



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 12, 2023

Jill Miller
City of Salinas
65 West Alisal St, Second Floor
Salinas, California 93901

**Subject: Ferrasci Business Center Specific Plan (Project)
Notice of Preparation (NOP)
SCH No. 2023050262**

Dear Jill Miller:

The California Department of Fish and Wildlife (CDFW) received a NOP from the City of Salinas for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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, CDFW appreciates 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 Fish and Game Code. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

CDFW 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 & 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

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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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 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.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest 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).

PROJECT DESCRIPTION SUMMARY

Proponent: City of Salinas

Objective: The project is being proposed in response to an urban development opportunity identified in the City of Salinas Economic Development Element (EDE). The 140-acre specific plan area largely overlaps the 162-acre boundary of "Target Area K" as identified in the EDE. With the City's approval of the EDE as a general plan amendment in 2017, Target Area K was designated for future retail and business park development and was also designated as a Future Growth Area in the City of Salinas General Plan. The Salinas Economic Development Element Program Environmental Impact Report (EDE EIR) evaluated the impacts of implementing the EDE, including developing Target Area K with up to approximately 1,820,808 square feet of retail and business park uses.

Location: The approximately 140-acre project site (specific plan boundary) is located contiguous to the northeastern Salinas city limits in unincorporated Monterey County. The site is generally bound by U.S. Highway 101 on the west, agricultural fields on the north, agricultural fields and a school on the east, and Russell Road on the south.

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Timeframe: n/a

COMMENTS AND RECOMMENDATIONS

Special-Status Species: Due to the Project's location in the Salinas area, there is the potential for the Project to impact State-listed species. Records from the California Natural Diversity Database (CNDDDB) show that the following special-status species could be impacted: the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State candidate threatened Crotch bumblebee, the State threatened tricolor blackbird (*Agelaius tricolor*), the fully protected white-tailed kite (*Elanus leucurus*) and golden eagle (*Aquila chrysaetos*), and the State species of special concern American badger (*Taxidea taxus*) and burrowing owl (*Athene cunicularia*). If take could occur as a result of Project ground-disturbing activities, consultation with CDFW may be warranted. CDFW advises that the draft EIR include and address the above-mentioned species.

California Tiger Salamander

The State listed threatened California tiger salamander (CTS) have the potential to be present in the Project site, and CDFW has jurisdiction over this species under CESA. CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011) and have been documented to occur near the Project site (CDFW 2023). Aerial photographs show that suitable upland refugia exists within the Project site and CDFW believes CTS could potentially be impacted due to ground disturbance such as discing, ripping, or grading associated with the Project if the appropriate avoidance, minimization, and mitigation measures are not implemented.

- As part of the biological studies conducted in support of the CEQA document, CDFW recommends: potential Project -related impacts to this species in and surrounding the Project footprint be analyzed by a qualified biologist using the *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander*, which were issued by CDFW and the USFWS in 2003. Protocol surveys should be conducted for this project and the protocol requires that surveys be conducted during at least two seasons, with sufficient precipitation, to be considered complete.
- If CTS are found on the Project site, "take" authorization would occur through the issuance of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b). In the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and immediately focus on obtaining an ITP. For information regarding ITPs, please see the following link:

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<https://www.wildlife.ca.gov/Conservation/CESA>. Included in the ITP would be measures required to avoid and/or minimize direct “take” of CTS on the Project site, as well as measures to fully mitigate the impact of the “take.”

Crotch Bumblebee

CNDDDB records indicate that the Project site is within the habitat range of Crotch bumblebee (CBB). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, potential ground disturbance and vegetation removal associated with Project implementation may significantly impact local CBB populations.

- CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the CEQA document to determine if the project areas or the immediate vicinity contain potential habitat for CBB. If potential habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.
- If suitable CBB habitat exists in areas of planned Project-related ground disturbance, equipment staging, or materials laydown, potential CBB nesting sites in these areas would have to be avoided to reduce to less-than-significant the Project-related impacts to the species.
- CBB detection warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an ITP prior to ground disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

Tricolored Blackbird (TRBL)

According to aerial photos and CNDDDB, the project site is adjacent to agricultural fields and is within the habitat range for Tricolor blackbird (TRBL) thus there is the potential for TRBL to nest within and adjacent to the Project site (CDFW 2023). Without appropriate avoidance and minimization measures for TRBL, potential significant impacts include nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

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TRBL are known to nest in alfalfa, wheat, and other low agricultural crop fields. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014). Approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). Increasingly, TRBL are forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). In 2017, approximately 30,000 TRBL were distributed among only 16 colonies in Merced County (Meese 2017). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Meese et al. 2014). CDFW recommends the following avoidance and minimization measures be incorporated into the draft EIR that will be prepared for this Project.

- CDFW recommends that construction be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a survey for suitable habitat be conducted as part of the biological technical studies conducted in support of the CEQA document by a qualified wildlife biologist with knowledge of TRBL natural history and behaviors.
- If suitable habitat is present, CDFW recommends a qualified wildlife biologist conduct focused surveys for nesting TRBL as part of the biological technical studies conducted in support of the CEQA document and then repeat those surveys no more than 10 days prior to the start of ground-disturbing activities.
- If an active TRBL nesting colony is found during the biological technical studies or pre-activity surveys, CDFW recommends implementation of a minimum 300-foot nodisturbance buffer around the colony in accordance with CDFW's "*Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015*" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time. For this reason, CDFW also recommends conducting pre-activity surveys of an identified nesting colony within 10 days prior to the start of ground or vegetation disturbing activities to reassess the colony's areal extent.
- If a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground disturbing activities.

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White-tailed Kite and Golden Eagle

According to CNDDDB (CDFW 2023) these State fully-protected species have the potential to occur in the vicinity of the Project site. To avoid potential project-related impacts to the species, CDFW recommends the Lead Agency require a qualified avian biologist conduct surveys for nesting white-tailed kites and golden eagles prior to commencing Project-related activities to reasonably assure CDFW that take of this species will not occur as a result of disturbance associated with Project implementation. CDFW recommends surveys be conducted for a ½ mile radius around all project activities.

CDFW recommends a minimum no-disturbance buffer of ½ mile be delineated around active nests of white-tailed kites or golden eagle until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. CDFW advises the Lead Agency not to allow reductions in no-disturbance buffer size for white-tailed kites, golden eagles, or any fully protected bird species absent a compelling biological or ecological reason to do so. In the event that white-tailed kites or golden eagles are detected during surveys, consultation with CDFW is warranted to discuss Project implementation and take avoidance.

State Species of Special Concern

Burrowing owl (BUOW) and American badger have the potential to occur in the Project area. These species have been documented to occur in the vicinity of the Project site, which supports requisite habitat elements (CDFW 2023).

CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the CEQA document to determine if the project areas or the immediate vicinity contain potential habitat for the species mentioned above. If potential habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around dens of mammals like the American badger as well as the entrances of burrows that can provide refuge for special-status small mammals.

If suitable habitat for BUOW is present CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys as part of the biological technical studies conducted in support of the CEQA document following the California Burrowing Owl Consortium's Burrowing Owl Survey Protocol

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and Mitigation Guidelines (CBOC 1993) and CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012). Specifically, if suitable habitat is present at an individual Project site, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

If BUOW are detected, CDFW recommends no-disturbance buffers, as outlined in the Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

Nesting birds

CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), the Project applicant is responsible for ensuring that implementation of the Project does

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not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a general habitat assessment for nesting birds be conducted as part of the biological technical studies conducted in support of the CEQA document. Depending on the results of that assessment, CDFW further recommends that the CEQA document for this Project include that a qualified wildlife biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CNDDDB: Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project area.

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Project Alternatives Analysis: CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the project's CEQA document be used to develop and modify the project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources may need to be mitigated to reduce impacts to a less than significant level, if feasible.

Cumulative Impacts: CDFW recommend that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e. less than significant). CDFW recommends cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Lake and Stream Alteration: The Project 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 the project proponent 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. For additional information on notification requirements, please contact our staff in the LSA Program at (559) 243-4593, or R4LSA@wildlife.ca.gov.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander. 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 in order to comply with FESA is advised well in advance of any ground disturbing activities.

CDFW is available to meet with you ahead of draft EIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that may be

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analyzed in the EIR. If you have any questions, please contact Evelyn Barajas-Perez, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at Evelyn.Barajas-Perez@Wildlife.ca.gov.

Sincerely,

DocuSigned by:

Bob Stafford

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Bob Stafford for Julie A. Vance
Regional Manager

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LITERATURE CITED

- CDFG. 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game.
- California Department of Fish and Wildlife (CDFW). 2015. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015. March 19, 2015.
- CDFW, 2023. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed May 24, 2023.
- Goulson, D. 2010. *Bumblebees: behaviour, ecology, and conservation*. Oxford University Press, New York. 317pp.
- Hatfield, R., Jepsen, S., Thorp, R., Richardson, L. & Colla, S. 2015. *Bombus crotchii*. The IUCN Red List of Threatened Species.
- Kelsey, R. 2008. Results of the tricolored blackbird 2008 census. Report submitted to U.S. Fish and Wildlife Service, Portland, OR, USA.
- Meese, R. J., E.C. Beedy, and W.J. Hamilton, III. 2014. Tricolored blackbird (*Agelaius tricolor*), The Birds of North America (P. G. Rodewald, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America: <https://birdsna-org.bnaproxy.birds.cornell.edu/Species-Account/bna/species/tribla>. Accessed December 15, 2017.
- Meese, R.J. 2017. Results of the 2017 Tricolored Blackbird Statewide Survey. California Department of Fish and Wildlife, Wildlife Branch, Nongame Wildlife Program Report 2017-04, Sacramento, CA. 27 pp. + appendices.
- Orians, G.H. 1961. The ecology of blackbird (*Agelaius*) social systems. *Ecol. Monogr.* 31:285-312.
- United States Fish and Wildlife Service (USFWS). 2003. Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander, October 2003.
- Searcy, C.A. and H.B. Shaffer. 2011. Determining the migration distance of a vagile vernal pool specialist: How much land is required for conservation of California tiger salamanders? *In* Research and Recovery in Vernal Pool Landscapes, D. G. Alexander and R. A. Schlising, Eds. California State University, Chico, California.

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Weintraub, K., T.L. George, and S.J. Dinsmore. 2016. Nest survival of tricolored blackbirds in California's Central Valley. *The Condor* 118(4): 850–861.

Williams, P. H., R. W. Thorp, L. L. Richardson, and S .R. Colla. 2014. *Bumble bees of North America: An Identification guide*. Princeton University Press, Princeton, New Jersey. 208pp.

Attachment 1

**MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MEASURES**

**PROJECT: Ferrasci Business Center
SCH No.: 2023050262**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: CTS Surveys	
Mitigation Measure 2: CTS Take Authorization	
Mitigation Measure 3: CBB Habitat Assessments	
Mitigation Measure 5: CBB Take Authorization	
Mitigation Measure 6: TRBL Habitat Assessment	
Mitigation Measure 7: TRBL Surveys	
Mitigation Measure 9: White-tailed Kite and Golden Eagle Surveys	
Mitigation Measure 11: Species of Special Concern Habitat Assessments	
<i>During Construction</i>	
Mitigation Measure 4: CBB Avoidance	
Mitigation Measure 8: TRBL Avoidance	
Mitigation Measure 10: White-tailed Kite and Golden Eagle Avoidance	
Mitigation Measure 12: Species of Special Concern Avoidance	