



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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November 21, 2024

Tristan White
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Subject: RUNGE LIVING TRUST TENTATIVE PARCEL MAP (TPM23-0011)
MITIGATED NEGATIVE DECLARATION (MND)
SCH No. 2024100988

Dear Tristan White:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from Butte County (County) for the Runge Living Trust Tentative Parcel Map (TPM23-0011; hereafter: Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW 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, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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. (Fish & G. Code, § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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.

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CDFW may also act 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. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.)

PROJECT DESCRIPTION SUMMARY

The Project site is located in Butte County in an unincorporated area approximately 1.5 miles east of Oroville. The site is northeast of Olive Highway (SR162), directly east of the Valley View Heights and Oroville Wyandotte Fruit Lands Subdivisions. The site is located on the east side of Riverview Drive and north of Heritage Road. The assessor's parcel number is 069-520-028.

The Project consists of subdividing an 84-acre property located in the Medium Density Residential zone into four parcels of 10 acres, leaving a remainder 44-acre parcel. All parcels would be contiguous. The parcel is currently vacant and undeveloped. No development on Parcels 1, 2, 3 or 4 is proposed as part of this application; however, future single-family development consistent with the MDR zoning designation is anticipated. Future development on each parcel would likely consist of single-family residences with potentially an accessory unit.

COMMENTS AND RECOMMENDATIONS

Based on the information provided in the MND, the proposed Project may result in direct, indirect and cumulative adverse impacts to biological resources within the Project area. The Project may significantly reduce terrestrial habitats, including mature oak woodland habitats. The County should: (1) analyze the Project's reasonably foreseeable significant impact(s) on biological resources presuming subsequent development of the parcels will result in direct impacts to all natural resources onsite; (2) consider the Project's cumulative impacts to natural resources and determine if that contribution would result in a significant impact; and (3) consider present, past, and probable future projects producing related impacts to resources.

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

COMMENT 1: Significant Impacts to oak woodlands, Biological Resources Section, p. 19

Issue: Oak woodlands are extremely valuable wildlife habitat. In California, oak woodlands have the greatest wildlife species richness of any other habitat in the state with over 330 species of amphibians, birds, and mammals relying upon these habitats at some point during their lives (CalPIF 2002). Oak woodlands have experienced ongoing declines due to conversion for agricultural uses, and oak woodlands are also impacted by low recruitment, novel pathogens, competition from invasive species, and fire suppression

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(Whipple et al. 2011). California has lost approximately 1/3 of its historic oak woodland habitat statewide (CalPIF 2002). Because oaks are slow-growing trees, the substantial habitat and ecosystem value that mature trees provide is difficult to replace. Oak woodlands provide vertical and horizontal structural habitat complexity, food sources for a wide variety of wildlife, and nesting, denning, burrowing, hibernating, and roosting structures.

Under Public Resources Code § 21083.4 (the [Oak Woodlands Conservation Act](#)), as part of its CEQA review, “a county shall determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment. If a county determines that there may be a significant effect to oak woodlands, the county shall require one or more... mitigation alternatives to mitigate the significant effect of the conversion of oak woodlands.” Potential alternatives include: (1) conservation of oak woodlands, (2) plantings, (3) contributions to the Oak Woodlands Conservation Fund, and (4) other mitigation measures developed by the County. Despite this, the MND’s Biological Resources section does not quantify or describe the number of individual oak trees or the area of oak woodland at risk of being cleared once the parcel is split. Consequently, as currently written, the MND does not assess potential impacts to oak woodlands, make a determination regarding the significance of the Project on oak woodlands, or include mitigation alternatives.

The Project proposes subdivision of a parcel that contains significant quantities of oak woodland. The MND states that “No development is proposed as part of this application” but also acknowledges that subdividing the parcel into five smaller parcels means that future development is anticipated. Further stating that “Future development on each parcel would likely consist of single-family residences with potentially an accessory unit.” It is unlikely that subsequent CEQA review will be required for the development of single-family residences on the created parcels and CDFW is unaware of existing County ordinance specific to protecting oak woodlands. Hence, the Project paves the way for future removal of the entire intact oak woodland onsite. The loss, degradation, and fragmentation of oak woodlands results in a net loss of sensitive habitats and species, loss of habitat connectivity and nursery sites, increased human-wildlife conflicts, increased potential for nutrient and pollutant run-off into the West Fork North Honcutt Creek, and cumulatively significant urban expansion into natural areas. The net loss of oak woodland resulting from the Project is considered a significant impact.

Recommendation: The MND should be revised to include an inventory of the number, species, and size of all oaks onsite as well as a canopy evaluation of the total acreage of oak woodland onsite. The inventory should inform a quantified analysis of the loss, degradation, and fragmentation of oak woodlands; this analysis should presume that all vegetation onsite will be substantially cleared, and trees removed, as a result of the subdivision and subsequent development. The analysis should consider cumulative impacts to oak woodland within the County from both development pressure and catastrophic wildfires. The analysis should consider impacts to wildlife food sources; changes in size and configuration of woodland habitat patches and increased edge habitat; a loss of most of the existing habitat features and services; fragmentation and or

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parcelization of contiguous ownerships; construction of barriers (fences); severing wildlife corridors or habitat linkages thereby impacting wildlife connectivity; and increasing human-wildlife conflicts.

Once the tree inventory is prepared, the revised MND should include enforceable mitigation to reduce Project impacts to a less-than-significant level. CEQA Guidelines § 15126.4(a)(2) states “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.”

The Project should be designed so that the loss of oak woodland is avoided. If the loss of oak woodland is unavoidable, then pursuant to Public Resources Code § 21083.4, Butte County should mitigate the conversion of oak woodlands.

COMMENT 2: Special-Status Plant Species, Table 4.4-1, p. 21

Issue: Special-status species include, but are not limited to, those species (1) considered either rare or regionally unique throughout their range (CEQA Guidelines § 15125[c]), (2) identified as threatened, endangered, rare, or candidate by CDFW or U.S. Fish and Wildlife Service (CEQA Guidelines § 15380.), or (3) plants that have a California Native Plant Society’s California Rare Plant Rank of 1A, 1B, 2A, 2B, 3 and 4 (CEQA Guidelines § 15125[c]). Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA. As currently proposed in the MND, the Project has the potential to have a significant impact on special-status plant species because it does not include accurate survey results or adequate avoidance, minimization, and mitigation measures for Project related impacts to special-status plant species.

The Project site contains foothill woodland habitat suitable for Brandegee’s clarkia (*Clarkia biloba* ssp. *brandegeae*) and Butte County fritillary (*Fritillaria eastwoodiae*). In addition, there are California Natural Diversity Database occurrences of both species within 2 miles of the Project. The Project site also provides suitable habitat for white-stemmed clarkia (*Clarkia gracilis* ssp. *albicaulis*), ranked a 1B.2 species by the California Native Plant Society.

Information was not included in the MND on whether protocol level surveys for these species have been conducted at the Project site. Unmitigated impacts to these species may be significant.

Recommendation: To reduce potential impacts to special-status plant species to a less-than-significant level, it is recommended the MND be revised to require the following measure:

“Prior to approval of the Project, protocol-level surveys (in accordance with the California Department of Fish and Wildlife (CDFW) [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#)) shall be performed by a qualified botanist during the appropriate blooming period for the following

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species:

- Brandegee's clarkia (*Clarkia biloba* ssp. *brandegeeeae*) (Blooming Period: May-July)
- Butte County fritillary (*Fritillaria eastwoodiae*) (Blooming Period: March-June)
- white-stemmed clarkia (*Clarkia gracilis* ssp. *albicaulis*) (Blooming Period: May-July)

A survey report shall be prepared and submitted to the County no later than 30 days following the survey. The report shall include the methods, results, and a map that shows the survey boundary and location of special-status plant species observations. The report shall include proposed plans for full avoidance and/or a plan to minimize and mitigate impacts to special-status plants. New sightings of sensitive plant species should be reported to the California Natural Diversity Database. Impacts may not occur to special-status plant species onsite without written concurrence from the County in consultation with CDFW.”

COMMENT 3: Insufficient analysis of onsite habitat, Biological Resources Section, p. 19

Issue: The MND's Environmental Setting section on page 19 states, “There are no drainage or riparian areas visible on the site.” However, after reviewing publicly available aerials and CDFW's Biogeographic Information and Observation System (BIOS), the West Fork North Honcutt Creek and several wetlands and/or seeps occur within the Project site.

Recommendation: The MND should include environmental analysis to identify all perennial, intermittent, and ephemeral rivers, streams, and lakes within the Project footprint and any habitats supported by these features such as, but not limited to wetlands and riparian habitats. The environmental analysis should identify impacts to fish and wildlife resources dependent on those hydrologic features and habitat types. The analysis should presume that all aquatic habitats onsite will be substantially altered or destroyed, as a result of the subdivision and subsequent development into single family residences. The MND should estimate, by habitat type, the acreages that will be permanently directly, indirectly or cumulatively impacted by the proposed Project.

Notification to CDFW may be required, pursuant to Fish and Game Code section 1602 if the Project proposes activities that will substantially divert or obstruct the natural flow of or substantially change or use any material from the bed, channel or bank of any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. In these cases, the environmental document should propose mitigation measures to avoid, minimize, and mitigate impacts to fish and wildlife resources from these activities. Notification forms, instructions and the associated fee schedule to obtain a Lake or Streambed Alteration Agreement are located at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

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ENVIRONMENTAL DATA

CEQA requires that information developed in 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 found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

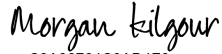
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the Project to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the MND for the Runge Living Trust Tentative Parcel Map (TPM23-0011) to assist the County in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. If you have questions regarding this letter or desire further coordination, please contact Ian MacLeod at (916) 907-3782 or ian.macleod@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Morgan Kilgour
Regional Manager

ec: Tanya Sheya, Environmental Program Manager
Melissa Stanfield, Senior Environmental Scientist (Supervisory)
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Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse, Sacramento

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REFERENCES

CalPIF (California Partners in Flight). 2002. The oak woodland bird conservation plan: a strategy for protecting and managing oak woodland habitats and associated birds in California. Version 2.0 (S. Zack, lead author). Point Reyes Bird Observatory, Stinson Beach, CA. <http://www.prbo.org/calpif/plans.html>.

Whipple A.A., Grossinger R.M., and Davis F.W. 2011. Shifting baselines in a California oak savanna: nineteenth century data to inform restoration scenarios. *Restoration Ecology* 19 (101):88-101.