



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

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Governor's Office of Planning & Research

Oct 20 2022

STATE CLEARINGHOUSE

October 18, 2022

Jeff Mitchem

City of Calistoga

1232 Washington Street

Calistoga, CA 94515

jmitchem@ci.calistoga.ca.us

Dear Mr. Mitchem:

Subject: Yellow Rose Ranch Residential Project, Notice of Preparation of an Environmental Impact Report, SCH No. 2022090446, City of Calistoga, Napa County

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Yellow Rose Ranch Residential Project (Project).

CDFW is providing the City of Calistoga (City), as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The Project is located at 2650 Foothill Boulevard in the City of Calistoga, Napa County, on Assessor's Parcel Numbers 011-400-012, 011-400-013 and 011-400-014. The Project includes the development of 46 single-family homes, including 33 attached accessory dwelling units and 12 detached accessory dwelling units, on 46.3 acres of land currently designated as "Rural Residential." Approximately 2.1 acres would be developed for a common area use, and 10.4 acres near the Napa River would be

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designated for open space use. There are approximately 460 trees on-site and approximately 1.3 acres of seasonal wetlands.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the EIR incorporate a full project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description:

- Land use changes resulting from, for example, rezoning certain areas;
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes;
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems;
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features; and
- Construction schedule, activities, equipment, and crew sizes.

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. Issuance of a CESA 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, such as those identified in **Attachment 1**, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP. **If a CESA ITP is necessary, CDFW recommends that the EIR include a mitigation measure requiring the Project to obtain an ITP from CDFW.**

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, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration

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(FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

Lake and Streambed Alteration Agreement

CDFW will require an LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq. for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will 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. **Based on the NOP and a review of the California Aquatic Resources Inventory (CARI), it appears that the Project may impact the Napa River and two unnamed streams. Impacts to the aforementioned streams or any other stream would likely require an LSA Notification. If an LSA Notification is required, CDFW recommends that the EIR include a mitigation measure requiring the Project to submit an LSA Notification and compliance with the LSA Agreement, if issued.** CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Nesting Birds

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests. Migratory birds are also protected under the federal Migratory Bird Treaty Act.

Fully Protected Species

Fully Protected species, including any listed in **Attachment 1**, may not be taken or possessed at any time 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).

ENVIRONMENTAL SETTING

The EIR should provide sufficient information regarding the environmental setting ("baseline") to understand the Project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the CEQA document prepared for the Project provide baseline

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habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including but not limited to all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species and sensitive natural communities that are known to occur, or have the potential to occur in or near the Project site, include but are not limited to those listed in **Attachment 1**.

Habitat descriptions and the potential for species occurrence should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, CARI, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the EIR should adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrological conditions, and require the identification of reference populations. More than one year of surveys may be necessary based on environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to special-status plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The EIR should discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

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- Land use changes that would reduce open space or agricultural land uses and increase residential or other land use involving increased development;
- Encroachments into riparian habitats, wetlands or other sensitive areas;
- Potential for impacts to special-status species;
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, vegetation overhanging banks);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The CEQA document should also identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a special-status species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the EIR, and/or mitigate significant impacts of the Project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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,

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please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found 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://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

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.

If you have any questions, please contact Alicia Bird, Environmental Scientist, at (707) 980-5154 or Alicia.Bird@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
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Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Special-Status Species & Sensitive Natural Communities

ec: State Clearinghouse # 2022090446

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Attachment 1: Special-Status Species & Sensitive Natural Communities

| Species Name | Common Name | Status |
|--|--------------------------------------|---------|
| Fish and Crustaceans | | |
| <i>Syncaris pacifica</i> | California freshwater shrimp | FE, SE |
| <i>Oncorhynchus kisutch</i> pop. 4 | Central California Coast coho salmon | FE, SE |
| <i>Oncorhynchus mykiss irideus</i> pop. 8 | Central California Coast steelhead | FT |
| Birds | | |
| <i>Strix occidentalis caurina</i> | Northern spotted owl | FT, ST |
| <i>Progne subis</i> | Purple martin | SSC |
| <i>Falco mexicanus</i> | Prairie falcon | WL |
| <i>Accipiter striatus</i> | Sharp-shinned hawk | WL |
| <i>Falco peregrinus anatum</i> | American peregrine falcon | FP |
| Amphibians and Reptiles | | |
| <i>Rana draytonii</i> | California red-legged frog | FT, SSC |
| <i>Rana boylei</i> (northwest/north coast clade) | Foothill yellow-legged frog | SSC |
| <i>Emys marmorata</i> | Western pond turtle | SSC |
| <i>Taricha rivularis</i> | Red-bellied newt | SSC |
| <i>Dicamptodon ensatus</i> | California giant salamander | SSC |
| Mammals | | |
| <i>Antrozous pallidus</i> | Pallid bat | SSC |
| <i>Taxidea taxus</i> | American badger | SSC |
| <i>Corynorhinus townsendii</i> | Townsend's big-eared bat | SSC |

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| Species Name | Common Name | Status |
|--|------------------------------|-------------------|
| Invertebrates | | |
| <i>Bombus occidentalis</i> | Western bumble bee | SC, ICP |
| <i>Bombus caliginosus</i> | Obscure bumble bee | ICP |
| Plants | | |
| <i>Poa napensis</i> | Napa blue grass | SE, FE, CRPR 1B.1 |
| <i>Lasthenia burkei</i> | Burke's goldfields | SE, FE, CRPR 1B.1 |
| <i>Limnanthes vinculans</i> | Sebastopol meadowfoam | SE, FE, CRPR 1B.1 |
| <i>Eryngium constancei</i> | Loch Lomond button-celery | SE, FE, CRPR 1B.1 |
| <i>Gratiola heterosepala</i> | Boggs Lake hedge-hyssop | SE, CRPR 1B.2 |
| <i>Plagiobothrys strictus</i> | Calistoga popcornflower | ST, FE, CRPR 1B.1 |
| <i>Navarretia leucocephala</i> ssp. <i>bakeri</i> | Baker's navarretia | CRPR 1B.1 |
| <i>Arctostaphylos stanfordiana</i> ssp. <i>decumbens</i> | Rincon Ridge manzanita | CRPR 1B.1 |
| <i>Ceanothus confusus</i> | Rincon Ridge ceanothus | CRPR 1B.1 |
| <i>Sidalcea hickmanii</i> ssp. <i>napensis</i> | Napa checkerbloom | CRPR 1B.1 |
| <i>Amorpha californica</i> var. <i>napensis</i> | Napa false indigo | CRPR 1B.2 |
| <i>Brodiaea leptandra</i> | narrow-anthered brodiaea | CRPR 1B.2 |
| <i>Centromadia parryi</i> ssp. <i>parryi</i> | pappose tarplant | CRPR 1B.2 |
| <i>Erigeron greenei</i> | Greene's narrow-leaved daisy | CRPR 1B.2 |
| <i>Layia septentrionalis</i> | Colusa layia | CRPR 1B.2 |

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| Species Name | Common Name | Status |
|---|---------------------------------------|-----------|
| <i>Leptosiphon jepsonii</i> | Jepson's leptosiphon | CRPR 1B.2 |
| <i>Puccinellia simplex</i> | California alkali grass | CRPR 1B.2 |
| <i>Spergularia macrotheca</i> var. <i>longistyla</i> | long-styled sand-spurrey | CRPR 1B.2 |
| <i>Trifolium hydrophilum</i> | saline clover | CRPR 1B.2 |
| <i>Ceanothus divergens</i> | Calistoga ceanothus | CRPR 1B.2 |
| <i>Lupinus sericatus</i> | Cobb Mountain lupine | CRPR 1B.2 |
| <i>Streptanthus brachiatus</i> ssp. <i>brachiatus</i> | Socrates Mine jewelflower | CRPR 1B.2 |
| <i>Microseris paludosa</i> | marsh microseris | CRPR 1B.2 |
| <i>Hemizonia congesta</i> ssp. <i>congesta</i> | congested-headed hayfield tarplant | CRPR 1B.2 |
| <i>Juncus luciensis</i> | Santa Lucia dwarf rush | CRPR 1B.2 |
| <i>Arctostaphylos manzanita</i> ssp. <i>elegans</i> | Konocti manzanita | CRPR 1B.3 |
| <i>Penstemon newberryi</i> var. <i>sonomensis</i> | Sonoma beardtongue | CRPR 1B.3 |
| <i>Limnanthes floccosa</i> Howell ssp. <i>floccosa</i> | woolly meadowfoam | CRPR 4.2 |
| <i>Calystegia collina</i> ssp. <i>oxyphylla</i> | Mt. Saint Helena morning-glory | CRPR 4.2 |
| Sensitive Natural Communities | | |
| <i>Quercus lobata</i> | Valley oak riparian forest | S3 |

FP = state fully protected under Fish and Game Code; FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as threatened under ESA; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; SC = state candidate as endangered under CESA; WL = state Watch List; ICP = California Terrestrial

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and Vernal Pool Invertebrate of Conservation Priority¹; SSC = state Species of Special Concern; CRPR = California Rare Plant Rank²; S1-S3 = Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents.

¹ The list of California Terrestrial and Vernal Pool Invertebrates of Conservation Priority was collated during CDFW's Scientific Collecting Permit rulemaking process:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157415&inline>

² CRPR 1B plants are considered rare, threatened, or endangered in California and elsewhere. Further information on CRPR ranks is available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>).