

APPENDIX A:
COMMENT LETTERS





State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



February 24, 2023

Kim Voge, Planner III
Town of Windsor
9291 Old Redwood Highway
Windsor, CA, 95492
kvoge@townofwindsor.com

Subject: Hembree Lane Oaks Subdivision Project, Mitigated Negative Declaration,
SCH No. 2023020001, Town of Windsor, Sonoma County

Dear Ms. Voge:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the Town of Windsor (Town) for the Hembree Lane Oaks Subdivision Project (project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the Town, 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 (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Falcon Point Associates and DRG Builders

Objective: The project would include the development of 24 single-family dwelling units, each with a one- or two-car garage. Five units would have an attached accessory dwelling unit. Each dwelling unit would be two stories, for a height ranging between 26 and 29 feet at the roofline. The project would also include two street extensions, creek

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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restoration, landscaping, and a walking path within dedicated open space. The site is currently undeveloped and covered in a mix of vegetation, including mature trees.

Location: The project is located at 7842 Hembree Lane in the Town of Windsor, Sonoma County, California. The project site is on an Assessor's Parcel Number 163-080-047 in the Healdsburg, California, United States Geographical Survey 7.5-minute Topographic Quadrangle Map, Township 8 North, Range 8 West, Section 18 (Latitude 38.535897° North; Longitude -122.795240° West).

REGULATORY REQUIREMENTS

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, or CESA candidate species, either during construction or over the life of the project. **The project has the potential to result in take of Crotch bumblebee (*Bombus crotchii*), a candidate species, and Sonoma sunshine (*Blennosperma bakeri*), Sebastopol meadowfoam (*Limnathes vinculans*), Burke's goldfields (*Lasthenia burkei*), and many-flowered navarretia (*Navarretia leucocephala* ssp. *plieantha*), which are listed as endangered species, as further described below.** 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, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA ITP.

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may 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. **The project would fill an unnamed drainage, remove riparian vegetation, and restore portions of an existing creek; therefore, an LSA Notification is warranted. Thank you for including a mitigation measure requiring the project to obtain an LSA Agreement prior to impacting these features.** CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

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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).

Raptors and Other Nesting Birds

CDFW 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.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Town 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 an MND is appropriate for the project. **Attachment 1** includes a Draft Mitigation Monitoring and Reporting Program for CDFW's recommended mitigation measures.

Mandatory Findings of Significance: Does the project have the potential to substantially reduce the number or restrict the range of a rare or endangered plant or animal?

Environmental Setting and Mitigation Measures and Related Impact Shortcoming

COMMENT 1: Page 4-27

Issue: The MND indicates that wetlands within the project site have the potential to support four CESA and federally listed as endangered plants: Sonoma sunshine, Burke's goldfields, many-flowered navarretia, and Sebastopol meadowfoam; however, these species were not detected during surveys. Burke's goldfields has been documented 0.6 miles south of the project site (California Natural Diversity Database [CNDDDB] Occurrence Number 7).

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The Santa Rosa Plain Conservation Strategy, Appendix D: *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain* (<https://www.fws.gov/library/collections/santa-rosa-plain-conservation-strategy>) and CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) provide guidelines for acceptable survey documentation for protocol-level surveys for CESA and federally listed plants on the Santa Rosa Plain. According to Appendix C of the MND, rare plant surveys were conducted in 2006, 2008, and 2022. It appears the surveys in 2022 were conducted according to the Santa Rosa Plain Conservation Strategy and CDFW 2018 protocols and provided acceptable documentation. However, Appendix C of the MND provides only partial documentation for surveys conducted in 2006 and 2008. Appendix C of the MND also states, "Details (plant list, habitat mapping, field notes) of the botanical surveys are available upon request." Given that a full report of the protocol-level surveys was not provided, it is unclear if surveys were conducted according to the Santa Rosa Plain Conservation Strategy and CDFW 2018 protocols.

Specific impacts and why they may occur and be significant: If CESA and federally listed plants that may be impacted by the project go undetected, the project may result in mortality of individuals from direct impacts or degradation of habitat adjacent to ground disturbance. CESA and federally listed plant mentioned above are considered endangered under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if CESA and federally listed plants are present on or adjacent to the project site where they may be directly or indirectly impacted, the project may substantially reduce the number or restrict the range of these species, which would be a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended mitigation measure: For an adequate environmental setting and to reduce impacts to Sonoma sunshine, Sebastopol meadowfoam, Burke's goldfields, and many-flowered navarretia to less-than-significant, and to comply with CESA, CDFW recommends including the following mitigation measure in the MND.

MM-BIO-1. The project shall submit to CDFW two years of completed botanical survey results and obtain CDFW's written approval of the results. The botanical survey results shall follow CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* and the Santa Rosa Plain Conservation Strategy, Appendix D: *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain*. If CDFW is unable to accept the survey results, the project applicant shall conduct additional surveys prior to initiation of project activities or may assume presence of Sonoma sunshine, Burke's

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goldfields, many-flowered navarretia, and Sebastopol meadowfoam. Please be advised that for CDFW to accept the results, they should be completed in conformance with CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* and the Santa Rosa Plain Conservation Strategy, Appendix D: *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain*, including, but not limited to, conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts such as altering off-site hydrological conditions where the above species may be present. Surveys conducted during drought conditions may not be acceptable. If the botanical surveys result in the detection of the above CESA listed plants that may be impacted by the project, or the presence of these species is assumed, the project shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP.

COMMENT 2: Pages 4-37 – 4-38

Issue: The project would result in permanent impacts to grassland and oak woodland habitats, which may be suitable to support Crotch bumblebee. The MND indicates that special-status bumblebee species such as Crotch bumblebee may be present within the project site. The project site contains flowering plants that may serve as food sources and undisturbed potential nesting habitat for Crotch bumblebee. The MND provides a mitigation measure for bumblebees; however, the measure does not require surveys for them or the project to obtain a CESA ITP for impacts to Crotch bumblebee which is a CESA candidate species.

Specific impacts and why they may occur and be significant: If Crotch bumblebee are present on or adjacent to the project site and go undetected, the project may result in mortality of individuals from direct impacts or degradation of habitat adjacent to ground disturbance. As a CESA candidate species, Crotch bumblebee is considered threatened, endangered, or rare under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if Crotch bumblebee are present on or adjacent to the project site where they may be directly or indirectly impacted, the project may substantially reduce the number or restrict the range of this species, which would be a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended mitigation measure: For an adequate environmental setting and to reduce impacts to Crotch bumblebee to less-than-significant, and to comply with CESA, CDFW recommends including the following mitigation measure in the MND.

MM-BIO-2. All ground-disturbing work, including, but not limited to, staging of equipment on bare soil, grass, or other vegetation and trenching to remove

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underground infrastructure such as water and sewer lines, shall take place between the period of October 15 to March 15. This period has been developed using local Crotch bumble bee data and may not be applicable to other regions or projects. If ground-disturbing work must occur between March 16 and August 14, a minimum of three focused surveys for Crotch bumblebee, spaced at least three weeks apart and with at least one survey occurring during the peak flight season of Crotch bumble bee and at least one survey occurring during the peak bloom period for the site, shall be conducted prior to the start of ground-disturbing activities. The biologist conducting the survey and the survey protocol must be approved in writing by CDFW prior to the survey. The Project shall submit a survey report to CDFW prior to ground-disturbing work and shall notify CDFW within 24 hours if Crotch bumblebee or other special-status bumblebees are detected. The project shall obtain a CESA ITP from CDFW if impacts to Crotch bumblebee cannot be avoided.

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 U.S. Fish and Wildlife Service?

Environmental Setting and Mitigation Measures, and Related Impact Shortcoming

COMMENT 3: Pages 4-30 – 4-31

Issue: The project is within the wintering distribution of burrowing owl (*Athene cunicularia*) and contains and is adjacent to grasslands that may be suitable wintering habitat for the species (Klute et al. 2003). Burrowing owls have been documented overwintering in the project vicinity (CNDDDB Occurrence Number 2023). Appendix C to the MND indicates that burrowing owl would not be impacted by the project because no suitably sized burrows or evidence of potential burrows are present on or immediately adjacent to the project site. However, suitable burrows may be excavated within a single day by, for example, American badger (*Taxidea taxus*) (Ministry of Environment Ecosystems 2007 as cited in Brehme et al. 2015). Additionally, burrowing owls can be impacted up to 500 meters or 1,640 feet away from a project from auditory and visual disturbances and may utilize burrow surrogates, such as culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures (CDFW 2012). Therefore, the absence of natural burrows does not necessarily exclude burrowing owls.

Specific impacts and why they may occur and be significant: If burrowing owls that may be impacted by the project are not detected, the project may result in reduced health and vigor, or mortality, of owls from direct impacts to occupied

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wintering habitat or from wintering burrow abandonment caused by auditory and visual disturbances. Burrowing owl is a California Species of Special Concern and protected under Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act. Therefore, if wintering burrowing owls are present on or within 1,640 feet of the project site, project impacts to burrowing owl would be *potentially significant*.

Recommended mitigation measure: For an adequate environmental setting and to reduce impacts to burrowing owl to less-than-significant, CDFW recommends implementing following mitigation measure:

MM-BIO-3. If the project occurs during the burrowing owl wintering season from September 1 to January 31, prior to project activities a qualified biologist shall conduct a habitat assessment several months prior to the start of construction, and if habitat is present shall conduct surveys, in accordance with the California Department of Fish and Game (now CDFW) *2012 Staff Report on Burrowing Owl Mitigation* (CDFW 2012 Staff Report, available at <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) habitat assessment and survey methodology. The habitat assessment and survey area shall encompass a sufficient buffer zone to detect owls nearby that may be impacted, which shall be a minimum of 1,640 feet where suitable habitat occurs, unless otherwise approved in writing by CDFW. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, including, but not limited to, a final survey within 24 hours prior to ground disturbance and before construction equipment mobilizes to the project area. If the habitat assessment does not identify suitable habitat and surveys are not conducted, an additional habitat assessment shall be conducted within 14 days prior to construction and if new refugia are present surveys shall be conducted as described above, unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections.

Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site specific conditions, and completed before project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and preparation, implementation, and funding of a long-term management plan prior to project construction.

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COMMENT 4: Page 4-34

Issue: Mitigation Measure BIO-1a requires a pre-construction nesting bird survey within 100 feet of the project site, which may not be adequate to avoid impacts to special-status and common nesting birds such as white-tailed kite, a California Fully Protected species.

Recommended mitigation measure: To reduce impacts to nesting birds to less-than-significant, CDFW recommends implementing the following measure:

MM-BIO-4. If construction, grading, vegetation removal, or other project-related activities are scheduled during the nesting season, February 1 to August 31, a qualified biologist shall conduct a survey for active bird nests within 5 days prior to the beginning of project-related activities. The survey shall consist of the entire project site and a minimum 500-foot buffer. If a lapse in project-related work of 5 days or longer occurs, another survey shall be conducted before project work can be reinitiated. If an active nest is found during surveys, the qualified biologist shall establish site- and species-specific no-work buffers to ensure the nest is not disturbed. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.

The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

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<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>.

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 Town 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 Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse, Sacramento

REFERENCES

Brehme, C.S., S.A. Hathaway, R. Booth, B.H. Smith and R.N. Fisher. 2015. Research of American Badgers in Western San Diego County, 2014. Data Summary prepared for California Department of Fish and Wildlife and the San Diego Association of Governments. 24pp. (42pp. with Appendix)

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California Department of Fish and Wildlife (formerly California Department of Fish and Game). 2012. Staff Report on Burrowing Owl Mitigation. Available online at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

Klute, D. S., L. W. Ayers, M. T. Green, W. H. Howe, S. L. Jones, J. A. Shaffer, S. R. Sheffield, and T. S. Zimmerman. 2003. Status Assessment and Conservation Plan for the Western Burrowing Owl in the United States. U.S. Department of Interior, Fish and Wildlife Service, Biological Technical Publication FWS/BTPR6001-2003, Washington, D.C.

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ATTACHMENT 1

Draft Mitigation Monitoring and Reporting Program

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM-BIO-1. The project shall submit to CDFW two years of completed botanical survey results and obtain CDFW's written approval of the results. The botanical survey results shall follow CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities and the Santa Rosa Plain Conservation Strategy, Appendix D: Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain. If CDFW is unable to accept the survey results, the project applicant shall conduct additional surveys prior to initiation of project activities or may assume presence of Sonoma sunshine, Burke's goldfields, many-flowered navarretia, and Sebastopol meadowfoam. Please be advised that for CDFW to accept the results, they should be completed in conformance with CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities and the Santa Rosa Plain Conservation Strategy, Appendix D: Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain, including, but not limited to, conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts such as altering off-site hydrological conditions where the above species may be present. Surveys conducted during drought conditions may not be acceptable. If the botanical surveys result in the detection of the above CESA listed plants that may be impacted by the project, or the presence of these species is assumed, the project shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP.</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p>MM-BIO-2. All ground-disturbing work, including, but not limited to, staging of equipment on bare soil, grass, or other vegetation and trenching to remove underground infrastructure such as water and sewer lines, shall take place between the period of October 15 to March 15. This period has been developed using local Crotch bumble bee data and may not be applicable to other regions or projects. If ground-disturbing work must occur between March 16 and August 14, a minimum of three focused surveys for Crotch bumblebee, spaced at least three weeks apart and with at least one survey occurring during the peak flight season of Crotch bumble bee and at least one survey occurring during the peak bloom period for the site, shall be conducted prior to the start of ground-disturbing activities. The biologist conducting the survey and the survey protocol must be approved in writing by CDFW prior to the survey. The Project shall submit a survey report to CDFW prior to ground-disturbing work and shall notify CDFW within 24 hours if Crotch bumblebee or other special-status bumblebees are detected. The project shall obtain a CESA ITP from CDFW if impacts to Crotch bumblebee cannot be avoided.</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>
<p>MM-BIO-3. If the project occurs during the burrowing owl wintering season from September 1 to January 31, prior to project activities a qualified biologist shall conduct a habitat assessment several months prior to the start of construction, and if habitat is present shall conduct surveys, in accordance with the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available at https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds) habitat assessment and survey methodology. The habitat assessment and survey area shall encompass a sufficient buffer zone to detect owls nearby that may be impacted, which shall be a minimum of 1,640 feet where suitable habitat occurs, unless otherwise approved in writing by CDFW. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, including, but not limited to, a final survey within 24 hours prior to ground disturbance and before construction equipment mobilizes to the project area. If the habitat assessment does not identify suitable habitat and surveys are not conducted, an additional habitat</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p>assessment shall be conducted within 14 days prior to construction and if new refugia are present surveys shall be conducted as described above, unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections.</p> <p>Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site-specific conditions and completed before project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and preparation, implementation, and funding of a long-term management plan prior to project construction.</p>		
<p>MM-BIO-4. If construction, grading, vegetation removal, or other project-related activities are scheduled during the nesting season, February 1 to August 31, a qualified biologist shall conduct a survey for active bird nests within 5 days prior to the beginning of project-related activities. The survey shall consist of the entire project site and a minimum 500-foot buffer. If a lapse in project-related work of 5 days or longer occurs, another survey shall be conducted before project work can be reinitiated. If an active nest is found during surveys, the qualified biologist shall establish site- and species-specific no-work buffers to ensure the nest is not disturbed. The buffer distances shall be specified to protect the bird’s normal behavior to prevent nesting failure or abandonment. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p>(nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.</p> <p>The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.</p>		
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From: [Roman, Isabella@DTSC](mailto:Roman.Isabella@DTSC)
To: [Kim Voge](#)
Subject: Hembree Lane Oaks Project IS Comment
Date: Wednesday, March 1, 2023 12:14:52 PM

Hello,

I represent the Department of Toxic Substances Control (DTSC) reviewing the Initial Study (IS) for the Hembree Lane Oaks Project.

The IS states that the site was used as an orchard from at least 1933 to 1983. The IS states the following: "While information regarding past agricultural uses at the orchard was not available, it is likely that industry-standard agricultural chemicals and fertilizers were applied to the orchard consistent with recommended practices." No information was available for review, yet an assumption was made that best practices were implemented and therefore there is no risk to public health or the environment. Past land uses could have resulted in hazardous materials releases within the project area that should be investigated for public health protection. Past land uses typically indicate the need for conducting a Phase 2 Environmental Site Assessment or other environmental sampling activities.

Please feel free to reach out if you have any questions or concerns.

Sincerely,



Isabella Roman (she/her/hers)
Environmental Scientist
Site Mitigation and Restoration Program
(510)-540-3879
Isabella.Roman@dtsc.ca.gov
Department of Toxic Substances Control
700 Heinz Avenue, Berkeley, California 94710
California Environmental Protection Agency

-----Original Message-----

[REDACTED]
Sent: Wednesday, March 1, 2023 4:36 PM
To: Kim Voge <kvoge@townofwindsor.com>
Subject: Hembree Lane Oaks

I reside directly adjacent to the proposed Hembree Lane Oaks development on Meadowlark Way in the subdivision Country Meadow built by Gardner Construction 35 years ago. After speaking with Ms. Voge a few days ago, she advised me to make known to the council and the developer about our concern with respect to grading. The grading that was done and passed inspection in 1988 left some homes in this development with the problem of standing water beneath our homes requiring sump-pumps in inclement weather. This remains so as of today and could possibly affect the homes adjacent when built as there is considerable standing water out there today. I would like you to speak to this concern and also answer the following questions.

1) Since the Town of Windsor will own the proposed open space, there will now be additional costs to be considered such as Mosquito Abatement and upkeep required by the fire department to avoid fires to name a few. I have been told that this will be taxed to the new home owners on this property. Is this correct?

2) It is the plan to cut down 160 plus trees for this development, many-old growth trees among them. Please advise who will receive the revenue for the lumber this will provide.

Over the years there have been many proposals for this land and in the past the council has been outspokenly opposed to accepting any offering of open space for a waiver of tree in-lieu fees and understandably so because we already have a lovely park immediately adjacent. I am not opposed to this development but I do not feel the council has done right for the residents of Windsor with respect to the trees

Valarie Meldahl