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**From:** Huffer, Benjamin@Wildlife  
**Sent:** Monday, August 28, 2023 12:45 PM  
**To:** CEQA@saccounty.net  
**Cc:** Wood, Dylan@Wildlife; Sheya, Tanya@Wildlife; Wilson, Billie@Wildlife  
**Subject:** Cattanach Residence IS/MND, Control Number: PLNP2022-00116

Dear Julie Newton

The California Department of Fish and Wildlife (CDFW) received the Initial Study/Mitigated Negative Declaration (IS/MND) for the Cattanach Residence (Project) in Sacramento County pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Project activities include the development of a single-family residence on a 0.92-acre property in the Garden Highway Special Planning Area. The project will construct a 2079 square foot, two-story, single-family home with a 2075 square-foot attached garage. The project will also include a compacted aggregate base driveway leading from Garden Highway to the residence.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife.

#### 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 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.) Although not anticipated, CDFW may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed and to the extent implementation of the Project as proposed may result in take<sup>2</sup> as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

#### COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Lead Agency 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.

**Comment 1: Biological Resources Swainson Hawk section should expand the discussion regarding foraging habitat and propose measures to reduce impacts to less-than-significant.** The Project site provides suitable foraging and nesting habitat for Swainson's hawk (*Buteo swainsoni*). Swainson's hawk are listed as threatened under CESA and has additional protection under the Migratory Bird Treaty Act and section 3503.5 of the Fish and Game Code; therefore, avoidance, minimization and mitigation measures should be incorporated into the IS/MND to ensure impacts are less-than-significant.

The Project site contains annual grassland which provides foraging habitat for Swainson's hawk in the Sacramento area. In addition, there are California Natural Diversity Database (CNDDDB) occurrences of Swainson's hawks nesting both within the Project parcel and within a 0.5-mile radius, including an occurrence from 2022 of a nest 0.3-miles southeast of the Project. CDFW recommends the IS/MND identify, map, and quantify all suitable foraging habitat within the Project site.

The development of this potential foraging habitat may negatively impact nesting Swainson's hawks. The greatest threat to the Swainson's hawk population in California continues to be loss of suitable foraging and nesting habitat in portions of the Swainson's hawks breeding range due to urban development and incompatible agriculture. This impact has greatly reduced their range and abundance in California in the last century (CDFW 2016, California Department of Conservation, 2011; Wilcove et al. 1986; Semlitsch and Bodie 1998).

To address this potentially significant impact, CDFW recommends the IS/MND propose at minimum 1:1 compensatory mitigation to offset impacts to Swainson's hawk foraging habitat resulting from the Project.

**Comment 2: Mitigation Measure E: Swainson's Hawk Nesting Habitat revisions needed to mitigate impacts to Swainson's hawk nesting to a level of less-than-significant.** As identified in the IS/MND, there are CNDDDB occurrences of Swainson's hawks nesting within 0.5 miles of the Project, including an occurrence of a nest on the Project parcel itself. Potential take of the species resulting from construction disturbance described in the IS/MND would be a significant impact under CEQA. Since onsite surveys have not been completed, CDFW recommends surveys are conducted prior to Project construction to more accurately assess nesting activity onsite and nearby areas.

Specifically, CDFW recommends making the following additions to the Environmental Resources Mitigation Measure, Mitigation Measure E:

*If construction, grading, or Project-related improvements are to commence between February 1 and September 15, focused surveys for Swainson's hawk nests shall be conducted by a qualified biologist within a ½-mile radius of Project activities, in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk TAC 2000). To meet the minimum level of protection for the species, surveys should be completed for the two survey periods immediately prior to commencement of construction activities in accordance with the 2000 TAC recommendations. If an active Swainson's hawk nest is found during Project surveys, the qualified biologist shall consult with CDFW and demonstrate compliance with CESA. If during consultation it is determined that implementation of the Project as proposed may result in take of Swainson's hawk, the Project may seek related take authorization as provided by the Fish and Game Code.*

**Comment 3: Mitigation Measure F: Raptor Nest Protection revisions needed to mitigate impacts to raptors.** Based on available information, suitable raptor nesting and foraging habitat exists on site. To reduce Project impacts on nesting raptors, the following revisions should be included in mitigation Measure F:

*If construction activity (which includes clearing, grubbing, or grading) is to commence within 500 feet of suitable nesting habitat between ~~March~~ February 1 and September 15, a survey for raptor nests shall be conducted by a qualified biologist. The survey shall cover all potential tree habitat on-site and off-site up to a distance of 500 feet from the Project boundary. The survey shall occur within ~~30~~ 7 days of the date that construction will encroach within 500 feet of suitable habitat. The biologist shall supply a brief written report (including date, time of survey, survey method, name of surveyor and survey results) to the Environmental Coordinator prior to ground disturbing activity. If no active nests are found during the survey, no further mitigation will be required. If any active nests are found, the Environmental Coordinator and California Fish and Wildlife shall be contacted to determine appropriate avoidance/protective measures. The avoidance/protective measures shall be implemented prior to the commencement of construction within 500 feet of an identified nest.*

**Comment 4: Mitigation Measure G: Migratory Bird Nest Protection revisions needed to mitigate impacts to nesting birds.** Based on available information, suitable nesting and foraging habitat for migratory and resident birds exists on site. To reduce Project impacts to nesting birds, the following revisions should be included in mitigation Measure F:

To avoid impacts to nesting migratory birds the following shall apply:

- 1. If construction activity (which includes clearing, grubbing, or grading) is to commence within 50 feet of nesting habitat between February 1 and August 31, a survey for active migratory bird nests shall be conducted no more than 14 7 days prior to construction by a qualified biologist.*
- 2. Trees slated for removal shall be removed during the period of September through January, in order to avoid the nesting season. Any trees that are to be removed during the nesting season, which is February through August, shall be surveyed by a qualified biologist and will only be removed if no nesting migratory birds are found.*
- 3. If active nest(s) are found in the survey area, a non-disturbance buffer, the size of which has been determined by a qualified biologist in accordance with CDFW, shall be established and maintained around the nest to prevent nest failure. All construction activities shall be avoided within this buffer area until a qualified biologist determines that nestlings have fledged, or until September 1*

**Comment 5: Mitigation measures are needed to reduce impacts to day roosting bats.** The Project site appears to contain habitat that may be suitable for tree roosting bats. Disturbance of roost sites during the maternity and hibernation seasons are considered primary factors that may negatively impact bats and have the potential to result in take. During the hibernation period, bats are very slow to respond to disturbance during torpor and can lose fat stores needed to survive the winter while pups in the maternity colony may not have the ability to fly. The disturbance and removal of roost sites may have a significant adverse effect to bats. CDFW recommends the following to reduce impacts to a less than significant level:

- **Habitat Assessment.** A qualified biologist with education and experience in bat biology and identification, shall conduct a habitat assessment for potentially suitable bat habitat within six months of Project activities. If the habitat assessment reveals suitable bat habitat, then a qualified bat biologist shall do a presence/absence survey during the peak activity periods. If bats are present, then the qualified biologist shall submit a bat avoidance plan to CDFW for review and approval.
- **Bat Avoidance Plan.** The bat avoidance plan should identify: 1) the location of the roosting sites; 2) the number of bats present at the time of assessment (count or estimate); 3) species of bats present; 4) the type of roost (e.g. day/night, maternity, hibernaculum, bachelor); and 5) species specific measures to avoid and minimize impacts to bats. The bat avoidance plan shall evaluate the length of time of disturbance, equipment noise, and type of habitat present at the Project.
- **No Disturbance Buffer.** If during the habitat assessment the qualified bat biologist identifies a bat roost within the Project boundary that is not proposed for demolition or removal, then a no disturbance buffer shall be established around the roost in consultation with CDFW. The width of the buffer should be determined by the qualified bat biologist based on the bat species, specific site conditions, and level of disturbance. The buffer should be maintained until the qualified bat biologist determines that the roost is no longer occupied.
- **Replacement Structures.** If the bat roost cannot be avoided, replacement roost structures (bat houses or other structures) shall be designed to accommodate the bat species they are intended for. Replacement roost structures shall be in place for a minimum of one full year prior to implementing the Project. The replacement structures should be monitored to document bat use. Ideally, the Project would not be implemented unless and until replacement roost structures on site are documented to be acceptable and used by the bat species of interest.

- **Roost Removal Timing.** The Project that results in the loss or modification of the original roost structure should be implemented outside hibernation and maternity seasons, Nov 1 – Feb 1 and April 1 – August 31 respectively.
- **Bat Exclusion.** If an active bat roost is found in a tree or structure that must be removed, the qualified bat biologist should prepare a Bat Exclusion Plan for the passive exclusion of the bats from the roost. Exclusion shall be scheduled either (1) between March 1 and March 31, prior to parturition of pups; or (2) between September 1 and October 31 prior to hibernation (or prior to evening temperatures dropping below 45°F and onset of rainfall greater than ½ inch in 24 hours). The qualified bat biologist shall confirm the absence of bats prior to the start of construction. The Bat Exclusion Plan shall be submitted to CDFW for review and approval a minimum of 10 days prior to the installation of exclusion devices. CDFW does not support eviction of bats during the maternity or hibernation periods.
- **Tree Removal.** Tree removal shall be scheduled either (1) between approximately March 1 and March 31, prior to parturition of pups; or (2) between September 1 and October 31 prior to hibernation (or prior to evening temperatures dropping below 45°F and onset of rainfall greater than ½ inch in 24 hours). Removal of trees containing suitable bat habitat should be conducted under the supervision of a qualified bat biologist.

**Comment 6: CDFW recommends submitting a notification of Lake or Streambed Alteration prior to Project commencement.** Section 1602 of the Fish and Game Code requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow. If CDFW determines that the Project activities may substantially adversely affect an existing fish or wildlife resource, a Lake and Streambed Alteration (LSA) Agreement will be issued which will include reasonable measures necessary to protect the resource. Early consultation with CDFW is recommended, since modification of the Project may avoid or reduce impacts to fish and wildlife resources.

Based on review of Project materials, the Project occurs within the Sacramento River riparian corridor. As such, grading/fill, vegetation removal, and other construction activities may trigger notification. Therefore, CDFW recommends the Project applicant submit a notification of Lake or Streambed Alteration prior to Project commencement. For more information on CDFW's LSA program including the online permitting portal, please visit <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

**Comment 7: CDFW recommends including bird enhancement and mortality reduction strategies in Project design and implementation.** The proposed Project footprint is located within the riparian corridor of the Sacramento River. This riparian corridor provides suitable habitat for nesting birds. Placement of buildings adjacent to suitable nesting bird habitat may adversely affect bird populations by introducing sources of common bird mortalities such as reflective windows that birds may collide with. Given declines in segments of the overall bird population and ecological benefits of healthy bird activity, CDFW recommends consideration of bird enhancement and mortality reduction strategies in Project design and implementation. Incorporation of these strategies can reduce anthropogenic effects on birds and promote sustainable development in California.

Collisions with clear and reflective sheet glass and plastic is also a leading cause in human-related bird mortalities. Many types of windows, sheet glass, and clear plastics are invisible to birds resulting in casualties or injuries from head trauma after an unexpected collision. Birds may collide with windows as little as one meter away in an attempt to reach habitat seen through, or reflected in, clear and tinted panes, so even taking small measures to increase visibility of windows to birds can make a substantial difference in minimizing long-term impacts of urban development near natural environments.

CDFW recommends the applicant incorporate bird and wildlife friendly strategies:

- Install screens, window patterns, or new types of glass such as acid-etched, fritted, frosted, ultraviolet patterned, or channel. Additional information can be found at <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php>.

Incorporation of bird and wildlife strategies not only promotes environmental stewardship but also facilitates compliance with State and federal protections aimed at preserving bird populations.

## ENVIRONMENTAL 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. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>. The completed form can be sent electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

## CONCLUSION

CDFW appreciates the opportunity to comment and assist the Lead Agency in identifying and mitigating Project impacts on biological resources.

Please contact me at 916-216-6253 or [benjamin.huffer@wildlife.ca.gov](mailto:benjamin.huffer@wildlife.ca.gov) if you have any questions.

Best regards,  
Ben

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