



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



November 2, 2022

Governor's Office of Planning & Research

NOV 2 2022

STATE CLEARING HOUSE

Ms. Mindy Fogg
County of Ventura
800 S. Victoria Ave.
Ventura, CA 93003
Mindy.Fogg@ventura.org

Subject: Tuscan Rose Ranch Temporary Outdoor Events, Mitigated Negative Declaration, SCH No. 2022090620; City of Santa Paula; Ventura County

Dear Ms. Fogg:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) from the County of Ventura (County) for the Tuscan Rose Ranch Temporary Outdoor Events Project (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW's 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 & Game Code, §§ 711.7, subdivision (a) & 1802]. 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). CDFW is charged 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 State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 *et seq.*). To the extent implementation of the Project as proposed may result in "take" of any species protected under the California Endangered Species Act (CESA; Fish & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project involves a modified Conditional Use Permit (CUP) to authorize temporary outdoor events on a 3.3-acre portion of a 35.96-acre parcel for a five-year term. As

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per the MND, there would be a maximum of 60 events per year. Maximum number of attendees would be 265 including guests and vendors. Events would occur Thursday through Sunday. Vendors would arrive no earlier than 9 am and guests no earlier than 4 pm. Music will end at 11 pm (Friday and Saturday) and at 10pm (Thursday and Sunday). Vendors and clean-up activities will conclude no later than 12 am (Friday and Saturday) or 11 pm (Thursday and Sunday). Guests will park within the 140 parking spaces onsite. Temporary canopies and tents may be utilized. Lighting used would be low-voltage and shielded downward, where necessary. A portable restroom trailer would be provided for events. The Project does not include permanent development or construction nor require grading.

Location: The Project site is at 13515 West Telegraph Road in Santa Paula, CA. The site is surrounded by agricultural land use. The Todd Barranca Tributary is ~800 feet to the west of the property. This tributary drains into the Santa Clara River which is ~1.4 miles southeast.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the County in adequately identifying, avoiding, and/or mitigating significant, or potentially significant, direct and indirect impacts on fish and wildlife biological resources based on the planned activities of this proposed Project. CDFW recommends the measures below be included in a science-based monitoring program with adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Impacts from daily operations

Issue: CDFW is concerned that the Project may impact sensitive special status species.

Specific Impact: The Project has the potential to impact several rare, threatened, and/or endangered species due to noise, lighting, and human activity. Impacts may disrupt or alter species behavior in the area. Species forced from their territory into adjacent habitat, which may be less suitable, may be at heightened risk of predation, starvation, or other injury.

Why impact would occur: The MND did conduct a noise study, but it was focused towards assessing potential impacts to the surrounding residences rather assessing impacts to biological resources. The Project did not extend the scope of the noise study to the Todd Barranca tributary which is approximately 800 feet to the west of the property. Least Bell's vireo is commonly found in dense scrubby vegetation within riparian scrub, upland scrub, riparian woodlands dominated by willow, and at the edge of agricultural fields (Cornell 2022, USGS 2018). Sound detection equipment should have been placed at the edge of the riparian area to assess whether Project activities would be within acceptable thresholds for wildlife. It is also unclear if the noise study, as conducted, will sufficiently address the total noise generated by onsite events. Additional noise from cars, patrons, and other factors were not considered in the noise assessment and could increase noise thresholds to levels that would affect wildlife in the surrounding area. Noise generated from events conducted onsite may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55-60 dB (Barber et al. 2009). Operations will be conducted at or near dusk and may conclude late

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into the night. Most wildlife species are most active during early morning hours and at dusk (NPS 2022). Thus, the operational activities of the Project may disrupt and alter behaviors necessary for survival for wildlife, including special status species.

Riparian areas bordering agricultural fields may provide roosting and foraging habitat for a variety of bird and bat species. Likewise, several ground dwelling species may be present in the area that may be impacted by noise and vibration. Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011). Moreover, increased ambient lighting levels can increase predation risks and disorientation and disrupt normal behaviors of wildlife in adjacent feeding, breeding, and roosting habitat (Longcore and Rich 2004).

According to the California Natural Diversity Database (CNDDDB) the following special status wildlife species have a high potential to occur around the Project site:

- CESA and Endangered Species Act (ESA-) listed least Bell's Vireo (*Vireo bellii pusillus*) (CDFW 2022a)
- Species of Special Concern (SSC) American Badger (*Taxidea taxus*) (CDFW 2022b)

Likewise, the following species have potential to occur around the Project site:

- SSC pallid bat (*Antrozous pallidus*)
- SSC burrowing owl (*Athene cunicularia*)
- SSC long eared owl (*Asio otus*)

Evidence impact would be significant: Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). CEQA provides protection not only for State and federally listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the County (CEQA Guidelines, § 15065). CDFW considers impacts to CESA-listed and SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures.

Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

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Recommended potentially feasible mitigation measure(s):

Mitigation Measure #1: The Applicant should perform protocol surveys for least Bell's vireo within the Todd Barranca tributary and where there is habitat for least Bell's vireo in the Project area. Least Bell's vireo is commonly found in dense scrubby vegetation within riparian scrub, upland scrub, riparian woodlands dominated by willow, and at the edge of agricultural fields (Cornell 2022, USGS 2018). Surveys should adhere to the U.S. Fish and Wildlife Service's (USFWS) 2001 [Least Bell's Vireo Survey Guidelines](#) (USFWS 2001). Per protocol guidelines, a final survey report (including negative findings) should be provided to USFWS and CDFW within 45 calendar days following the completion of the survey effort. A final survey report should be submitted to USFWS and CDFW prior to any Project-related ground disturbing activities and vegetation removal.

Mitigation Measure #2: To ensure Project activities are within thresholds which will not adversely affect wildlife, the MND should expand the scope of the noise analysis to the edge of the riparian vegetation associated with the Todd Barranca tributary. The study should be designed in a way to adequately assess potential impacts to wildlife (e.g. height considerations, placing near potential habitat). Sounds generated from any means should be below the 55-60 dB range within 50 feet from the source. The sound study should also take into consideration additional noise generated from the events and how it will impact ambient noise levels.

Mitigation Measure #3: Generators should not be used except for temporary use in emergencies. If generators are used, then noise suppression devices such as mufflers or enclosure for generators should be utilized. Unnecessary vehicle use, and idling time should be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously, its engine should be shut off. Lighting should be shielded and not spill over into adjacent riparian areas.

Recommendation #1: If impacts to least Bell's vireo cannot be avoided, the Applicant should consult CDFW and USFWS to obtain take authorization. Appropriate authorization from CDFW under CESA may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.

Additional Recommendations

Rodenticides. CDFW highly discourages the use of rodenticides and second-generation anticoagulant rodenticides due to their harmful effects on the ecosystem and wildlife. CDFW

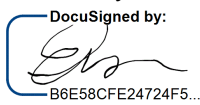
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recommends the Applicant include a mitigation measure prohibiting the use of such harmful materials.

Conclusion

We appreciate the opportunity to comment on the Project to assist the County in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the County has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Angela Castanon, Environmental Scientist, at Angela.Castanon@wildlife.ca.gov or (626) 513-6308.

Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP should reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Least Bell's Vireo Survey	The Applicant shall perform protocol surveys for least Bell's vireo within the Todd Barranca tributary and where there is habitat for least Bell's vireo in the Project area. Least Bell's vireo is commonly found in dense scrubby vegetation within riparian scrub, upland scrub, riparian woodlands dominated by willow, and at the edge of agricultural fields (Cornell 2022, USGS 2018). Surveys shall adhere to the USFWS 2001 Least Bell's Vireo Survey Guidelines (USFWS 2001). Per protocol guidelines, a final survey report (including negative findings) shall be provided to USFWS and CDFW within 45 calendar days following the completion of the survey effort. A final survey report shall be submitted to USFWS and CDFW prior to any Project-related ground disturbing activities and vegetation removal.	Prior to Project construction and activities	County of Ventura/ Applicant
MM-BIO-2- Noise Study	To ensure Project activities are within thresholds which will not adversely affect wildlife, the MND shall expand the scope of the noise analysis to the edge of the riparian vegetation associated with the Todd Barranca tributary. The study shall be designed in a way to adequately assess potential impacts to wildlife (e.g. height considerations, placing near potential habitat). Sounds generated from any means shall be below the 55-60 dB range within 50 feet from the source. The sound study shall also take into consideration	Prior to/During Project construction and activities	County of Ventura/ Applicant

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	additional noise generated from the events and how it will impact ambient noise levels.		
MM-BIO-3- Noise and Light	Generators shall not be used except for temporary use in emergencies. If generators are used, then noise suppression devices such as mufflers or enclosure for generators shall be utilized. Unnecessary vehicle use, and idling time shall be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously, its engine shall be shut off. Lighting shall be shielded and not spill over into adjacent riparian areas.	During Project construction and activities	County of Ventura/ Applicant
REC-1- Least Bell's Vireo- ITP	If noise generated from events held onsite impact ESA- and CESA-listed least Bell's vireo appropriate authorization from CDFW under CESA may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document shall also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Also, biological mitigation monitoring and reporting proposals shall be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.	Prior to Project construction and activities	County of Ventura/ Applicant

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REC-2- Rodenticides	CDFW highly discourages the use of rodenticides and second-generation anticoagulant rodenticides due to their harmful effects on the ecosystem and wildlife. CDFW recommends the Applicant include a mitigation measure prohibiting the use of such harmful materials.	During Project construction and activities	County of Ventura/ Applicant
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