

Notice of Determination

To:

Office of Planning and Research
For U.S. Mail:
P.O. Box 3044

Sacramento, CA 95812-3044

Street Address:

1400 Tenth Street
Sacramento, CA 95814

From:

California Department of Fish and Wildlife (CDFW)
North Central Region
1701 Nimbus Road
Rancho Cordova, CA 95670
Contact: Kursten Sheridan
Phone: (916) 817-0419

RECEIVED

JUL 26 2019

Lead Agency (if different than CDFW)
City of Chico
411 Main Street, 2nd Floor
Chico, CA 95928
Contact: Mike Sawley
Phone: (530) 879-6812

DFG
Office of the General Counsel

SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code § 21108
State Clearinghouse Number: 2016062049.

Project Title: Stonegate Development (California Endangered Species Act Incidental Take Permit No. 2081-2018-082-02 (ITP)).

Project Location (include county): The Stonegate Development Project (Project) is located within the City of Chico, Butte County. The Project is located at approximately Latitude 39°43'14.51"N, Longitude 121°47'5.04"W. The Project site is bounded by Skyway Road to the south and East 20th Street to the North.

Project Description: The Project includes development of a 132-acre property into a combination of the following land uses: Public right-of-way: 28.4 acres; Bicycle Path: 0.7 acre; Park: 3.5 acres; Single-family residential, standard lots (338 lots): 68.9 acres; Multi-family residential: 4 acres; Commercial: 16.6 acres; Stormwater Facility: 5.4 acres; Open Space (Stonegate Preserve): 132 acres (117.3-Project Preserve plus 14.76-acre Doe Mill-Schmidbauer Meadowfoam Preserve).

The Project will result in impacts to 0.10 acres of Butte County Meadowfoam (*Limnanthes floccose ssp. californica*; BCM). The Project is expected to result in incidental take of BCM, which is designated as an endangered species under the California Endangered Species Act. The ITP referenced above as issued by CDFW authorizes incidental take of species listed under CESA that may occur as a result of Project implementation.

This is to advise that CDFW, acting as [the lead agency / a responsible agency] approved the above-described project on July 22, 2019 and made the following determinations regarding the above described project:

1. The project [will / will not] have a significant effect on the environment (This determination is limited to effects within CDFW's permitting jurisdiction as a responsible agency).
2. [An environmental impact report / A negative declaration] was prepared by the lead agency for the original project.
3. Additional mitigation measures [were / were not] made a condition of CDFW's approval of the project.
4. A mitigation reporting or monitoring plan [was / was not] adopted by CDFW for this project.

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2018-082-02**

**Bruce Road Associates, LP.
Stonegate Development Project**

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*). CDFW is a responsible agency under CEQA with respect to the Stonegate Development Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*). (See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a).)¹ CDFW makes these findings under CEQA as part of its discretionary decision to authorize the Bruce Road Associates, LP (Permittee) to incidentally take Butte County Meadowfoam (*Limnanthes floccose ssp. californica*; hereafter referred to as Covered Species) during implementation of the Project. (See generally Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4.) The Covered Species is designated as a threatened species under CESA. (Cal. Code Regs., tit. 14, § 670.5, subd. (b)(4)(E)).

CDFW is a responsible agency under CEQA with respect to the Project because of prior environmental review and approval of the Project by the lead agency, City of Chico (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367.). The City of Chico analyzed the environmental impacts associated with implementation of the Project in a Stonegate Vesting Tentative Subdivision Map and General Plan Amendment/Rezone EIR (SCH No. 2016062049) and approved the Project September 18, 2018. In so doing, the City of Chico imposed various mitigation measures for impacts to the Covered Species as conditions of Project approval and concluded that Project-related impacts to the Covered Species could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less than significant.

As approved by the City of Chico, the Project involves the development of a 132-acre site with a mixture of 338 single-family residential lots, 4 acres of multi-family residential land use, 16.6 acres of commercial land uses, 5.4 acres of proposed storm water facilities, 3.5 acres of park, a pedestrian/bicycle trail, and a 117.3-acre preserve. The 117.3-acre preserve will combine with an adjacent 14.76-acre Doe Mill-Schmidbauer Meadowfoam Preserve into a single 132-acre biological preserve (Stonegate Preserve). Construction of the Project site will result in the permanent loss of 0.10 acres of habitat for the Covered Species and take of the Covered Species as defined by Fish and Game Code is expected. (Fish & G. Code, § 86.) These impacts fall within CDFW's permitting jurisdiction under CESA. (*Id.*, §§ 2080, 2081, subd. (b).)

¹ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the Project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the Project as set forth in the City of Chico's EIR, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because CDFW's exercise of discretion is limited to issuance of an Incidental Take Permit (ITP) for the Project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under CESA. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 935-941.) Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the EIR fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.)

CDFW's more limited obligations as a responsible agency affect the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each public agency that approves a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a); see also Pub. Resources Code, § 21068 (significant effect on the environment defined); CEQA Guidelines, § 15382.) Because the EIR certified by DWR for the Project identifies potentially significant impacts on the Covered Species, CDFW adopts the findings set forth below to fulfill its obligations as a responsible agency under CEQA. (CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund. V. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

FINDINGS:

CDFW has considered the EIR adopted by City of Chico as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by City of Chico, along with the mitigation measures and Conditions of Approval set forth in CDFW's ITP for the Project, will ensure that all Project-related impacts on the Covered Species are mitigated to below a level of significance under CEQA.

CDFW finds that issuance of the ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the conditions of Project approval adopted by the lead agency, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through

the issuance of the ITP, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's ITP for the Project will avoid to the extent feasible and mitigate to below a level of significance all Project-related impacts on the Covered Species:

- A. A Designated Biologist who is knowledgeable and experienced in the biology and natural history of the Covered Species will monitor construction and/or surface-disturbing activities to minimize habitat disturbance and take of individual Covered Species. The Designated Biologist will have the authority to stop construction and/or surface-disturbing activities and/or order any reasonable measure to avoid take of the Covered Species.
- B. To fully mitigate the Project impacts to BCM, Permittee shall provide 1.9 acres of BCM occupied habitat.
- C. Compliance monitoring will be reported monthly and annual reports will be sent to CDFW by January 31 of each year.
- D. Covered Species found on the Project site shall be relocated by the Designated Biologist to a protected off-site location.
- E. Permittee will prepare and submit a final mitigation report within 60 days following completion of the Project to notify CDFW of the success and effectiveness of required mitigation measures.

CDFW finds that the Mitigation Monitoring and Reporting Program in [Attachment 1] of CDFW's ITP for the Project will ensure compliance with mitigation measures by requiring the Permittee to monitor and report progress in implementing those measures for review by CDFW staff.

The Mitigation Monitoring and Reporting Program is adopted.

The Project is approved.

DATE: 7/22/19

By: Kevin Thomas
Kevin Thomas, Regional Manager
North Central Region
DEPARTMENT OF FISH AND WILDLIFE

Governor's Office of Planning & Research

JUL 29 2019

STATE CLEARINGHOUSE