



ALTHOUSE AND MEADE, INC.
BIOLOGICAL AND ENVIRONMENTAL SERVICES

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November 21, 2019
Project #1132.05

California Production Services
c/o Nathaniel Hargitt
1480 Penman Springs
Paso Robles, CA 93446

Re: Response to CDFW Comment Letter for the County of San Luis Obispo and California Production Services, 1480 Penman Springs CUP

Dear Mr. Hargitt,

This letter provides additional information regarding special status species reported to occur in the vicinity of an approximately 2.7-acre project (Study Area) located at 1480 Penman Springs in Paso Robles, San Luis Obispo County (Figure 1 in Biological Resource Assessment (BRA); Althouse and Meade 2018). We address comments from the California Department of Fish and Wildlife (CDFW; CDFW 2019) in response to the Mitigated Negative Declaration (MND) regarding an additional four special status animals and their potential to occur based on their known occurrences reported from the region, which include golden eagle (*Aquila chrysaetos*), tricolored blackbird (*Agelaius tricolor*), western spadefoot toad (*Spea hammondi*), and northern California legless lizard (*Anniella pulchra*). Below we discuss each species and evaluate their potential to occur in the Study Area.

Golden eagle (GOEA) is designated a Fully Protected species by CDFW and is federally protected by the Bald and Golden Eagle Protection Act. The species range extends throughout much of North America and in California is found in broadleaved upland and montane coniferous forests, cismontane, pinon and juniper woodlands, coastal prairie, great basin scrub and great basin, valley and foothill grassland habitat types (CDFW 2019). Most golden eagles in California are residents year-round, but in the winter months this population will be augmented with individuals from other nearby western states. The breeding season in California is generally from late January through August. The golden eagle prefers open habitat and in California it extensively utilizes grazed grasslands and open shrublands for preying on its main food source of hares or rabbits and marmots or ground squirrels (Hunt 1995; Watson 2010). Studies have shown that both the golden eagle's reproduction rate and success declines with a decrease in prey abundance. The golden eagle will even refrain from egg laying when prey numbers are low (Driscoll 2010). In California, the golden eagle nests almost exclusively in trees (82% trees in central California) but in montane regions it also has a preference for cliffs and will avoid nesting in densely forested habitat (Hunt 1995; Pagel

et al. 2010). The golden eagle is highly sensitive to anthropogenic presences and will avoid nesting near urban areas (Pagel et al. 2010). Golden eagles will even abandon nests when human activity and development increases in their territory (Driscoll 2010).

The closest reported occurrence of nesting golden eagles is located approximately three miles northwest from the Project (CNDDDB #122). This record was reported by Althouse and Meade, Inc. biologists in 2006 while conducting surveys for a proposed RV park (Althouse and Meade, Inc. 2006). Two nests were observed in close proximity in blue oak (*Quercus douglasii*) trees located on the west side of Huerhuero Creek, north of Highway 46 between Golden Hill Road and Airport Road in Paso Robles. One of these nests was active in 2006, while the other appeared to not have been used in recent years. The habitat at that time was a remote wooded hillside overlooking Huerhuero Creek with lots of surrounding rangeland. Development in this area since 2006 has been significant and the current status of this nesting territory is unknown. A historic golden eagle nest is known from a tall eucalyptus tree at Santa Ysabel Ranch, approximately 4.2 miles southwest of the Project. This nest was active in 2001 at the time the ranch was developed. The current status of this nest is unknown.

The Study Area at 1480 Penman Springs consists of annual grassland habitat. No trees suitable for nesting golden eagles are present in the Study Area. Blue oak and valley oak (*Quercus lobata*) trees are present in the seasonal drainage located on the property to the east and south of the Study Area. No golden eagle or other large stick nests were observed during surveys of the Study Area in 2018. Aerial imagery shows ground disturbance at the site (through grading and/or tilling) dating back to 2003. The disturbed grassland habitat in the Study Area does not provide nesting habitat for golden eagles and nesting golden eagles have no potential to occur onsite. The disturbed grassland could provide low-quality foraging habitat, but it is unlikely that golden eagles would utilize the site for foraging due to the proximity to residences and active agriculture.

Per CDFW (2019), a minimum half a mile no disturbance buffer should be implemented around an active nest during the nesting season (January through August). Based on our review of aerial imagery and a reconnaissance site visit in November 2019, we do not expect any golden eagle nesting territories to be within one half mile of the Study Area. The surrounding landscape within a half mile of the Study Area is fragmented by vineyards and rural residential parcels, with few if any suitable large trees that have sufficient surrounding open rangeland for hunting. About three-quarters of a mile south and west of the Study Area is a wooded slope associated with Huerhuero Creek that likely is the closest potential nesting habitat for golden eagle. We scanned the hillside from Penman Springs Road in November 2019 and did not see any obvious large stick nests.

CDFW (2019) recommends surveys for golden eagle be conducted in accordance with the USFWS 2010 protocols if construction of the Project must take place during the breeding season. CDFW Senior Environmental Scientist Kelley Aubushon indicated that ground-based surveys of the Study Area with a 0.5-mile buffer would be sufficient for the scale of this project. In our professional judgement, construction of the proposed Project is not likely to affect nesting golden eagles and we would not recommend further surveys as part of the Project CEQA evaluation. The December 2018 Biological Resource Assessment (Althouse and Meade, Inc. 2018) provides BR-13 as a preconstruction nesting bird survey measure to reduce potential impacts to nesting birds that may be present in the future. The measure could be modified to specify a half-mile survey buffer for golden eagle.

Tricolored blackbird (TRBL) is a California Species of Special Concern (nesting colonies) and is also a candidate for listing as endangered under the California Endangered Species Act. Tricolored blackbird occurs predominately in the Central Valley of California and in smaller disjunctive nesting colonies southwest of the Cascade Sierra axis and at higher elevations only in northwestern California (Shuford and Gardali 2008). Within its restricted range, the tricolored blackbird will migrate during the breeding season, moving north after the first nesting efforts, and in winter moving to lower elevations (Shuford and Gardali 2008). The breeding season is generally from April to July, but in the Central Valley there has been active breeding reported in October and November (CDFW 2014). Historically, the tricolored blackbird nested in emergent wetlands, marshes and swamps making their nests in tall, dense cattails, tules, tall herbs, thickets of willows and blackberries. The species also requires foraging space with an abundance of insect prey that can sustain the nesting colony (Weintraub et al. 2016). In a recent study, it was found that the tricolored blackbird had a higher breeding success nesting in non-native invasive vegetation like the Himalayan blackberry (*Rubus discolor*) over the native cattail (*Typha* spp.) (Cook and Toft 2005).

The closest reported occurrence of a tricolored blackbird nesting colony is approximately three miles southwest from the Study Area along Creston Road (CNDDDB #998). This location is reported from 1997 through 2014, with nesting material being carried by birds in 2008 and no birds observed in 2014. Another record at a private pond along Creston Road approximately 4 miles southeast of the Study Area is also reported (CNDDDB #881). Wintering birds are known to be present periodically throughout the interior areas of San Luis Obispo County where they forage in grasslands and croplands.

Nesting habitat consisting of aquatic features with emergent tules and cattails does not occur in the Study Area or surrounding areas on the Property. An old agricultural pond in the Study Area did not hold water in December 2018 and does not have any wetland emergent vegetation. Review of aerial imagery indicates there are no agricultural ponds within 300 feet of the Study Area that would be potential nesting habitat for tricolored blackbirds. Potential foraging habitat is present in the Study Area. The ephemeral drainage to the east and south of the Study Area consists of oak woodland with an understory of grasses. No tricolored blackbirds or their nests were observed on the Property in 2018. In our professional judgement, nesting tricolored blackbirds have no potential to occur in or near the Study Area.

CDFW (2019) recommends preconstruction surveys be conducted no more than 10 days prior to start of Project implementation if work must be conducted during the nesting season (February 1 through September 15). To address the CDFW comment, we recommend BR-13 from the December 2018 Biological Resource Assessment be modified to specifically include this language for tricolored blackbird.

Western spadefoot toad has a Global Rank of G3 (Vulnerable) and a State Rank of S3 (Vulnerable). It is a Species of Special Concern (CDFW 2018) that is known to occur in grassland habitats throughout the Central Valley and adjacent foothills. It is also found along the Coast Ranges from Point Conception in Santa Barbara County south to the Mexican border (CDFW 2014, CNDDDB 2017). Western spadefoot toad is primarily an inland species, occurring in grassland habitats with friable soils and seasonal rain pools (CNDDDB 2019). Spadefoot toads remain underground for most of the year, emerging to breed in seasonal wetland pools during the rainy season and if enough rain occurs, they can be found above ground from October through

April. Typical breeding season is from December to March. Development of the larvae from egg to metamorphosis can be very quick (3-11 weeks), depending upon water temperature and food resources. Recruitment will most often fail if breeding ponds are habited by predators such as bullfrogs (*Lithobates catesbeiana*) and crayfishes (CDFW 2014, Jennings and Hayes 1994).

The closest reported occurrence of the western spadefoot toad is located approximately 2.1 miles northeast of the Study Area (CNDDDB #333) in 2005. As part of the preparation of the December 2018 Biological Resource Assessment report we evaluated potential for spadefoot toad to occur in the Study Area. We determined that ephemeral aquatic habitats were not present in the Study Area and therefore the Project would not affect spadefoot toad breeding habitat. Spadefoot toads can move overland away from breeding habitats for some distance where they aestivate in burrows or directly buried in soft sandy soils in upland habitats. Potential breeding habitat may be present in the vicinity of the Study Area. However, we found the Project site to be disturbed and lacked suitable burrows for use by spadefoot toads, suggesting that upland aestivation in the Project site is unlikely. Ground disturbance for construction of the proposed Project is not likely to affect western spadefoot toad.

Northern California legless lizard is a California Species of Special Concern that occurs from Contra Costa to Santa Barbara County. It has a Global Rank of G3 and a State Rank of S3, both of which indicate that this species is considered Vulnerable. This species includes the subspecies formerly treated as *A. pulchra nigra* and *A. pulchra pulchra* which was shown to be an invalid designation (Pearse and Pogson 2000). Northern California legless lizard inhabits friable soils in a variety of habitats from coastal dunes to oak woodlands and chaparral. Adapted to subterranean life, the legless lizard thrives near native coastal shrubs that produce an abundance of leaf litter and have strong roots systems (Kuhnz et al. 2005). Areas of exotic vegetation and open grassland do not provide suitable habitat for the silvery legless lizard since these plant communities support smaller populations of insect prey and offer little protection from higher ground temperatures and soil desiccation (Slobodchikoff and Doyen 1977; Jennings and Hayes 1994).

The closest reported occurrence of the northern California legless lizard is located approximately one mile southeast of the Study Area (CNDDDB #156) in 1954. More recent occurrences were reported in 1966 approximately four miles northeast of the Study Area and approximately nine miles northeast in 2007 (CNDDDB #155 and #66, respectively). As part of the preparation of the December 2018 Biological Resource Assessment report we evaluated potential for legless lizard to occur in the Study Area. The Study Area is composed of silty clay loam soils (Nacimiento – Los Osos complex, 9 to 30 percent slopes) which can be fairly friable when undisturbed; however, years of ground disturbance has compacted the soils in some areas and created overall soil desiccation across the project site. Preferred leaf litter habitat is also not present in the Study Area. Legless lizards can be expected to be present in sandy soils with leaf litter in the vicinity of the Property. However, in our professional judgement, the Project site does not have potential to support legless lizards and no further surveys are recommended.

The western spadefoot toad and the northern California legless lizard are mostly fossorial species that can be difficult to detect in upland areas. There is no formal protocol for conducting surveys to determine presence or absence. Having a biological monitor on the Project site during all ground disturbing activities that can relocate animals out of harm's way is a good measure for reducing potential impacts to sensitive species from Project development.

Thank you for allowing us to be of assistance. If you have any questions or concerns, please call at (805) 237-9626.

Sincerely,



Principal Biologist

Attachments

- **Attachment A. References**

ATTACHMENT A. REFERENCES

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