



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



May 15, 2020

Governor's Office of Planning & Research

**MAY 18 2020**

## STATE CLEARINGHOUSE

Mr. Greg Nelson  
Marin Community College District  
1800 Ignacio Boulevard  
Novato, CA 94949  
[gnelson@marin.edu](mailto:gnelson@marin.edu)

Subject: College of Marin Facilities Master Plan Program and Learning Resources Center Project, Draft Environmental Impact Report, SCH #2019110285, Marin County

Dear Mr. Nelson:

The California Department of Fish and Wildlife (CDFW) reviewed the draft Environmental Impact Report (EIR) from Marin Community College District (District) for the Marin Facilities Master Plan Program and Learning Resources Center Project (Project) located at the Indian Valley Campus, Kentfield Campus, and Bolinas Marine Biology Laboratory, within Marin County.

CDFW is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and has authority to comment 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), 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.

### PROJECT DESCRIPTION AND LOCATION

**Proponent:** Marin Community College District

**Objective and Location:** The Project involves various building and facility improvements at three campuses operated by the District: Indian Valley Campus, Kentfield Campus, and the Bolinas Marine Biology Laboratory. The activities at all three campuses are collectively discussed as the Facilities Master Plan (FMP). The Indian Valley Campus is located in the City of Novato at the address 1800 Ignacio Boulevard, Novato, CA 94949, approximate centroid Latitude 38.07642°, Longitude -122.57913°. The Kentfield Campus is located in the unincorporated Town of Kentfield at the address 835 College Avenue, Kentfield, CA 94904, approximate centroid Latitude 37.95403°, Longitude -122.5488°. The Bolinas Marine Biology Laboratory is located in the unincorporated Town of Bolinas at the address 72 Wharf Road, Bolinas, CA 94924, approximate centroid Latitude 37.91003°, Longitude -122.68385°.

Specific Project activities include building demolition, new construction, renovation, retrofits, and landscaping and irrigation. More than 20 separate buildings will be covered by the Project. For the purposes of CDFW review, the Learning Resources Center Project is considered within the Kentfield Campus.

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## ENVIRONMENTAL SETTING

The environmental setting for each of the three sites is described below.

### *Bolinas Lagoon Marine Laboratory*

The Bolinas Lagoon Marine Laboratory is located on 0.41 acres adjacent to Bolinas Lagoon in western Marin County, near Bolinas Bay. The site contains developed land, tidal wetlands, and ornamental vegetation.

### *Kentfield Campus*

The Kentfield Campus covers 77 acres and consists mainly of developed land and ornamental vegetation; however, tidal marsh, oak bay woodland, and riparian corridors exist on the property. Corte Madera Creek flows through the northern portion of the campus and is immediately adjacent to the boundary of the southern portion of campus.

### *Indian Valley Campus*

The Indian Valley Campus covers 333 acres total, only 87 acres of which are developed. The property includes oak bay woodland, grassland, agriculture, and riparian habitat. Ignacio Creek runs through the center of the developed portion of campus. Unnamed tributaries to Ignacio Creek are present throughout the site.

Special-status species that exist or have the potential to exist on or near one or more of the three sites described above include, but are not limited to, the following:

Species Name	Special Status	Site(s)
<b>California Ridgway's rail</b> <b><i>(Rallus obsoletus obsoletus)</i></b>	Endangered – Federal Endangered Species Act (ESA) and California Endangered Species Act (CESA); California Fully Protected Species	Bolinas Lagoon Marine Laboratory Kentfield Campus
<b>California black rail</b> <b><i>(Laterallus jamaicensis coturniculus)</i></b>	Threatened – CESA; California Fully Protected Species	Bolinas Lagoon Marine Laboratory Kentfield Campus
<b>Salt marsh harvest mouse</b> <b><i>(Reithrodontomys raviventris)</i></b>	Endangered – ESA and CESA; California Fully Protected Species	Bolinas Lagoon Marine Laboratory Kentfield Campus
<b>Swainson's hawk</b> <b><i>(Buteo swainsoni)</i></b>	Threatened – CESA	Bolinas Lagoon Marine Laboratory Kentfield Campus Indian Valley Campus
<b>Northern spotted owl</b> <b><i>(Strix occidentalis caurina)</i></b>	Threatened – ESA and CESA	Indian Valley Campus Bolinas Lagoon Marine Laboratory
<b>Coho salmon south of Punta Gorda, Humboldt County</b> <b><i>(Oncorhynchus kisutch)</i></b>	Endangered – ESA and CESA	Bolinas Lagoon Marine Laboratory Kentfield Campus
<b>Steelhead Central California Coast DPS</b> <b><i>(Oncorhynchus mykiss irideus pop. 8)</i></b>	Threatened – ESA	Bolinas Lagoon Marine Laboratory Kentfield Campus

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<b>Green sturgeon (<i>Acipenser medirostris</i>)</b>	Threatened – ESA	Kentfield Campus
<b>California red-legged frog (<i>Rana draytonii</i>)</b>	Threatened – ESA; CDFW Species of Special Concern	Bolinas Lagoon Marine Laboratory Kentfield Campus Indian Valley Campus
<b>Marin western flax (<i>Hesperolinon congestum</i>)</b>	Threatened – ESA and CESA	Indian Valley Campus
<b>White-rayed pentachaeta (<i>Pentachaeta bellidiflora</i>)</b>	Endangered – ESA and CESA	Indian Valley Campus
<b>Western pond turtle (<i>Emys marmorata</i>)</b>	CDFW Species of Special Concern	Bolinas Lagoon Marine Laboratory Kentfield Campus Indian Valley Campus
<b>Foothill yellow-legged frog (<i>Rana boylei</i>)</b>	CDFW Species of Special Concern	Bolinas Lagoon Marine Laboratory Kentfield Campus Indian Valley Campus
<b>Townsend's big-eared bat (<i>Corynorhinus townsendii</i>)</b>	CDFW Species of Special Concern	Bolinas Lagoon Marine Laboratory Kentfield Campus Indian Valley Campus
<b>Pallid bat (<i>Antrozous pallidus</i>)</b>	CDFW Species of Special Concern	Bolinas Lagoon Marine Laboratory Kentfield Campus Indian Valley Campus

## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

### ***Special-Status Species with the Potential to Occur in the Project Area***

CDFW reviewed the special-status species list provided in Appendix BIO and discussed on page 4.1-15. CDFW recommends the District also include California red-legged frog (*Rana draytonii*) and foothill yellow-legged frog (*Rana boylei*) in the draft EIR.

California red-legged frog is federally listed as threatened under the ESA and is a CDFW species of special concern. California red-legged frogs have been extirpated from 70% of their historically occupied range.<sup>1</sup> The U.S. Fish and Wildlife Service (USFWS) recovery plan for the California red-legged frog recommends protecting known populations, suitable habitat, and core areas, among other recommendations, to fully recover the species. This strongly applies to Marin County, which is home to populations of California red-legged frogs. Due to its statewide

<sup>1</sup> U.S. Fish and Wildlife Service, Portland Oregon. 2002. Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*). <https://www.fws.gov/arcata/es/amphibians/crlf/documents/020528.pdf>

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decline and the importance of local hotspots, impacts to California red-legged frogs could be potentially significant.

Foothill yellow-legged frog in Marin County is considered part of the northwestern/north coast genetic clade in California and is a CDFW species of special concern. Within the northwest/north coast clade, Marin County has the highest number of known extirpated and possibly extirpated foothill yellow-legged frog occurrences. Urbanization and climate change are continued threats to foothill yellow-legged frog in Marin County and are one reason CDFW still considers this clade of the species a Priority 1 species of special concern.<sup>1</sup> Any further reduction of foothill yellow-legged frogs in Marin County is a potentially significant impact.

To reduce Project impacts to special-status frogs, CDFW recommends two additional mitigation measures:

*BIO-9 California Red-legged Frog (CRLF) Surveys and Avoidance Measures*

If the Biological Resource Screening and Assessment (BIO-1) reveals potential habitat for California red-legged frog (CRLF) within or near a Project activity area, then surveys shall be conducted.

A qualified biologist with documented experience performing surveys for CRLF conduct pre-construction daytime and nighttime surveys to determine if the species is present on the Project site. Based on the U.S. Fish and Wildlife Service's *Revised Guidance on Site Assessments and Field Surveys for the California Red-Legged Frog*, dated August 2005, CRLF surveys shall be conducted between January 1 and February 28 for this region. A total of up to eight surveys to determine presence of CRLF at or near a Project site are required. Two daytime and four nighttime surveys are recommended during the breeding season; and one night and one day survey is recommended during the non-breeding season (typically July 1 through September 30). If CRLF is present within or directly adjacent to the Project site, the Project proponent will consult with the U.S. Fish and Wildlife Service to see if take coverage is needed. Additionally, the Project shall mitigate for any impacts to Final Critical Habitat for the CRLF by preserving in-kind habitat in perpetuity.

*BIO-10 Foothill Yellow-legged Frog (FYLF) Surveys and Avoidance Measures*

If the Biological Resource Screening and Assessment (BIO-1) reveals potential habitat for foothill yellow-legged frog (FYLF) within or near a Project activity area, then surveys shall be conducted.

For FYLF, a qualified biologist who has relevant species' life histories and ecology, can correctly identify relevant species, has conducted field surveys for relevant species, is familiar with relevant survey protocols, and is knowledgeable of state and federal laws regarding the protection of sensitive species, shall conduct pre-construction surveys using a CDFW reviewed and approved survey methodology.

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<sup>1</sup> California Department of Fish and Wildlife. 2019. Report to the Fish and Game Commission: A Status Review of the Foothill Yellow-legged Frog (*Rana Boylii*) in California.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=174663&inline>

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If frogs are located within or near the Project area, a biological monitor who has construction level biological monitoring experience, recognizes the species and familiarity with the frog's habitat and behaviors, shall 1) perform an assessment of the Project area prior to activities each day to ensure no frogs are present and 2) be present on site throughout the Project activities and immediately halt Project activities if frogs are present. Frogs shall be allowed to leave the Project area of their own accord before Project activities may resume.

Page 4.1-15 and Appendix BIO of the draft EIR identifies species that are not expected to occur or have low potential to occur within the Project. Mitigation Measure BIO-1 Biological Resource Screen and Assessment should be used to verify potential presence of *any* special-status species with potential to occur on or near the Project area. If species may be present and no Mitigation Measures are provided, such as fully protected salt marsh harvest mouse or California Ridgway's rail, CDFW recommends that the draft EIR outline full avoidance and minimization measures. This should also apply to non-fully protected species with low potential to occur within a Project site.

Further, on page 4.1-24 of the draft EIR, Mitigation Measure BIO-1, mentioned above, is provided to identify whether the Project activity will require in-depth biological surveys or further mitigation measures. As provided, the measure does not provide enough clarity or adequately define how further mitigation measures and biological protections will be determined. CDFW recommends clarifying this measure to avoid potentially significant impacts to sensitive and special-status species in the area.

First, in Measure BIO-1, CDFW recommends defining "preliminary biological resource screening." Second, CDFW recommends the following changes to the Biological Mitigation Measure BIO-1. Proposed deletions are in ~~strikethrough~~, additions are in **bold**.

*BIO-1 Biological Resource Screening and Assessment*

For all projects developed under the Facilities Master Plan (FMP) program, the District shall engage a qualified biologist to perform a preliminary biological resource screening to determine whether the Project has any potential to impact special-status biological resources as described above. **This preliminary biological resource screening will include a data review and habitat assessment prior to Project activities to identify whether any special-status plant or animal species' habitat or sensitive natural communities occur on-site. The data reviewed will include the biological resources setting, Appendix BIO species list, and best available, current data for the area, including a current review of the California Natural Diversity Database. Habitat assessments will be completed at an appropriate time of year for identifying potential habitat and no more than one year prior to Project activity commencement. Based on the results of the biological resource screening, the qualified biologist will identify the locations of any potential biological resources on-site and will provide site-specific measures to completely avoid those areas.** If it is determined that the Project has no potential to impact biological resources, no further action is required. **If avoidance is infeasible and** If the Project has the potential to impact special-status **species, bats and/or birds** protected under the ~~CEFCG~~, one or more of the following **the appropriate** Mitigation Measures (BIO-2 through ~~BIO-4~~ **BIO-10**) shall be implemented as applicable. **If additional Mitigation Measures are necessary to fully avoid and minimize potential**

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**impacts to special-status species, or if compensatory mitigation appears necessary, a subsequent environmental review and CEQA document may be required.**

## **REGULATORY REQUIREMENTS**

### ***California Endangered Species Act***

Please be advised that a CESA Permit is warranted 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. Issuance of a CESA Permit 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 Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA §§ 21001(c), 21083, and 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 Fish and Game Code § 2080.

### ***Lake and Streambed Alteration Agreement***

CDFW will require an LSA Agreement, pursuant to Fish and Game Code §§ 1600 et. seq. for Project-related activities within any waters within the proposed Project area that fall under LSA authority. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a responsible agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code § 21000 et seq.) as the responsible agency.

### ***Migratory Birds and Raptors***

CDFW also has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code Sections protecting birds, their eggs, and nests include 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511). Migratory raptors are also protected under the federal Migratory Bird Treaty Act.

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## FILING FEES

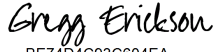
CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

## CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist the District in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Amanda Culpepper, Environmental Scientist, at [amanda.culpepper@wildlife.ca.gov](mailto:amanda.culpepper@wildlife.ca.gov); or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at [karen.weiss@wildlife.ca.gov](mailto:karen.weiss@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
BE74D4C93C604EA  
Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse (SCH #2019110285)