



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY

Gavin Newsom, Governor

DEPARTMENT OF FISH AND WILDLIFE

Charlton H. Bonham, Director

Central Region

1234 East Shaw Avenue | Fresno, California 93710

August 16, 2023

Esmeralda Alvarez, Planning Technician

King City

212 South Vanderhurst Avenue

King City, CA 93930

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**Subject: Ausonio Apartments (Project)
Notice of Preparation (NOP)
SCH No.: 2023070342**

Dear Esmeralda Alvarez:

The California Department of Fish and Wildlife (CDFW) received a notice of preparation (NOP) for a Draft Environmental Impact Report (DEIR) from King City for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & Game Code, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 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., Section 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public

wildlife.ca.gov

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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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, Section 21069; CEQA Guidelines, Section 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 & Game Code, Section 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 & Game Code, Section 2050 et seq.), related authorization as provided by the Fish and Game Code may 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: Ausonio Apartments, LP

Objective: The Project to be evaluated in the DEIR is the Ausonio Apartments Project. The 17.5-acre Project site is located within the city limits. The Project would involve the demolition of the unoccupied single-family residence and the construction of up to 377 multi-family residential units at an overall density of approximately 21.5 dwelling units per acre. The Project would include 684 parking spaces and amenities such as clubhouses, tot lots, recreation areas, and shared open space. As part of the Project, the site would be subdivided into four lots.

Location: The property is located at the cross streets of San Antonio Drive and Willow Street in King City, East of San Antonio Park. The Project site is in the residential land use category.

APN: 026-531-019, -023, -025

Timeframe: Unspecified

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COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist King City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document for this Project.

The NOP indicates that the DEIR for the Project will consider potential environmental effects of the proposed Project to determine the level of significance of the environmental effect and will analyze these potential effects to the detail necessary to make a determination on the level of significance. The DEIR will also identify and evaluate alternatives to the proposed Project. When a DEIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation.

Special-Status Species

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDDB) (CDFW 2023), the proposed Project site and/or surrounding area is known to and/or has the potential to support special-status species, and these resources need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special status species including, but not limited to, the State threatened tricolored blackbird (*Agelaius tricolor*) and Species of Special Concern American Badger (*Taxidea taxus*).

Tricolored Blackbird (*Agelaius tricolor*)

Tricolored Blackbird (TRBL) has the potential to nest within and adjacent to the Project site. 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). CDFW recommends that a habitat assessment be conducted as part of the biological technical studies conducted in support of the CEQA document by a qualified biologist with knowledge of TRBL natural history and behaviors.

If suitable habitat is present, CDFW recommends a qualified biologist conduct focused surveys for nesting TRBL as well 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

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no-disturbance 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.

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 Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2081 subdivision (b), prior to any ground disturbing activities.

American badger (*Taxidea taxus*)

American badger (AMBA) has the potential to occur within and adjacent to the Project site. This species has been documented to occur in areas surrounding the Project site (CDFW 2023). CDFW recommends having a qualified biologist conduct focused surveys for the American badger and their requisite habitat features as part of the biological technical studies conducted in support of the CEQA document to evaluate potential impacts resulting from ground and vegetation disturbance.

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, Section, 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (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. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice

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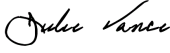
of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist King City in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or evelyn.barajas-perez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

ec: State. Clearinghouse
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REFERENCES

California Department of Fish and Wildlife (CDFW). Biogeographic Information and Observation System (BIOS). Accessed July 2023.

<https://www.wildlife.ca.gov/Data/BIOS>.

CDFW. 2015. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015.

Meese, Robert J., Beedy, Edward C., and Hamilton III, William. 2014. Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America: [Tricolored Blackbird - *Agelaius tricolor* - Birds of the World](#).

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Attachment 1

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

PROJECT: Ausonio Apartments

SCH No.: 2023070342

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation measure: Tricolored BlackBird (TRBL)	
TRBL Habitat Assessment	
Mitigation measure: American Badger (AMBA)	
AMBA Habitat Assessment	