



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



October 4, 2022

Autumn Buss, Associate Planner
City of Cotati
201 West Sierra Avenue
Cotati, CA, 94931
abuss@cotaticity.org

Subject: Sandell Distribution Warehouse Building 2, Mitigated Negative Declaration,
SCH No. 2022090131, City of Cotati, Sonoma County

Dear Ms. Buss:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Cotati (City) for the Sandell Distribution Warehouse Building 2 (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to biological resources associated with the 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 permits issued under the California Endangered Species Act (CESA), Lake and Streambed Alteration Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

REGULATORY AUTHORITY

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA either during construction or over the life of the Project. **The Project has the potential to impact California tiger salamander (CTS, *Ambystoma californiense*), a CESA**

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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listed as threatened species. Thank you for including the requirement to obtain an ITP for impacts to CTS in Mitigation Measure BIO-4. Issuance of an ITP 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 an ITP.

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 CESA.

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.

Fully Protected Species

Fully Protected species, such as white-tailed kite (*Elanus leucurus*), may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research, relocation of the bird species for the protection of livestock, or if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

PROJECT DESCRIPTION SUMMARY

Proponent: Albert Sandell

Objective: Construct a 35,500-square-foot warehouse building to operate as a moving and storage company. The Project includes loading areas, outdoor storage, paved parking areas, sidewalks, and landscaping.

Location: 380 Blodgett Street, Assessor's Parcel Number 046-073-006, City of Cotati, Sonoma County

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Timeframe: October 2022 to October 2023

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City 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 with implementation of mitigation measures, including those CDFW recommends below, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Mitigation Measure and Related Impact Shortcoming

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 the U.S. Fish and Wildlife Service (USFWS)?

Comment 1: Section 5.4 (a-b), Page 49

Issue: Mitigation Measure BIO-2 requires a pre-construction nesting bird survey within 250 feet of the Project site, which may not be adequate to avoid impacts to special-status and common nesting raptors such as white-tailed kite, a California Fully Protected species.

Recommended Mitigation Measure: To reduce impacts to less-than-significant, CDFW recommends increasing the nesting bird survey distance and avoidance buffer for raptors to a minimum of 500 feet from the Project site, unless otherwise approved in writing by CDFW (see Attachment 1. Draft Mitigation and Monitoring Reporting Plan).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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ENVIRONMENTAL DOCUMENT FILING FEES


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is 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 environmental document filing 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).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Nick Wagner, Senior Environmental Scientist (Specialist), at (707) 428-2075 or Nicholas.Wagner@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
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

cc: Office of Planning and Research, State Clearinghouse (SCH #2022090131)

Vincent Griego, U.S. Fish and Wildlife Service, Vincent_Griego@fws.gov

Craig Weightman, CDFW Bay Delta Region, Craig.Weightman@wildlife.ca.gov

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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>Nesting Bird Surveys. If construction begins during the nesting bird season between February 1 and August 31, the following is recommended to ensure potentially significant impacts to migratory nesting birds and raptors (including WTK) are avoided:</p> <p>Pre-construction nesting bird surveys should be performed within the project study area and up to 500 feet of proposed activities no more than 7 days prior to construction. If a lapse of 7 days or more in construction occurs, another survey shall be conducted.</p> <p>If nests are found, a no-disturbance buffer should be placed around the nest until young have fledged or the nest is determined to be no longer active by the biologist. The size of the buffer may be determined by the biologist based on species, ambient conditions, and proximity to project-related activities. Avoidance buffers for raptors shall be a minimum of 500 feet unless otherwise approved in writing by CDFW. Larger buffers are not likely necessary due to ambient conditions. Any active nests shall be monitored by a qualified biologist daily at a minimum for the first week to ensure the buffer is adequate to avoid nest disturbance, then weekly thereafter.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>