



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Northern Region  
 601 Locust Street  
 Redding, CA 96001  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



December 20, 2022

Brian Briggs  
 Deputy General Counsel  
 Golden State Finance Authority  
 1215 K Street, Suite 1650  
 Sacramento, CA 95814  
[bbriggs@rcrcnet.org](mailto:bbriggs@rcrcnet.org)



**SUBJECT: REVIEW OF THE NOTICE OF PREPARATION FOR GOLDEN STATE NATURAL RESOURCES FOREST RESILIENCY DEMONSTRATION PROJECT, STATE CLEARINGHOUSE NUMBER 2022110466**

Dear Brian Briggs:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) for a Draft Environmental Impact Report (DEIR) for the Golden State Natural Resources Resiliency Demonstration Project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines.<sup>1</sup>

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). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent

<sup>1</sup> 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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implementation of the Project as proposed may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required. CDFW relies on the CEQA document prepared by the Lead Agency to make a finding and decide whether to issue a permit or agreement. It is important that the Lead Agency’s Environmental Impact Report (EIR) consider CDFW’s Responsible Agency recommendations. For example, CEQA requires CDFW to include additional feasible alternatives or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect a project would have on the environment (CEQA Guidelines section 15096(g)(2).

CDFW offers the following comments and recommendations on this Project in our role as a Trustee and Responsible Agency.

### **Project Description and Location**

The Project as proposed in the NOP is, “*The proposed project would improve the resiliency of California’s forestlands by sustainably procuring and processing excess biomass into a pelletized fuel source for use in renewable energy generation overseas. The proposed project components include the vegetation treatment activities (feedstock source); the transportation and storage of feedstock, and subsequent processing at two pellet processing facilities (one in the foothills of the Central Sierra Nevada Mountain range (Tuolumne facility) and one in the Modoc Plateau of Northern California (Lassen facility)).*” Herein after referred to as ‘Project’.

### **Comments and Recommendations**

To enable CDFW staff to adequately review and comment on the proposed Project, we recommend the following information be included in the DEIR, as applicable.

1. CDFW recommends a complete assessment of the flora and fauna be conducted within and adjacent to the Project areas, with particular emphasis upon identifying special-status species including rare, threatened, and endangered species. It is also recommended that locally unique species, rare natural communities, and wetlands be addressed in the DEIR. The assessment areas should be large enough to encompass areas potentially subject to both direct and indirect Project effects. It is beneficial for the Project footprint and the assessment area (if different) to be clearly defined and mapped in the DEIR.
  - a. CDFW recommends utilizing California Natural Diversity Data Base (CNDDDB) to obtain current information on previously reported sensitive

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species and habitat. To provide an adequate assessment of special-status species potentially occurring within the Project vicinity, CDFW recommends that the search area for CNDDDB occurrences include all United States Geological Survey (USGS) 7.5-minute topographic quadrangles with Project activities, and all adjoining 7.5-minute topographic quadrangles. It is recommended that the DEIR discuss how and when the CNDDDB search was conducted, including the names of each quadrangle queried, or why any areas may have been intentionally excluded from the CNDDDB query. Please note that CNDDDB is not an exhaustive and/or comprehensive inventory of all rare species and natural communities statewide. Field verification for the presence (or protocol level surveys to determine absence) of sensitive species is recommended. Likewise, contribution of data to the CNDDDB is equally important to the maintenance of the CNDDDB. Whenever possible, CDFW advises that data collected as part of Project studies be submitted using CNDDDB's online field survey form along with a map with rare populations or stands indicated.

- b. In addition to the CNDDDB, CDFW recommends that other electronic databases such as those maintained by the California Native Plant Society and U.S. Fish and Wildlife Service (USFWS) be queried. CDFW's Areas of Conservation Emphasis (ACE) viewer (<https://wildlife.ca.gov/Data/Analysis/Ace>) is also available to be consulted during EIR preparation. The ACE maps show the relative biological value of an area compared with all other areas across the state. ACE is a decision support tool used in conjunction with species-specific information and local-scale conservation prioritization analyses. The ACE maps do not replace the need for site-specific evaluation of biological resources, and it is not recommended to be used as the sole measure of conservation priority during planning.
- c. CDFW recommends review of previous biological technical reports and CEQA documents prepared for other projects in the vicinity, if applicable, to identify biological resources in the area and to perform a cumulative impacts analysis.
- d. CDFW recommends that a complete assessment of rare, threatened, and endangered invertebrate, fish, wildlife, reptile, and amphibian species be presented in the DEIR. CDFW advises that rare, threatened, and endangered species to be addressed include all those that meet the CEQA definition (see CEQA Guidelines section 15380). Seasonal variations in use of the Project area may also need to be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day

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when the species are active or otherwise identifiable, are recommended. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the USFWS. Links to some survey procedures are provided on CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

- e. Species of Special Concern (SSC) status applies to animals generally not listed under the federal Endangered Species Act or CESA, but which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist (see CEQA Guidelines section 15380 and CEQA Guidelines Appendix G (IV)(a)). CDFW recommends that SSC be considered during the environmental review process. CEQA (California Public Resources Code sections 21000-21177) requires state agencies, local governments, and special districts to evaluate and disclose impacts from 'projects' in the state. Section 15380 of the CEQA Guidelines clearly indicates that SSC should be included in an analysis of project impacts if they can be shown to meet the criteria of sensitivity (outlined therein).

Sections 15063 and 15065 of the CEQA Guidelines, which address how an impact is identified as significant, are particularly relevant to SSCs. Project-level impacts to listed (rare, threatened, or endangered species) species are generally considered significant thus requiring lead agencies to prepare an EIR to fully analyze and evaluate the impacts. In assigning 'impact significance' to populations of non-listed species, analysts usually consider factors such as population-level effects, proportion of the taxon's range affected by a project, regional effects, and impacts to habitat features.

- f. Fully Protected animals may not be taken or possessed at any time and CDFW is not authorized to issue permits or licenses for their incidental take<sup>2</sup>. Fully Protected animals may need to be considered during the environmental review process and incidental take must be avoided.
- g. CDFW recommends that a thorough assessment of rare plants and rare natural communities be conducted, following CDFW's March 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*.
  - i. The Tuolumne facility is located within the ranges of the state

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<sup>2</sup> Scientific research, take authorized under an approved NCCP, and certain recovery actions may be allowed under some circumstances; contact CDFW for more information.

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endangered and federal threatened Chinese Camp brodiaea (*Brodiaea pallida*) and the state and federal threatened Red Hills vervain (*Verbena californica*). During the appropriate the survey season, prior to any ground-disturbing activities, CDFW recommends the Tuolumne facility Project boundary be surveyed for special status plants by a qualified botanist following the appropriate protocol (refer to 1d). The protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary. Further, CDFW advises special-status plant species to be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species or to determine if the acquisition of an Incidental Take Permit pursuant to FGC section 2081(b) is necessary prior to conducting ground-disturbing activities in order to comply with CESA.

- h. CDFW recommends that a detailed vegetation map be prepared, preferably overlaid on an aerial photograph. The map should be of sufficient resolution to depict the locations of the Project site's major vegetation communities and show Project impacts relative to each community type. CDFW's preferred vegetation classification system is recommended to name the polygons; however, the vegetation classification ultimately used should be described in detail. Additional information for vegetation mapping can be found on CDFW's website (<https://www.wildlife.ca.gov/Data/VegCAMP>). CDFW advises that special status natural communities be specifically noted on the map.
- i. CDFW recommends that the DEIR include survey methods, dates, and results; and list all plant and animal species (with scientific names) detected within the Project assessment area. CDFW advises that special emphasis be directed toward describing the status of rare, threatened, and endangered species in all areas potentially affected by the Project. CDFW advises that all necessary biological surveys be conducted in advance of the DEIR circulation and not be deferred until after Project approval.

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2. CDFW recommends that a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, be included.
  - a. CDFW advises that the DEIR present clear thresholds of significance to be used by the Lead Agency in its determination of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect. (CEQA Guidelines section 15064.7)
  - b. CEQA Guidelines, section 15125 (a-e), state that knowledge of environmental conditions at both the local and regional levels is critical to an assessment of environmental impacts and that special emphasis shall be placed on resources that are rare or unique to the region.
  - c. Pursuant to CEQA Guidelines 15126.2 (a), impacts associated with initial Project implementation as well as long-term operation and maintenance of the Project should be addressed in the DEIR. CDFW advises that the DEIR describe anticipated maintenance activities and impacts and develop measures to avoid and minimize maintenance impacts.
  - d. CDFW advises that the DEIR consider future decommission of the facilities/staging areas associated with the Project and describe remedial efforts to restore habitat known to be present prior to Project initiation.
  - e. CDFW advises that the DEIR consider the increase in trucking activity and any indirect impacts associated with an increase in trucking activity traveling along rural highways to and from each of the facilities.
  - f. In evaluating the significance of the environmental effects of the Project, CDFW recommends the Lead Agency consider direct physical changes in the environment, which may be caused by the Project and reasonably foreseeable indirect physical changes in the environment, which may be caused by the Project, in addition to quantifying expected impacts (e.g., acres, linear feet, number of individuals taken, volume or rate of water extracted, parts per million of carbon emissions etc.).
  - g. CDFW advises that Project impacts be analyzed relative to their effects on off-site habitats and species. Specifically, this may include public lands, open space, downstream aquatic habitats, areas of groundwater depletion, or any other natural habitat or species that could be affected by the Project (CEQA Guidelines Appendix G (IV and IX).



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party responsible for meeting the success criteria and providing for long-term conservation of the mitigation site.

5. "Take" of species of plants or animals listed as endangered or threatened, or those that are candidates for listing as endangered or threatened under CESA, is unlawful unless authorized by CDFW. If the Project could result in take of any CESA-listed or candidate species and avoidance is not feasible, acquisition of an ITP would be warranted prior to any ground-disturbing activities to comply with CESA, pursuant to Fish and Game Code Section 2081(b). In addition, CDFW recommends that the DEIR quantify and describe the direct and indirect potential impacts to CESA-listed habitat and outline specific proposed mitigation measures to reduce impacts to less than significant.

a. CDFW recommends consulting with the USFWS on potential impacts to federal listed species including, but not limited to Chinese Camp brodiaea and Red Hills vervain. Take under the federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA 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. Consultation with the USFWS, to comply with FESA, is advised and may need to occur well in advance of any ground-disturbing activities.

6. **Riparian Habitat and Wetlands:** Riparian habitat and wetlands provide important habitat features for a wide variety of plant and wildlife species. Aerial photos show that swales and ponds are adjacent to and within the Project site. Projects that result in a net loss of acreage or habitat value of riparian habitat and wetlands are potentially significant, and CDFW has a no-net-loss policy regarding impacts to wetlands. Wetlands that have been inadvertently created by leaks, dams or other structures, or failures in man-made water systems are not exempt from this policy.

CDFW recommends that a formal wetland delineation be conducted by a qualified biologist to determine the location and extent of riparian habitat and wetland features on site. Please note that delineation is advised to identify both state and federal wetlands on the project site. It is important to note that while accurate delineations by qualified individuals have resulted in a quicker review and response from the United States Army Corps of Engineers (USACE) and CDFW, substandard or inaccurate delineations have resulted in unnecessary time delays for applicants due to insufficient, incomplete, or conflicting data. It is recommended that wetlands be designated on a site map and included in the DEIR.



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- a. Projects activities may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, as well as those that are perennial in nature. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement (LSA Agreement). If inadequate or no environmental review has occurred for Project activities that are subject to notification under Fish and Game Code 1602, CDFW will not be able to issue the Final LSA Agreement until CEQA analysis for the Project is complete. This may lead to considerable Project delays. Information on notification requirements through EPIMS may be obtained through CDFW's website at <https://www.wildlife.ca.gov/Conservation/LSA>.

For information on notification requirements associated with the Tuolumne facility, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593 or [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov).


7. 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. (Public Resources Code section 21003(e)). Please report any special status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

If you have any questions regarding Project activities associated with the Lassen facility, please contact Erika Iacona, Environmental Scientist, by electronic mail at [R1CEQARedding@wildlife.ca.gov](mailto:R1CEQARedding@wildlife.ca.gov).


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If you have any questions regarding Project activities associated with the Tuolumne facility, please contact Jim Vang, Environmental Scientist, by telephone at (559) 580-3203, or by electronic mail at [jim.vang@wildlife.ca.gov](mailto:jim.vang@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
1D82ADE7303A474...

Tina Bartlett, Regional Manager  
Northern Region

DocuSigned by:  
  
FA83F09FE08945A...

Julie A. Vance, Regional Manager  
Central Region

cc: State Clearinghouse  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

United States Fish and Wildlife Service  
Patricia Cole  
[patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov)

Erika Iacona  
[R1CEQARedding@wildlife.ca.gov](mailto:R1CEQARedding@wildlife.ca.gov)

Jim Vang  
[R4CEQA@wildlife.ca.gov](mailto:R4CEQA@wildlife.ca.gov)