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January 2, 2024

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Governor's Office of Planning & Research

Jan 02 2024

STATE CLEARINGHOUSE

**Subject: Mitigated Negative Declaration for the Novatt Equestrian Facility Project,
Santa Barbara County (SCH #2023110714)**

Dear Tina Mitchell,

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) for the Novatt Equestrian Facility Project (Project) from the Santa Barbara County Planning Department (County). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 State 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, including 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.*), or CESA-listed rare plant

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pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project Applicant obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project aims to provide facilities for hosting equestrian events in the northern half of the property—focused around a large 48,000-square-foot covered riding arena and a 4,200-square-foot reception hall. The equestrian facility will provide daily boarding and breeding operations, as well as an equestrian event center for education, shows, clinics, and other special events. Additional new structures proposed include an 800-square-foot agricultural employee dwelling, and six (6) 2,280-square-foot horse barns. The Project will also include a new uncovered 150-foot diameter round pen, and an uncovered 150-foot by 200-foot riding arena, each surrounded by 5-foot-tall steel pipe rail fencing. In addition to the proposed new structures and facilities, an existing 2,460-square-foot barn and an existing 8,450-square-foot concrete pad surrounded on three sides by a 6 to 8-foot-tall modular concrete block panel wall that is used to compost horse manure area will be demolished. As part of this Project, an existing 1,355-foot-long by 20-foot-wide gravel access road will be resurfaced with fresh gravel. New landscaping will be installed around the northern, western, and eastern perimeter of the 120-space vehicle event parking area.

Location: The Project site is a 63.35-acre parcel (Assessor's Parcel Number 137-250-067) at 750 E. Highway 246, located in the Santa Ynez Valley Community Plan area in the City of Solvang. The parcel is south of Highway 246 and north of the Santa Ynez River, along the stretch of Highway 246 between the City of Buellton and the City of Solvang.

Biological Setting: The site is currently an equine retirement and rehabilitation facility with nine fenced pastures that are used to board horses and other livestock. The majority of the property is pasture (perennial rye) with some individual coast live oak (*Quercus agrifolia*), western sycamore (*Platanus racemosa*), and English walnut (*Juglans regia*) trees spread throughout the site. Wildlife species expected to inhabit the site include common species such as turkey vulture (*Cathartes aura*), red-tailed hawk (*Buteo jamaicensis*), western scrub jay (*Aphelocoma clifornica*), brush rabbit (*Sylvilagus bachmani*), western gray squirrel (*Sciurus griseus*), and western fence lizard (*Sceloporus occidentalis*). The Santa Ynez River and associated willow riparian woodland is located along the southernmost portion of the property and adjacent to the southern property line. The following special-status wildlife species have a high to moderate potential to occur in the Santa Ynez River and the riparian woodland vegetation that exists in the southern portion of the property: southern steelhead trout (*Oncorhynchus mykiss irideus*; federal Endangered Species Act (ESA)-endangered); California red-legged frog (*Rana draytonii*; ESA-threatened; California Species of Special Concern (SSC)); least Bell's vireo (*Vireo bellii pusillus*; ESA-endangered, California Endangered Species Act (CESA) endangered); southwestern willow flycatcher (*Empidonax traillii*; ESA-endangered, CESA-endangered); western pond

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turtle (*Actinemys marmorata*; currently under consideration for ESA listing, SSC); pallid bat (*Antrozous pallidus*; SSC); and two-striped garter snake (*Thamnophis hammondi*; SSC). These special-status species have a low potential to occur in the area where new structures and equestrian event facilities will be built.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the County in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Impacts to Streams

Issue: The Project may result in runoff impacts to the Santa Ynez River.

Specific impacts: The new manure composting facility may create pollutants that could flow into the Santa Ynez River, which is adjacent to the Project site. In addition, the riparian vegetation may be degraded through habitat modification (e.g., encroachment and edge effects leading to introduction of non-native plants).

Why impacts would occur: Mitigation Measure 7 (MM 7) Special Condition – Use Filters on page 27 of the MND indicates the use of “vegetated bio-swales or bio-filters into the design of the new manure composting facility that will capture, reduce, and prevent pollutants such as fecal bacteria, nitrogen and ammonia from being washed into the Santa Ynez River during storm events.” The MND does not disclose how the vegetated bio-swales or bio-filters will adequately prevent pollutants from entering the Santa Ynez River. Nor is there a discussion of any potential changes to runoff on site before and after Project construction. It is unclear if runoff is already entering the Santa Ynez River from the Project site or runoff will start after the Project has been completed. Downstream and associated biological resources beyond the Project development footprint may also be impacted by altered watershed effects resulting from Project activities, such as riparian habitat.

Lastly, the MND does not recognize the potential need for a Section 1602 Lake and Streambed Alteration Agreement for activities that may deposit or dispose of material into any river. As a result, the Project could result in unmitigated impacts to streams and associated habitat.

Evidence impacts would be significant: Changes to hydrology, both within the Project area and downstream, may result in direct and indirect physical changes in the

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environment. Said changes and their potential impacts on biological resources should be analyzed and disclosed in an environmental document. Adequate disclosure is necessary for CDFW to assist a lead agency in adequately identifying, avoiding, and/or mitigating a project's significant, or potentially significant, direct, and indirect impacts on biological resources.

CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 *et seq.* to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources. The Project may result in significant impacts on streams and associated natural communities if development of sites identified by the Project or future projects would be in close proximity to these resources. Without appropriate mitigation, the Project may have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated natural communities identified by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: The Project applicant shall prepare a jurisdictional delineation and impact assessment for impacts to the Santa Ynez River. CDFW recommends the MND include an analysis of potential impacts on biological resources resulting from the proposed runoff. The analysis should discuss changes in hydrology and hydraulics using the following considerations.

1. Under pre-project (i.e., baseline) conditions, the volume of runoff from the Project area, including sediment and pollutant loads;
2. Under proposed Project conditions, any potential changes to the amount of runoff from the Project site and how the proposed bio-swales or bio-filters will reduce the level of pollutants entering the River to less than significant; and,
3. An analysis of potential Project-related changes to the Santa Ynez River. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change).

Mitigation Measure #2: If Project activities will substantially adversely affect fish and wildlife species, the County will be required to notify CDFW pursuant to Fish and Game

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Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The County shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The County shall also provide compensatory mitigation at no less than 2:1 for any impacted stream and associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2023a).

Recommendation #1: CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 *et seq.* and/or under CEQA, a project's CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.

Comment #2: Buffer Zone

Issue: The Project may result in direct and indirect impacts to wildlife in the riparian habitat.

Specific impacts: The Project may result in reduced reproductive capacity, population declines, or local extirpation of wildlife. In addition, indirect impacts from lighting, noise, and increased anthropogenic presence may also occur.

Why impacts would occur: According to the MND, page 23 states, "The project will not result in any direct impacts to critical habitat areas associated with the Santa Ynez River because the proposed structures are located outside of the 200-foot riparian buffer required by the Santa Ynez Valley Community Plan Development Standard BIO-SYV-4.1" This willow riparian woodland is considered a Sensitive Natural Community according to CDFW [Natural Communities](#) list (CDFW 2023b). The MND does not provide science-based evidence that a 200-foot buffer is sufficient to prevent impacts to riparian habitat, the Santa Ynez River, and wildlife that may inhabit these areas. Mitigation measures should be adequately discussed and the basis for setting a particular measure should be identified [CEQA Guidelines, § 15126.4(a)(1)(B)]. The MND does not provide enough information regarding the suitability of the buffer to facilitate meaningful public review and comment on the appropriateness of this measure. Therefore, it is unclear how the mitigation strategy would be developed in order to reduce impacts to biological resources to less than significant.

More specifically, impacts to wildlife could result from increased anthropogenic

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presence which includes increased noise disturbances, light disturbances, human activity, and dust. All of these impacts should be addressed in the mitigation strategy.

Evidence impact would be significant: Sensitive Natural Communities are communities that are of limited distribution state-wide or within a county or region and are often vulnerable to environmental effects of projects. CDFW considers plant communities, alliances, and associations with a State ranking of S1, S2, and S3 as sensitive and declining at the local and regional level. An S3 ranking indicates there are 21 to 100 viable occurrences of this community in existence in California, S2 has six to 20 occurrences, and S1 has fewer than six viable occurrences (Sawyer et al. 2009). Impacts to sensitive natural communities should be considered significant under CEQA unless they are clearly mitigated below a level of significance.

For reasons discussed above, the Project may have a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special-status in local or regional plans, policies, or regulations, or by the CDFW or U.S. Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

When preparing a mitigation strategy for review, CDFW recommends including the following measures, at a minimum, to reduce impacts to less than significant.

Mitigation Measure #3: Provide justification as to the chosen buffer(s) distance. Buffers shall be determined based upon the results of species surveys; species' sensitivity to noise, vibration, and general disturbance; current site conditions (screening vegetation, terrain, etc.); ambient levels of human activity; Project-related construction activities; and other features.

Comment #3: MM 13. Special Condition – Preconstruction Surveys for Special-Status Wildlife Species

Issue: MM 13 may not be sufficient to reduce impacts to special-status species below a significant level.

Specific impacts: MM 13 on page 30 states, “a County-approved biologist shall conduct a focused survey on the project site for special-status species (including those identified in the Watershed Environmental, Inc. Biological Assessment Report dated January 20, 2023: California red-legged frog; least Bell’s vireo; southwestern willow flycatcher; western pond turtle; pallid bat; hoary bat; and two-striped garter snake). The purpose of the survey(s) is to determine presence and/or absence of special-status species.” As presented, MM 13 requires one focused survey for all special-status species. While CDFW agrees that special-status species require a focused survey, it is not possible for one survey to adequately address each of the potentially occurring SSC, as some require specific seasons, time of day, or special focused techniques, protocols, or use of survey equipment.

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Why impacts would occur: Conducting a single survey for multiple special-status species could preclude the detection of one or more of the species. In addition, some special-status species (e.g. least Bell's vireo) are CESA-listed and require specific survey protocols, as established by CDFW and/or the USFWS.

Evidence impact would be significant: CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, such as the southern steelhead, least bell's vireo, and/or southwestern willow flycatcher, that results from a project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project and any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project's CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. Please visit CDFW's [California Endangered Species Act \(CESA\) Permits](#) webpage for more information (CDFW 2023c).

In addition, a [California Species of Special Concern](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2023d)

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CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065). Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

When preparing a mitigation strategy for review, CDFW recommends including the following measures, at a minimum, to reduce impacts to less than significant.

Mitigation Measure #4: The Project applicant shall perform species-specific surveys, for special-status species with the potential to occur on the project site. Surveys should adhere to any protocol available for individual species, including but not limited to:

- a) California red-legged frog. CDFW recommends a protocol-level survey for California red-legged frogs adhering to survey methods described in USFWS's [Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog](#) (USFWS 2005). Survey efforts should be conducted by a qualified biologist with knowledge of red-legged frog biology. Surveys should be completed prior to implementing Project-related ground-disturbing activities. CDFW recommends a qualified biologist prepare a survey report summarizing methods and results. Survey results including negative findings, should be submitted to CDFW prior to implementing Project-related ground-disturbing activities.
- b) Least Bell's vireo. The Project should adhere to the USFWS 2001 [Least Bell's Vireo Survey Guidelines](#) (USFWS 2001). Per protocol guidelines, a final survey report (including negative findings) should be provided to USFWS and CDFW within 45 calendar days following the completion of the survey effort. A final survey report should be submitted to USFWS and CDFW prior to any Project-related ground disturbing activities and vegetation removal.
- c) Western pond turtle. CDFW recommends the lead agency conduct focus surveys for western pond turtle. Surveys should be conducted during the time of greatest pond turtle activity, typically during the breeding season (May to July), and when pond turtles have not left the water to aestivate or overwinter in the uplands. Surveys for western pond turtles and potential habitat should follow the United States Geological Survey's 2006 [Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion](#) (USGS 2006).

If it is determined that take may occur for any CESA-listed species, with the County shall consult with CDFW to determine if an ITP or CD is necessary.

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Mitigation Measure #5: CDFW recommends the County amend MM 13 to exclude the ~~strikethrough~~ and include the underlined language:

“No more than two (2) weeks prior to initiation of project demolition and construction activities, a County-approved biologist with experience surveying for each special-status species, shall conduct a focused surveys on the project site for each individual special-status species (including those identified in the Watershed Environmental, Inc. Biological Assessment Report dated January 20, 2023: California red-legged frog; least Bell’s vireo; southwestern willow flycatcher; western pond turtle; pallid bat; hoary bat; and two-striped garter snake). The purpose of the surveys ~~(s) is are~~ to determine presence and/or absence of special-status species. The survey will include the potential project footprint as well as the surrounding habitat potentially supporting special-status wildlife species. Should special-status wildlife be identified within the potential project footprint, species-specific protection measures shall be employed to avoid impacts to these species. A qualified biologist with appropriate handling permits (e.g. Scientific Collecting Permit) shall prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan shall be prepared prior to implementing any Project-related ground-disturbing activities and vegetation removal and reviewed by CDFW. Species that do not require a recovery permit to handle that are listed by CDFW as species of special concern (such as western pond turtles and two-striped garter snakes) will be collected by the project biologist and relocated to an appropriate offsite location. In the event that a California red-legged frog is found by construction personnel or by the project biologist, the frog shall be left alone, and all work in the vicinity (within 100 ft.) of the frog shall stop until the frog leaves of its own accord. If it becomes necessary to handle or relocate the frog, a biologist with a valid Recovery Permit (Section 10(a)(1)(A) from USFWS must do the capture and relocation. [...]”

Recommendation #2 – Scientific Collecting Permit: A scientific collecting permit will be necessary for many of the species surveys outlined above. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW’s [Scientific Collection Permits](#) webpage for information (CDFW 2023e).

Comment #4: Tree Diseases, Pests, and Pathogens

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Issue: The Project will remove trees and potentially spread material infected with invasive tree diseases, pests, and pathogens.

Specific impacts: Project activities may spread invasive tree diseases, pests, and pathogens into areas not currently exposed to these stressors. This could result in expediting the loss of native trees and plant communities. Loss of trees may result in loss of foraging and perching habitat for small mammals, birds, and raptors.

Why impacts would occur: The Project may remove trees that could host diseases and pests. One such pathogen is sudden oak death. Sudden oak death has become the most common cause of mortality of oak (*Quercus* genus) and other native trees (Phytosphere 2015). Mortality rates of oak trees are greater than 50 percent in some areas impacted by sudden oak death (Phytosphere 2012). Tree dieback can have cascading impacts on the habitat and ecosystem, particularly avian distribution and abundance (Monahan and Koenig 2006). Another pest is the polyphagous shot hole borer, which hosts on many native trees species that include box elder (*Acer negundo*), California sycamore (*Platanus racemosa*), willows (*Salix* genus), oaks, cottonwoods (*Populus* sp.), and alders (*Alnus* sp.) (Calinvasives 2021).

Diseases such as sudden oak death can spread via equipment and transport of infected material. These fragments can be spread to new locations if equipment and tools are not disinfected or cleaned before moving to the next work location. Infected material that is transported off site for disposal may expose trees and plant communities to pest and disease. This could result in expediting the loss of oak woodlands, and other native trees and plant communities within and adjacent to a Project site.

Evidence impacts would be significant: The Project may have a substantial adverse effect on sensitive natural communities identified in local or regional plans, policies, and regulations or by the CDFW. The Project may result in a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW that are dependent on woodlands susceptible to invasive tree diseases, pests, and pathogens.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #7: CDFW recommends that the MND include a measure to mitigate the spread of invasive pests and diseases by implementing the following:

- 1) Prior to tree removal, a certified arborist should evaluate trees for infectious tree diseases including but not limited to: [sudden oak death](#) (*Phytophthora ramorum*), [thousand canker fungus](#) (*Geosmithia morbida*), [polyphagous shot hole borer](#) (*Euwallacea* spp.), and [goldspotted oak borer](#) (*Agrilus auroguttatus*) (TCD 2021; UCANR 2021; Phytosphere Research 2012; UCIPM 2013).
- 2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist should prepare an Infectious Tree Disease

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Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list should provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from a Project site without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.

- 3) If possible, all tree material, especially infected tree material, should be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools should be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.

Additional Recommendations

Recommendation #3 – Data: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Special status species information should be submitted to the CNDDDB by completing the [Online Field Survey Form](#) (CDFW 2023f). To submit information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Releve Form](#) should be completed and submitted to CDFW’s Vegetation Classification and Mapping Program (CDFW 2023g). The County should ensure all pertinent data, such as locations of special status species, have been properly submitted, with all applicable data fields filled out, prior to finalizing/adopting the Project’s environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The County should provide CDFW with confirmation of data submittal.

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

Conclusion

We appreciate the opportunity to comment on the Project to assist the County in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the County has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at (562) 292-8105 or by email at Felicia.Silva@wildlife.ca.gov

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Sincerely,

DocuSigned by:

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David Mayer
Environmental Program Manager
South Coast Region

ec: CDFW

Jennifer Turner – Senior Environmental Scientist (Supervisory)
Julisa Portugal – Environmental Scientist
Felicia Silva – Environmental Scientist
Cindy Hailey – Staff Services Analyst

State Clearinghouse - state.clearinghouse@opr.ca.gov

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Jurisdictional Delineation	<p>Project shall prepare a jurisdictional delineation and impact assessment for impacts to the Santa Ynez River. CDFW recommends the MND include an analysis of potential impacts on biological resources resulting from the proposed runoff. The analysis should discuss changes in hydrology and hydraulics using the following considerations.</p> <ol style="list-style-type: none"> 1. Under pre-project (i.e., baseline) conditions, the volume of runoff from the Project area, including sediment and pollutant loads; 2. Under proposed Project conditions, any potential changes to the amount of runoff from the Project site and how the proposed bio-swales or bio-filters will reduce the level of pollutants entering the River to less than significant; and, 3. An analysis of potential Project-related changes to the Santa Ynez River. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change). 	Prior to Project-related ground-disturbing activities and vegetation removal	Project Applicant/ County of Santa Barbara
MM-BIO-2-LSA Notification	The County will be required to notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The County shall comply with the mitigation measures detailed in a LSA Agreement issued by CDFW. The County shall also provide compensatory mitigation at	Prior to Project-related ground-disturbing activities and	Project Applicant/ County of Santa Barbara

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	no less than 2:1 for any impacted stream and associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW's Lake and Streambed Alteration Program webpage for more information (CDFW 2023a).	vegetation removal	
REC-1-CEQA Requirements	CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.	Prior to Project-related ground-disturbing activities and vegetation removal	Project Applicant/ County of Santa Barbara
MM-BIO-3- Buffers	Provide justification as to the chosen buffer(s) distance. Buffers shall be determined based upon the results of species surveys, species sensitivity to noise, vibration, and general disturbance, current site conditions (screening vegetation, terrain, etc.), ambient levels of human activity, the various Project-related activities necessary to construct the Project, and other features.	Prior to Project-related ground-disturbing activities and vegetation removal	Project Applicant/ County of Santa Barbara
MM-BIO-4- Species Specific Survey	The Project applicant should perform species specific surveys, Surveys should adhere to any protocol available for individual species, including but not limited to: a) California red-legged frog . CDFW recommends a protocol-level survey for California red-legged frogs adhering to survey methods described in USFWS's Revised Guidance	Prior to Project-related ground-disturbing activities and vegetation removal	Project Applicant/ County of Santa Barbara

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	<p>on Site Assessments and Field Surveys for the California Red-legged Frog (USFWS 2005). Survey efforts should be conducted by a qualified biologist with knowledge of red-legged frog biology. Surveys should be completed prior to implementing Project-related ground-disturbing activities. CDFW recommends a qualified biologist prepare a survey report summarizing methods and results. Survey results including negative findings, should be submitted to CDFW prior to implementing Project-related ground-disturbing activities.</p> <p>b) Least Bell's vireo. The Project should adhere to the USFWS 2001 Least Bell's Vireo Survey Guidelines (USFWS 2001). Per protocol guidelines, a final survey report (including negative findings) should be provided to USFWS and CDFW within 45 calendar days following the completion of the survey effort. A final survey report should be submitted to USFWS and CDFW prior to any Project-related ground disturbing activities and vegetation removal.</p> <p>c) Western pond turtle. CDFW recommends the lead agency conduct focus surveys for western pond turtle. Surveys should be conducted during the time of greatest pond turtle activity, typically during the breeding season (May to July), and when pond turtles have not left the water to aestivate or overwinter in the uplands. Surveys for western pond turtles and potential habitat should follow the United States Geological Survey's 2006 Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion (USGS 2006).</p> <p>If it is determined that take will occur for any CESA-listed species, CDFW recommends consultation with CDFW to determine if an ITP is necessary.</p>		
<p>MM-BIO-5- Amend MM 13</p>	<p>CDFW recommends the County amend MM 13 to exclude the strikethrough and include the <u>underlined</u> language:</p>	<p>Prior to Project-related ground-</p>	<p>Project Applicant/ County of Santa Barbara</p>

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	<p>“No more than two (2) weeks prior to initiation of project demolition and construction activities, a County-approved biologist <u>with experience surveying for each special-status species</u>, shall conduct a focused surveys on the project site for <u>each individual special-status species</u> (including those identified in the Watershed Environmental, Inc. Biological Assessment Report dated January 20, 2023: California red-legged frog; least Bell’s vireo; southwestern willow flycatcher; western pond turtle; pallid bat; hoary bat; and two-striped garter snake). The purpose of the surveys(s) <u>is are</u> to determine presence and/or absence of special-status species. The survey will include the potential project footprint as well as the surrounding habitat potentially supporting special-status wildlife species. Should special-status wildlife be identified within the potential project footprint, species-specific protection measures shall be employed to avoid impacts to these species. <u>A qualified biologist with appropriate handling permits (e.g. Scientific Collecting Permit) shall prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan shall be prepared prior to implementing any Project-related ground-disturbing activities and vegetation removal and reviewed by CDFW. Species that do not require a recovery permit to handle that are listed by CDFW as species of special concern (such as western pond turtles and two-striped garter snakes) will be collected by the project biologist and relocated to an appropriate offsite location.</u> In the event that a California red-legged frog is found by construction personnel or by the project biologist, the frog shall be left alone, and all work in the vicinity (within 100 ft.) of the frog shall stop until the frog leaves of its own accord. If it becomes necessary to handle or relocate the frog, a biologist with a valid Recovery Permit (Section 10(a)(1)(A) from USFWS must do the capture and relocation. [...]</p>	<p>disturbing activities and vegetation removal</p>	
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<p>REC-2-Scientific Collection Permit</p>	<p>A scientific collecting permit will be necessary for many of the species’ surveys outlined above. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW’s Scientific Collection Permits webpage for information (CDFW 2023e).</p>	<p>Prior to Project-related ground-disturbing activities and vegetation removal</p>	<p>Project Applicant/ County of Santa Barbara</p>
<p>MM-BIO-6-Tree Pests, Pathogens, and Disease</p>	<p>CDFW recommends that the MND include a measure to mitigate the spread of invasive pests and diseases by implementing the following:</p> <ol style="list-style-type: none"> 1) Prior to tree removal, a certified arborist should evaluate trees for infectious tree diseases including but not limited to: sudden oak death (<i>Phytophthora ramorum</i>), thousand canker fungus (<i>Geosmithia morbida</i>), polyphagous shot hole borer (<i>Euwallacea spp.</i>), and goldspotted oak borer (<i>Agrilus auroguttatus</i>) (TCD 2021; UCANR 2021; Phytosphere Research 2012; UCIPM 2013). 2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist should prepare an Infectious Tree Disease Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list should provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from a Project site 	<p>Prior to Project-related ground-disturbing activities and vegetation removal</p>	<p>Project Applicant/ County of Santa Barbara</p>

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	<p>without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.</p> <p>3) If possible, all tree material, especially infected tree material, should be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools should be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.</p>		
<p>REC-3-Data</p>	<p>CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Special status species information should be submitted to the CNDDDB by completing the Online Field Survey Form (CDFW 2023f). To submit information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Releve Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2023g). The County should ensure all pertinent data, such as locations of California satintail, has been properly submitted, with all applicable data fields filled out, prior to finalizing/adopting the Project's environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The County should provide CDFW with confirmation of data submittal.</p>	<p>Prior to Project-related ground-disturbing activities and vegetation removal</p>	<p>Project Applicant/ County of Santa Barbara</p>