patterned, or channel. Additional information can be found at <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php>.

Incorporation of bird and wildlife strategies not only promotes environmental stewardship but also facilitates compliance with State and federal protections aimed at preserving bird populations.

Comment 4: CDFW recommends consideration of available planting and habitat resources.

CDFW is supportive of public and private landowner efforts to enhance localized habitat value, especially around developments adjacent to open space and creek corridors such as Magpie Creek. Utilizing native plants onsite can lead to increased drought tolerance, decreased water use, and decreased maintenance/replacement costs while simultaneously increasing functionality for pollinators and wildlife, increasing the site's biodiversity and ecosystem health, and increasing carbon sequestration and climate change resilience.

CDFW recommends the City and Project proponent consider utilization of the Homegrown Habitat Plant List (Sacramento Valley Chapter, California Native Plant Society) (Attachment 1) when developing landscaping plans. Further resources, including interactive planting guidance can be found at <https://calscape.org/>.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental documents 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 types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>. The completed form can be sent electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

CONCLUSION

CDFW appreciates the opportunity to comment and assist the Lead Agency in identifying and mitigating project impacts on biological resources.

Please contact me at 916-358-2384 or dylan.a.wood@wildlife.ca.gov if you have any questions.

Sincerely,

Dylan Wood

California Department of Fish and Wildlife
Environmental Scientist
(916) 358-2384



References:

- 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.
- 2 Section 86 of the Fish and Game Code defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill
- 3 Douglas W Tallamy, W Gregory Shriver, Are declines in insects and insectivorous birds related?, Ornithological Applications, Volume 123, Issue 1, 1 February 2021.
- 4 Maas, B., D. S. Karp, S. Bumrungsri, K. Darras, D. Gonthier, J. C.-C. Huang, C. A. Lindell, J. J. Maine, L. Mestre, N. L. Michel, et al. . (2016). Bird and bat predation services in tropical forests and agroforestry landscapes. *Biological Reviews* 91:1081–1101.
- 5 Wenny, D. G., Ç. H. Şekercioğlu, N. J. Cordeiro, H. S. Rogers, and D. Kelly (2016). Seed dispersal by fruit-eating birds. In *Why Birds Matter: Avian Ecological Function and Ecosystem Services* (Ç. H. Şekercioğlu, D. G. Wenny, and C. J. Whelan, Editors). University of Chicago Press, IL, USA. pp. 107–146.
- 6 Fujita, M., and K. O. Kameda (2016). Nutrient dynamics and nutrient cycling by birds. In *Why Birds Matter: Avian Ecological Function and Ecosystem Services* (Ç. H. Şekercioğlu, D. G. Wenny, and C. J. Whelan, Editors). University of Chicago Press, IL, USA. pp. 271–297.
- 7 Dauphine, N. and Cooper, R.J. (2009) Impacts of Free-Ranging Domestic Cats (*Felis catus*) on Birds in the United States: A Review of Recent Research with Conservation and Management Recommendations. Warnell School of Forestry and Natural Resources, University of Georgia.
- 8 Klem, D. (2009). Avian Mortality at Windows: The Second Largest Human Source of Bird Mortality on Earth. Acopian Center for Ornithology, Department of Biology, Muhlenberg College, Allentown, Pennsylvania.