



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



October 6, 2023

Governor's Office of Planning & Research

Jeff Mitchem
City of Calistoga
1232 Washington Street
Calistoga, CA 94515
JMitchem@calistoga.org

Oct 10 2023

STATE CLEARINGHOUSE

Subject: Kortum Ranch Development Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2023090349, City of Calistoga, Napa County

Dear Mr. Mitchem:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) from the City of Calistoga (City) for the Kortum Ranch Development Project (Project).

CDFW is providing the City, as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The proposed Project would include the subdivision of four existing parcels totaling approximately 29.46 acres into 22 individual lots containing 22 single-family detached homes and ancillary improvements to be developed with hillside-sensitive design. As proposed, lots range from 0.38 acres to 6.10 acres with an average lot size of 1.34 acres. Based on buildable site pads, residences would range from approximately 2,500 square feet to 4,500 square feet. The Project includes on-site road and utility

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improvements, construction of retaining walls and off-site improvements on Kortum Canyon Road between the Project site and the intersection at Foothill Boulevard.

The Project site is located at 500 Kortum Canyon Road, Calistoga, CA 94515, with a latitude of 38.574684°, and longitude of -122.584675°, on four parcels (Assessor's Parcel Numbers (APN) 011-290-007; -038; -039; and a remainder lot (formerly 011-310-023)). Areas south, east, and west of the Project site are primarily developed with rural residences that are characterized by their large, heavily wooded lots. Commercial uses along Foothill Boulevard are located north of the site.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description:

- Land use changes resulting from, for example, rezoning certain areas;
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes;
- Area and plans for any proposed buildings/structures, ground-disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems;
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features; and
- Construction schedule, activities, equipment, and crew sizes.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection 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 NPPA, either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). If the Project will impact CESA listed species, such as those identified in **Attachment 1**, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP. CDFW's issuance of an ITP is subject to CEQA and to facilitate Permit

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issuance, any such project modifications and mitigation measures must be incorporated into the EIR's analysis, discussion, and mitigation monitoring and reporting program.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq., is required for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland habitat; 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. CDFW may not execute the final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

ENVIRONMENTAL SETTING

The EIR should provide sufficient information regarding the environmental setting ("baseline") to understand the Project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including, but not limited to, all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or state, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include but are not limited to, those listed in **Attachment 1**.

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Habitat descriptions and the potential for species occurrence included in the EIR should include robust information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, California Aquatic Resources Inventory, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Only with sufficient data and information from the habitat assessment, can the City adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at:

<https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>)¹, must be conducted during the blooming period within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrological conditions, and require the identification of reference populations. More than one year of surveys may be necessary based on environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to special-status plants available at:

<https://www.wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The EIR should discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

- Land use changes that would reduce open space or agricultural land uses and increase residential or other land use involving increased development;
- Encroachments into riparian habitats, wetlands or other sensitive areas;
- Potential for impacts to special-status species;

¹ California Rare Plant Rank (CRPR) 1B plants are considered rare, threatened, or endangered in California and elsewhere. Further information on CRPR ranks is available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>).

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- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, vegetation overhanging banks);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features related directly to Project construction and indirectly through water supply impacts to stream resources resulting from Project implementation.

The EIR should also identify existing and reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these Projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to each impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a special-status species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

The CEQA Guidelines direct the City, as the Lead Agency, to consider and describe in the EIR all feasible mitigation measures to avoid and/or mitigate potentially significant impacts of the Project on the environment based on comprehensive analysis of the direct, indirect, and cumulative impacts of the Project (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 and 15370). This should include a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs and negative declarations 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 CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.


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FILING FEES

CDFW anticipates that the proposed Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary to defray the costs of CDFW's review under CEQA (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency.

If you have any questions, please contact Nikolas Storm, Environmental Scientist, at (707) 980-5172 or Nikolas.Storm@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

0D25EB6A0381473
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Special-Status Species

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023090349)

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ATTACHMENT 1: Special-Status Species

Species Name	Common Name	Status
<i>Lasthenia burkei</i>	Burke's goldfields	FE, SE, CRPR 1B.1
<i>Astragalus claranus</i>	Clara Hunt's milk-vetch	FE, SE, CRPR 1B.1
<i>Eryngium constancei</i>	Loch Lomond button-celery	FE, SE, CRPR 1B.1
<i>Limnanthes vinculans</i>	Sebastopol meadowfoam	FE, SE, CRPR 1B.1
<i>Navarretia leucocephala ssp. bakeri</i>	Baker's navarretia	CRPR 1B.1
<i>Lupinus sericatus</i>	Cobb Mountain lupine	CRPR 1B.2
<i>Leptosiphon jepsonii</i>	Jepson's leptosiphon	CRPR 1B.2
<i>Amorpha californica var. napensis</i>	Napa false indigo	CRPR 1B.2
<i>Brodiaea leptandra</i>	narrow-anthered brodiaea	CRPR 1B.2
<i>Arctostaphylos stanfordiana ssp. decumbens</i>	Rincon Ridge manzanita	CRPR 1B.1
<i>Ceanothus confusus</i>	Rincon Ridge ceanothus	CRPR 1B.1
<i>Streptanthus brachiatus ssp. Brachiatus</i>	Socrates Mine jewelflower	CRPR 1B.2
<i>Rana draytonii</i>	California red-legged frog	FT, SSC
<i>Rana boylei</i> pop. 1	foothill yellow-legged frog - north coast DPS	SSC
<i>Taricha rivularis</i>	red-bellied newt	SSC
<i>Emys marmorata</i>	western pond turtle	SSC
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	SSC
<i>Antrozous pallidus</i>	pallid bat	SSC

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<i>Strix occidentalis caurina</i>	northern spotted owl	ST, FT
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FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as threatened under the Endangered Species Act; ST = state listed as threatened under the California Endangered Species Act; SE = state listed as endangered under the California Endangered Species Act; SC = state candidate for listing as endangered under the California Endangered Species Act; SSC = State Species of Special Concern; SR = protected under the Native Plant Protection Act of 1977; CRPR = California Rare Plant Rank