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April 10, 2024

Nathan MacBeth
County of Santa Cruz
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
Nathan.MacBeth@santacruzcountyca.org

Subject: 145 Rio Boca Road, Watsonville Project, Initial Study/Mitigated Negative Declaration, SCH No. 2024030453, Santa Cruz County

Dear Nathan MacBeth:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the County of Santa Cruz (County) for the 145 Rio Boca Road, Watsonville Project (Project), located in Santa Cruz County, pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

CDFW is submitting comments on the IS/MND to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines § 15386 for commenting on projects that could impact fish, plant, and wildlife resources (i.e., biological resources). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, 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.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or

[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.

over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080 et. seq.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for any Project activities that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; 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 generally subject to notification requirements. CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project. CDFW may not execute a final LSA Agreement until it has complied with CEQA (Pub. Resources Code § 21000 et seq.) as the Responsible Agency.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests 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). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION SUMMARY

Proponent: Matt Gallager

Objective: The Project involves the construction of a new 2,500-square foot (sq ft) residence with a 2,300-sq ft habitable basement and detached 925-sq ft garage. The Project includes grading approximately 400 cubic yards of material for the construction of a basement under the proposed home.

ENVIRONMENTAL SETTING AND LOCATION

The Project site is located at 145 Rio Boca Road, on a 18,400 sq ft parcel (APN 052-301-69) in the Community of Pajaro Dunes, in unincorporated Santa Cruz County. The Project entails the construction of a new one-story, 2,468-sq ft single family dwelling with 2,304-sq ft conditioned basement, including a detached 925-sq ft garage connected to the proposed dwelling via a new concrete walkway. The Project site is currently vacant of any development with the exception of an existing shared parking pad located at the front of the parcel, adjacent to Rio Boca Road. The Project would increase the permanent development footprint on the parcel by approximately 3,358-sq ft. Grading to accommodate the proposed development would temporarily impact approximately 1,800 additional sq ft around the new developed area during construction.

Special-status species with the potential to occur in or near the Project site include, but are not limited to, Monarch butterfly (*Danus plexipus plexipus*), globose dune beetle (*Coelus globosus*), snowy plover (*Charadrius lexandrines*), western pond turtle (*Emys marmota*), Northern California legless lizard (*Aniella pulchra*), coast horned lizard (*Phrynosoma blainvillii*), American peregrine falcon (Falco peregrinus), land Monterey spineflower (*Chorizanthe pungens var. pungens*).

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources.

COMMENT 1: Artificial Lighting

Issue: The Project has the potential to increase the amount of artificial night lighting on the Project site which may significantly affect fish and wildlife resources.

Evidence the impact would be significant: Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication such as bird song (Miller, 2006), determining when to begin foraging (Stone et al., 2009), behavior thermoregulation (Beiswenger, 1977), and migration (Longcore and Rich, 2004).

Recommendations to minimize significant impacts: CDFW recommends eliminating all non-essential artificial lighting. If artificial lighting is necessary, CDFW recommends avoiding or limiting the use of artificial lights during the hours of dawn and dusk, when many wildlife species are most active. CDFW also recommends that outdoor lighting be shielded, cast downward, and does not spill over onto other properties or upwards into the night sky (see the International Dark-Sky Association standards at

http://darksky.org/) and limited to warm light colors with an output temperature of 2700 kelvin or less.

COMMENT 2: Monarch Butterfly (*Danaus plexippus plexippus*): Overwintering Sites

Issue: Overwintering monarchs have been documented to occur near the Project area (CNDDB, 2024). The IS/MND does not adequately analyze potential direct and/or indirect impacts on monarch butterflies from Project related activities such as construction and/or tree removal. Potential significant impacts associated with the Project's vicinity to overwintering habitat include reduced likelihood of winter survival and direct mortality of individual monarchs.

Species Information: Monarch butterflies are federally listed as a candidate species under the federal Endangered Species Act (ESA) and are considered a special-status species in California. Monarchs can be found overwintering along the California coast in groves of trees primarily dominated by non-native eucalyptus (*Eucalyptus spp*.), with additional native species including Monterey pine (*Pinus radiata*) and Monterey cypress (*Hesperocyparis macrocarpa*) (Griffiths & Villablanca, 2015; Pelton et al., 2016).

Evidence Impact is Potentially Significant: During the last three decades, the western migratory monarch population that overwinters along the California coast has declined by more than 99 percent (Marcum & Darst, 2021). Habitat loss and fragmentation, including grove snescence, are among the primary threats to the population (Thogmartin et al., 2017). Monarch overwintering sites have specific microclimate conditions that are influenced by the configuration of trees and other foliage near the site (Griffiths & Villablanca, 2015). Alteration of the site and surrounding areas could impact microclimate conditions, thereby reducing the suitability of the site for monarchs (Weiss et al., 1991). Project activities have the potential to significantly impact the species by reducing possible overwintering habitat or altering habitat climatic conditions.

Recommended Potentially Feasible Mitigation Measures

To evaluate potential impacts of the Project to monarch butterflies, the CDFW recommends the following protection measures and considerations be incorporated into the IS/MND.

Recommendation 1: Monarch Butterfly Habitat Assessment

A qualified biologist shall be retained to conduct a habitat assessment, at least three months prior to Project implementation. The qualified biologist shall determine if the Project area or its immediate vicinity contain habitat suitable to support monarchs or if monarchs have been known to historically use the Project area. The qualified biologist

should assess habitat following the Xerces Management Guidelines for Monarch Butterfly Overwintering Habitat (The Xerces Society, 2017) or other protocols with prior approval by CDFW. Any suitable monarch over-wintering habitat and associated Project impacts should be disclosed in the Project MND.

Recommended Mitigation Measure 1: Monarch Habitat Avoidance

If suitable over-wintering habitat for monarch butterflies is present at the Project site, the Project proponent shall consult with a qualified biologist to identify monarch roosting microclimate habitat structures. Primary roosting trees and other structural components or flora integral to maintaining microclimate conditions shall be avoided. Cutting or trimming of trees within core overwintering habitat shall be avoided except for specific grove management purposes, and/or human health and safety purposes. Management activities in groves shall be conducted between March 16th and September 14th, in coordination with the aforementioned biologist (Marcum & Darst, 2021).

Recommended Mitigation Measure 2: Monarch Butterfly Take Avoidance

If monarch butterflies are detected within the Project area- or immediate vicinity, a no-disturbance buffer developed in consultation with CDFW or a qualified biologist shall be established from the outer edge of the habitat.

COMMENT 3: Western Pond Turtle

Issue: Western pond turtle have the potential to occur in the Project site. Western pond turtle are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016).

Specific impact: Without appropriate avoidance and minimization measures for western pond turtle, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

Evidence impact is potentially significant: Western pond turtle are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016). The Project includes trenching and grading for the construction of a home. Additionally, noise, vegetation removal, movement of workers, and ground disturbance as a result of Project activities have the potential to significantly impact western pond turtle populations.

Recommended Mitigation Measure 1: Western Pond Turtle Surveys

CDFW recommends a qualified biologist conduct focused surveys for western pond turtle 10 days prior to Project implementation using a best available methodology for the intended purpose CDFW maintains a list of recommended survey protocols for western pond turtle and other fish and wildlife species online at: https://wildlife.ca.gov/Conservation/Survey-Protocols#377281283-reptiles.

Recommended Mitigation Measure 2: Western Pond Turtle Relocation

CDFW recommends that if any western pond turtle are discovered at the site immediately prior to or during Project activities, they should be allowed to move out of the area on their own. If a western pond turtle is unable to move out of the Project area on its own, a qualified biologist shall relocate western pond turtle out of the Project area into habitat similar to where it was found.

COMMENT 4: Fencing

Issue: The Project has the potential to build temporary and/or permanent fences that can impede movement of wildlife.

Evidence the impact would be significant: Fencing can be a hazard to wildlife causing entanglement and mortality (van der Ree 1999, Stuart et al. 2001, Harrington and Conover 2006).

Recommendation to minimize significant impacts: CDFW recommends that if fencing is built, the Project use wildlife friendly fencing.

COMMENT 5: Exterior Windows

Issue: The glass used for exterior building windows could result in bird collisions, which can cause bird injury and mortality.

Evidence the impact would be significant: Birds, typically, do not see clear or reflective glass, and can collide with glass (e.g., windows) that reflect surrounding landscape and/or habitat features (Klem and Saenger 2013, Sheppard 2019). When birds collide with glass, they can be injured or killed. In the United States, the estimated annual bird mortality is between 365-988 million birds (Loss et al. 2014).

Recommendations to minimize significant impacts: CDFW recommends incorporating visual signals or cues to exterior windows to prevent bird collisions. Visual signals or cues include, but are not limited to, patterns to break up reflective areas, external window films and coverings, ultraviolet patterned glass, and screens. For best practices on how to reduce bird collisions with windows, please go to the United States Fish and Wildlife Service's (USFWS) website for Buildings and Glass

(https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php).

COMMENT 6: State Fully Protected Species within the Project Area

Issue: The Environmental Assessment has identified that fully protected species have the potential to occur within and in the vicinity the Project area

Fully protected species, may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the Project planning process.

Recommendation to minimize significant impacts: CDFW recommends that the Project completely avoid impacts to fully protected species.

ENVIRONMENTAL DATA

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

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources

Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

Thank you for the opportunity to comment on the Project's IS/MND. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Emily Galli, Environmental Scientist, at (707) 210-4531 or Emily.Galli@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
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Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No 2024030453)

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