



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

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August 14, 2024

Cesar Orozco, Planning Manager

City of Vallejo

555 Santa Clara Street

Vallejo, CA 94590

Cesar.Orozco@cityofvallejo.net

Subject: Sonoma Gateway Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2024070830, City of Vallejo, Solano County

Dear Mr. Orozco:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Sonoma Gateway Project (project).

CDFW is providing City of Vallejo (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 draft EIR (See 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), 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 project site is located at 38.14973° N, -122.25347°W, and at 5190 Sonoma Boulevard (Assessor's Parcel Number 0067-140-200), City of Vallejo, 94589, Solano County. There are two existing wetland areas with a combined total of approximately 0.19 acres on the project site. The project proposes to subdivide an existing 12.67-acre parcel to create a new 6.89-acre parcel, which would be developed with six multi-family residential buildings consisting of a total of 202 residential units. Two of the buildings would front Sonoma Boulevard, two would front Broadway Street, and two would be in the center with surface parking lots and open space provided throughout the site.

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Additionally, the project proposes to include construction of a two-story, approximately 9,000-square-foot clubhouse that would include a leasing office and activity space. The project would include a total of approximately 49,439 square feet of amenity spaces, including a pool, pickleball court, bocce ball courts, a barbeque area and hammock garden, dog runs, lawn areas, green landscaped spaces, and common decks. The project would have an overall density of 29 dwelling units per acre. The largest of the three existing wetland areas, which is located along the proposed north property line, would be preserved, providing 28,878 square feet of preservation/wetland area, while the two other wetland areas totaling 1,741 square feet would be filled. Additionally, the proposed project would include two bio-retention basins totaling 8,814 square feet.

The CEQA Guidelines (See Cal. Code Regs., tit. 14, § 15000 et seq.) require that the draft 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

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. **The project has the potential to impact Swainson's hawk (*Buteo swainsonii*), state listed as threatened species, as further described below.** Issuance of a CESA 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 a CESA ITP.

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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, and 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.

Nesting Birds

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests. Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

Fully Protected Species

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 ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code § 2081.15). Project proponents should consult with CDFW early in the project planning process. **The project has the potential to impact white-tailed kite (*Elanus leucurus*), a fully protected species.**

ENVIRONMENTAL SETTING

The draft 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 draft EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or

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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 and sensitive natural communities 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, such as Swainson's hawk and burrowing owl (*Athene cunicularia*)**.

Habitat descriptions and the potential for species occurrence should include 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 (CARI), and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the draft EIR should 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/>), 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 draft 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;

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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.

The CEQA document should also identify 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 the 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.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the project, the CEQA Guidelines direct the Lead Agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and/or mitigate significant impacts of the project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This includes 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.

CDFW offers the specific comments and recommendations below to assist the City in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Please be advised that the draft EIR should include a comprehensive evaluation of potentially significant impacts to fish and wildlife resources as described in this letter, and CDFW may provide additional comments once the draft EIR is circulated for public review.

COMMENT 1. To reduce potential impacts to Swainson's hawk to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measures BIO-1 to BIO-3 in the draft EIR. For BIO-3, please note that loss of foraging habitat has significantly contributed to population declines of Swainson's hawk (and burrowing owl, see Comment 2) (CDFW 2016).

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BIO-1. Swainson's Hawk Surveys: If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) and prepare a report documenting the survey results. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating project-related construction activities. Surveys shall occur annually for the duration of the project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections.

BIO-2. Swainson's Hawk Avoidance Buffer: If active Swainson's hawk nests are detected, the project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the project shall consult with CDFW pursuant to CESA and obtain an ITP.

BIO-3. Swainson's Hawk Foraging Habitat Mitigation: Impacts to Swainson's hawk foraging habitat shall be quantified by a qualified biologist based on the final project design plans, and the Project shall obtain written acceptance of the acreage of habitat impacts from CDFW. Prior to project construction, the project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.

COMMENT 2. To reduce potential impacts to burrowing owl to less-than-significant, CDFW recommends including the below mitigation measures BIO-4 to BIO-6 in the draft EIR.

BIO-4. Burrowing Owl Surveys: A qualified biologist shall conduct a habitat assessment and surveys for wintering burrowing owl prior to construction if construction starts during the burrowing wintering season (September 1 to January 31) Surveys shall be conducted if warranted based on the habitat assessment. The

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habitat assessment and surveys shall follow the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) and the qualified biologist shall prepare a report documenting the survey results. The habitat assessment and surveys shall encompass the project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the project site pursuant to the above methodology. Habitat assessments and surveys shall occur each year of project construction, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to, a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. The project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW.

BIO-5. Burrowing Owl Foraging Habitat Mitigation: Impacts to burrowing owl foraging habitat shall be quantified by a qualified biologist based on the final project design plans, and the project shall obtain written acceptance of the acreage of habitat impacts from CDFW. Prior to project construction, the project shall provide burrowing owl foraging habitat mitigation at a minimum 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of burrowing owl foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.

BIO-6. Burrowing Owl Burrow Mitigation: If the Project would impact an occupied burrow where a non-nesting owl would be evicted as described below, the following habitat mitigation shall be implemented prior to Project construction.

Impacts to each burrowing owl site shall be mitigated by permanent preservation of one burrowing owl occupied non-nesting (i.e., wintering) sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity.

The project may implement alternative methods for preserving habitat with written acceptance from CDFW.

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Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the project shall obtain CDFW’s written acceptance of the eviction plan.

COMMENT 3. To reduce potential impacts to white-tailed kite and other nesting birds to less-than-significant, CDFW recommends including the below mitigation measure BIO-7 in the draft EIR.

BIO-7. Nesting Bird Surveys: If construction, grading, vegetation removal, or other project-related activities are scheduled during the avian nesting season, February 1 to August 31, a qualified biologist shall conduct a survey for active bird nests within 7 days prior to the beginning of project-related activities. The survey shall include the entire project site and a minimum 500-foot buffer. If a lapse in project-related work of 7 days or longer occurs, another survey shall be conducted before project work can be reinitiated. If an active nest is found during surveys, the qualified biologist shall immediately notify CDFW contact below, or if unavailable another CDFW representative, and establish site- and species-specific no-work buffers to ensure the nest is not disturbed. The buffer distances shall be specified to protect the bird’s normal behavior to prevent nesting failure or abandonment and comply with Fish and Game Code section 3500 et seq. and the federal MBTA. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.

The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.

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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>.

FILING FEES

CDFW anticipates that the project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. 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.

If you have any questions, please contact Nicholas Magnuson, Environmental Scientist, at (707) 815-4166 or Nicholas.Magnuson@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell
B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Special-Status Species

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2024070830)

REFERENCES

California Department of Fish and Wildlife (CDFW), 2016. 5-year Status Review: Swainson's hawk (*Buteo swainsoni*). Prepared for the California Fish and Game Commission. Nongame Bird and Mammal Program 1416 Ninth Street, Sacramento, CA

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ATTACHMENT 1: Special-Status Species

Scientific Name	Common Name	Status
Birds		
<i>Buteo swainsoni</i>	Swainson's hawk	ST
<i>Elanus leucurus</i>	white-tailed kite	FP
<i>Athene cunicularia</i>	burrowing owl	SSC
<i>Circus hudsonius</i>	northern harrier	SSC
<i>Lanius ludovicianus</i>	loggerhead shrike	SSC
<i>Passerculus sandwichensis alaudinus</i>	Bryant's savannah sparrow	SSC
<i>Buteo regalis</i>	ferruginous hawk	WL
Invertebrates		
<i>Speyeria callippe callippe</i>	callippe silverspot butterfly	FE
<i>Danaus plexippus plexippus</i> pop. 1	monarch - California overwintering population	FC
Mammals		
<i>Antrozous pallidus</i>	pallid bat	SSC
<i>Taxidea taxus</i>	American badger	SSC
Plants		
<i>Trifolium amoenum</i>	two-fork clover	FE, CRPR 1B.1
<i>Trifolium hydrophilum</i>	saline clover	CRPR 1B.2
<i>Fritillaria liliacea</i>	fragrant fritillary	CRPR 1B.2
<i>Carex lyngbyei</i>	Lyngbye's sedge	CRPR 2B.2

FP = state fully protected under Fish and Game Code; FE = federally listed as endangered under the Endangered Species Act (ESA); ST = state listed as threatened under CESA; FC= Federal Candidate Species; WL = CDFW Watch List; SSC = State Species of Special Concern; CRPR = California Rare Plant Rank¹

¹ 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>).