



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



June 26, 2024

Wendy Atkins, Planner II  
Napa County  
1195 Third Street  
Napa, CA 94559  
[Wendy.Atkins@countyofnapa.org](mailto:Wendy.Atkins@countyofnapa.org)

Subject: Infinite Leisure LLC Grading Permit (ENG23-00020), Mitigated Negative Declaration, SCH No. 2024051329, Napa County

Dear Ms. Atkins:

The California Department of Fish and Wildlife (CDFW) received an Mitigated Negative Declaration (MND) from Napa County (County) for the Infinite Leisure LLC Grading Permit (ENG23-00020) (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

CDFW is submitting comments on the MND to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project. The County previously consulted with CDFW about Project impacts and mitigation measures, and CDFW appreciates that the MND includes several of our recommendations.

## **CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife 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), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Infinite Leisure LLC

**Objective:** The Project includes a total cut and fill of 5,165-cubic yards of soil, including a 22,782-square foot excess soil dispersal area, to construct building pads and a driveway for a new single-family dwelling, accessory dwelling unit, and a guest house. Portions of driveway sections, the main residence, and an accessory dwelling unit are

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located on slopes that exceed 10 percent, and results in a driveway over 300 feet in length. No trees would be removed.

**Location:** The Project is located at 1301 Grandview Drive (Proposed Residence and Access Drive) and 1200 Grandview Drive (driveway only); Napa, CA 94558; APNs 043-061-019, 043-061-020; and at approximately 38.27369°N and -122.31742°W.

## REGULATORY REQUIREMENTS

### California Endangered Species 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, either during construction or over the life of the Project. **According to the Biological Resources Reconnaissance Survey (BRRS) report provided with the MND, the Project has the potential to impact Clara Hunt’s milk-vetch (*Astragalus claranus*), Sonoma sunshine (*Blennosperma bakeri*), and Sebastopol meadowfoam (*Limnanthes vinculans*), which are all state listed as endangered species, as further described below** (See <https://wildlife.ca.gov/Conservation/CESA#species> and *Threatened or Endangered Plant Species List (PDF)* link for species listing status.). Issuance of an ITP 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 an ITP.

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.). 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 CESA.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project’s avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and included in **Attachment 1 Draft Mitigation Monitoring and Reporting Program**, CDFW concludes that an MND is appropriate for the Project.

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## I. Environmental Setting Related Impact Shortcoming

***Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of a rare or endangered plant or animal?***

### **Comment 1: Special-status plants, IS/MND Page 10, Biological Resources Reconnaissance Survey report**

**Issue:** The MND and BRRS report state that no special-status plants, including, but not limited to, Clara Hunt's milk-vetch, Sonoma sunshine, and Sebastopol meadowfoam, were observed during protocol-level surveys conducted in 2022 and 2023; and the BRRS indicates that surveys followed CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-status Native Plant Populations and Natural Communities* (See: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.) Thank you for conducting rare plant surveys; however, this survey protocol requires items that are absent from the BRRS, such as a description of reference populations visited and discussions on Project related indirect impacts, therefore it is unclear if surveys fully followed the above protocol and would have detected all special-status plant species that may occur within or adjacent to the Project site.

**Specific impacts and why they may occur and be significant:** If survey protocols and results for special-status plants are not fully completed and reported, impacts may go undetected, and special-status plants including Clara Hunt's milk-vetch, Sonoma sunshine, and Sebastopol meadowfoam could be removed by the Project. Clara Hunt's milk-vetch, Sonoma sunshine, and Sebastopol meadowfoam are state listed as endangered species and therefore are considered endangered pursuant to CEQA Guidelines section 15380. Removal of these plant species could result in a substantial reduction in their number or range, which would be considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** To reduce impacts to special-status plants including, but not limited to, Clara Hunt's milk-vetch, Sonoma sunshine, and Sebastopol meadowfoam to less-than-significant and comply with CESA, CDFW recommends incorporating the following mitigation measure in the MND.

**Mitigation Measure BIO-7 (Pre-Project Special-Status Plant Surveys):** Prior to the start of Project activities, a Qualified Biologist shall conduct surveys during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, direct removal or modifications to hydrological conditions.

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More than one year of surveys during appropriate conditions may be necessary. Surveys and associated reporting shall be conducted according to CDFW's 2018 *Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (See: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>), including, but not limited to, visiting reference sites, unless otherwise approved in writing by CDFW. Reporting shall include all the information in the *Botanical Survey Reports* section on pages 9 to 11 of the above survey protocol, unless otherwise approved in writing by CDFW. The survey reports shall be submitted to CDFW prior to the start of construction. Project activities shall not proceed until CDFW has provided written approval of the survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts to special-status plants cannot be avoided, the Project shall provide habitat compensation at a 3:1 mitigation to impact ratio including permanent protection of habitat through a conservation easement and funding and implementing a long-term management plan, prior to Project activities, unless otherwise approved in writing by CDFW. If impacts to state listed plants cannot be avoided, the Project shall obtain a CESA ITP from CDFW and comply with the ITP.

## **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 California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online 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://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **ENVIRONMENTAL DOCUMENT FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. 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. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (See: Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

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## CONCLUSION

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

Questions regarding this letter or further coordination should be directed to Nicholas Magnuson, Environmental Scientist, at (707) 815-4166 or [Nicholas.Magnuson@wildlife.ca.gov](mailto:Nicholas.Magnuson@wildlife.ca.gov); or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Erin Chappell*  
B77E9A6211EF486  
Erin Chappell  
Regional Manager  
Bay Delta Region

**Attachment 1:** Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No.2024051329)

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## ATTACHMENT 1

### Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
<b>BIO-7</b>	<p>Prior to the start of Project activities, a Qualified Biologist shall conduct surveys during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, direct removal or modifications to hydrological conditions. More than one year of surveys during appropriate conditions may be necessary. Surveys and associated reporting shall be conducted according to CDFW's 2018 <i>Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (See: <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&amp;inline</a>), including, but not limited to, visiting reference sites, unless otherwise approved in writing by CDFW. Reporting shall include all the information in the <i>Botanical Survey Reports</i> section on pages 9 to 11 of the above survey protocol, unless otherwise approved in writing by CDFW. The survey reports shall be submitted to CDFW prior to the start of construction. Project activities shall not proceed until CDFW has provided written approval of the survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts to special-status plants cannot be avoided, the Project shall provide habitat compensation at a 3:1 mitigation to impact ratio including permanent protection of habitat through a conservation easement and funding and implementing a long-term management plan, prior to Project activities, unless otherwise approved in writing by CDFW. If</p>	Prior to Ground Disturbance	Project Applicant

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	impacts to state listed plants cannot be avoided, the Project shall obtain a CESA ITP from CDFW and comply with the ITP.		
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