



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Northern Region
 601 Locust Street
 Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



July 3, 2023

Matt May
 Lassen County Planning and Building
 707 Nevada Street, Suite #5
 Susanville, CA 96130
mmay@co.lassen.ca.us

SUBJECT: REVIEW OF PLANNED DEVELOPMENT #2022-001 AND PARCEL MAP #2022-004, STATE CLEARINGHOUSE NUMBER 2023060141, LASSEN COUNTY

Dear Matt May:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study and Mitigated Negative Declaration (ISMND) dated May 2023 for the above-referenced project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines¹.

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 & 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 may also act 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. Likewise, "take" authorization, as outlined by the applicable Fish and Game code, may be required if 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.), or state listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish and G. Code § 1900 et seq.).

¹ CEQA is codified in the California Public Resources Code in §§ 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with §§ 15000.

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Project Summary

The Project, as described in the ISMND, is as follows:

“Planned Development, and Tentative Parcel Map (creating 4 parcels) for an undeveloped 29.72 -acre parcel near Clear Creek Ca. Proposed onsite developments include; two building sites for future residences (proposed parcels 3 and 4), an equestrian arena and barn (proposed parcel 3), one commercial property for proposed Bakery/Coffee Shop employing 3-4 people (proposed parcel 1), and a 10 space, full service (water, sewer, and power hookups) Recreational Vehicle (RV) park. All proposed development is within building sites indicated on sheet 3 of the proposed map. The remaining portions of the proposed parcels outside of the identified building sites will be preserved as open space.”

Comments and Recommendations

CDFW responded to an early consultation request from Lassen County in July 2022, which highlights the potential for special-status plants and wildlife within and adjacent to the Project area. CDFW does not believe Lassen County has taken the appropriate steps to thoroughly assess, disclose and avoid/minimize potentially significant impacts to biological resources therefore, CDFW has the following comments and recommendations. Please note, comments included in CDFW’s July 2022 early consultation letter remain relevant.

Biological Resources Assessment

The ISMND lists 18 rare plants and 14 special status wildlife species known to occur in the Westwood West quadrangle according to the California Native Plant Society and the California Natural Diversity Database (CNDDDB). The ISMND states “*none of the status species listed are known to be present on the site*”, however, the ISMND does not state on what basis that conclusion is drawn (i.e., was a biological habitat assessment prepared or were protocol level biological surveys performed?). Therefore, it is presumed that this statement of presence was made from the lack of positive observations reported to CNDDDB specific to this location. As a reminder, and as our July 2022 early consultation letter states, CNDDDB is a positive-sighting database and does not predict where a species may be found. CNDDDB is not a state-wide, comprehensive database and it’s likely that this privately owned parcel has not been previously surveyed for special-status species and habitats. CDFW reiterates the necessity for a biological habitat assessment and supplemental protocol surveys to accurately identify potentially significant impacts to biological resources, prior to finalizing the ISMND.

Rare Plants

Several of the 18 rare plant species known to occur within the Westwood West

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quadrangle have potential to occur based on habitat and geographic characteristics of the Project area. Many of which bloom June through August and were unlikely to be identified during the May site visit mentioned in the ISMND.

CDFW has concerns that the Project may have direct and/or indirect impacts on rare plants and their habitat, of which may be potentially significant, if appropriate avoidance, minimization, and/or mitigation measures for these species are not adopted. The ISMND states “...*prior to construction or ground disturbing activity and/or issuance of Authorization to Operate, a qualified Biologist prepare biological assessment which includes the following: a description of the natural environment at the site, a list special status plants and wildlife.*” While CDFW supports an assessment of rare plants and sensitive resources prior to initiation of ground-disturbing activities, there is potential for direct and indirect impacts to these species with Project implementation therefore, an assessment and any appropriate avoidance and minimization measures to offset impacts should be included in the final ISMND, as similarly recommended in our July 2022 early consultation letter.

If rare plants are found on or near the footprint of the Project, CDFW recommends the final ISMND provide species-specific measures to avoid and reduce impacts to less than significant. This may include flagging the perimeter of populations; no-work buffers around plants and/or populations (e.g., flagged perimeter plus 10 or more feet); restrictions on ground disturbing activities within protected areas; relocation of staging and other material piling areas away from protected areas; restrictions on herbicide use and/or type of herbicide and/or application method within 100 feet of sensitive plants; and worker education and training.

For rare plants that cannot be avoided, CDFW recommends the consideration of seed collection and spread, and/or topsoil collection. It is encouraged to also include a discussion of the specific methods chosen for the offset of impacts, provide a map showing which plants or populations will be impacted, provide a table that clearly documents the number of plants and acres of supporting habitat impacted, and plant composition (e.g., density, cover, abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, abundance of each species) in the final ISMND.

Special Status Wildlife

The ISMND states “*No rare, threatened, or endangered species pursuant to the U.S. and State of California Endangered Species Act are known to populate/have been observed on the subject parcels*”. Based on habitat and geographic characteristics of the Project area, several of the 14 special status wildlife species known to occur within the Westwood West quadrangle have potential to occur. The ISMND goes on to state “*For information regarding southern long toed salamander, northern goshawk, sharp shinned hawk, bald eagle, greater sandhill crane, osprey, California Spotted Owl,*

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willow fly catcher, Sierra Nevada Red Fox, American Badger, and gray wolf See Section 7, titled “*Biological Resources*,” however, these species were not discussed in Section 7 or mentioned elsewhere in the ISMND.

CDFW has concerns that the Project may have direct and/or indirect impacts on special status wildlife species and their habitat, of which may be potentially significant, if appropriate avoidance, minimization, and/or mitigation measures are not adopted. CDFW recommends a thorough analysis and disclosure of all potential impacts to sensitive wildlife species and appropriate avoidance and minimization measures should be included in the final ISMND, as similarly recommended in our July 2022 early consultation letter.

Nesting Birds

CNDDDB reports several bird species within proximity to the Project area, including Osprey (*Pandion haliaetus*, CDFW sensitive), which CNDDDB reports less than a half mile away from the Project area. Migratory birds and raptors, if present, could be directly or indirectly impacted by construction, land modification, and vegetation removal activities, of which may be potentially significant. Therefore, implementation of nest surveys, as outlined below, would ensure that impacts to nesting birds are reduced to less than significant. CDFW recommends including the following avoidance and minimization measures in the final ISMND.

To avoid impacts to nesting birds and/or raptors protected under Fish & G. Code, §§ 3503 and 3503.5 and the federal Migratory Bird Treaty Act, one of the following should be implemented:

- a. Vegetation removal, and other ground-disturbing activities, should occur between September 1 and January 31, when birds are not anticipated to be nesting; or
- b. If vegetation removal or ground disturbing activities occur during the nesting season, a pre-construction nesting bird survey should be conducted by a qualified biologist to identify active nests in and adjacent to the Project area.

Surveys should begin prior to sunrise and continue until vegetation and nests have been sufficiently observed. The survey should consider acoustic impacts and line of sight Project disturbances to determine a sufficient survey radius to maximize observations of nesting birds. A nesting bird survey report should be prepared and, at a minimum, the report should include a description of the area surveyed, date and time of the survey, ambient conditions, bird species observed, a description of any active nests observed, any evidence of breeding behaviors (e.g., courtship, carrying nest materials or food, etc.), and a description of any outstanding conditions that may have impacted the survey results (e.g., weather conditions, excess noise, the presence of predators, etc.).

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If an active nest is located during pre-construction surveys, a non-disturbance buffer should be established around the nest by a qualified biologist in consultation with CDFW and U.S. Fish and Wildlife Service to comply with Fish & G. Code, §§ 3503 and 3503.5, and the Migratory Bird Treaty Act. Compliance measures may include, but are not limited to, exclusion buffers, sound-attenuation measures, seasonal work closures based on the known biology and life history of the species identified during the survey, as well as ongoing monitoring by biologists.

Nesting bird surveys should be conducted no more than seven days prior to the initiation of construction. If construction activities are delayed or suspended for more than seven days after the pre-construction nesting bird survey, the site should be resurveyed.

Bumble Bees

On September 30, 2022, the candidacy of the western bumble bee (*Bombus occidentalis occidentalis*) was reinstated under CESA. As such, the western bumble bee receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). It is illegal to import, export, take (hunt, pursue, catch, capture, or kill, or attempt engage in any of these activities), possess, purchase, or sell CESA-listed species, or any part or product thereof (Fish & G. Code, §§ 86, 2080, 2085). Western bumble bees were once common throughout most of California however, research and analysis by the Xerces Society² suggests there have been sharp declines in their relative abundance.

The CNDDDB reports nearby detections of western bumble bees within the last ten years. The Project area may contain potentially suitable habitat for this species and ground disturbance associated with Project implementation may have the potential to significantly impact local bumble bee populations therefore, CDFW recommends a bumble bee habitat assessment to be conducted by a qualified biologist and a thorough analysis of potential impacts to bumble bees should be included in the final ISMND. Without appropriate avoidance and minimization measures, potentially significant impacts associated with Project ground- and vegetation-disturbing activities include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health, and vigor of eggs, young, and/or queens, in addition to direct mortality.

If potentially suitable habitat is identified, western bumble bee has been observed, and/or ground disturbing activities occur during the overwintering periods, consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Please refer to the [Survey Considerations for California Endangered Species Act \(CESA\) Candidate Bumble Bee Species](#).

² Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety. 2018. A petition to the state of California fish and game commission to list the Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumblebee (*Bombus occidentalis occidentalis*) as Endangered under the California Endangered Species Act.

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Additionally, because this Project includes permanent conversion of habitat, CDFW recommends the planting of native vegetation landscaping that promotes California's native pollinators to minimize cumulative habitat loss. CDFW encourages revegetation efforts to use locally occurring native trees, shrubs, and flowering plants to benefit native wildlife, and specifically, California's insect pollinators. CDFW discourages the incorporation of non-native species over native flowering species. Revegetation plans should be included in the final ISMND.

Benefits of utilizing native vegetation in landscaping are numerous and include providing vital resources for native wildlife, conserving water, reduction of pesticide use, and reduction in landscaping maintenance. The [CNPS website](#) includes a variety of useful information and tools to help determine which native species occur in a particular area, information on care and maintenance of native species, and contacts for purchasing native plants or seeds. The CNPS tool [Calscape](#) generates a list of native plants that grow in an area based on a specific address and can be used to develop a planting palette for landscaping plans. For more information regarding the importance of using native species in landscaping, please refer to the [CNPS Guidelines for Landscaping to Protect Native Vegetation from Genetic Degradation](#).

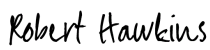
Submitting Data

CEQA requires that information developed in environmental documents be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Public Resources Code §§ 21003(e)). As such, CDFW requests that special status species observations and natural communities detected during Project surveys be reported to the CNDDDB. Please refer to the [CNDDDB field survey form](#).

We appreciate the opportunity to offer comments and recommendations that may assist Lassen County in adequately analyzing and minimizing impacts to biological resources. If you have any questions, please contact Erika Iacona, Senior Environmental Scientist, by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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Robert Hawkins for
Tina Bartlett, Regional Manager
Northern Region

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ec: State Clearinghouse
State.Clearinghouse@opr.ca.gov

Erika Iacona
R1CEQARedding@wildlife.ca.gov