

APR 21 2020

## STATE CLEARINGHOUSE

**From:** Wood, Dylan@Wildlife <Dylan.A.Wood@wildlife.ca.gov>  
**Sent:** Monday, April 20, 2020 5:44 PM  
**To:** Scott Johnson  
**Cc:** Wildlife R2 CEQA; OPR State Clearinghouse  
**Subject:** Comments on the NOP for the Klotz Ranch Apartment Project (SCH: 2020039059)  
**Attachments:** Attachment 1 Homegrown Plant List\_Final-1.pdf

Dear Mr. Johnson:

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of an Environmental Impact Report for the Klotz Ranch Apartment Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines<sup>1</sup>.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the project that may affect California fish and wildlife.

## 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. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, 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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) Although not anticipated, CDFW may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed and to the extent implementation of the Project as proposed may result in take<sup>2</sup> as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

<sup>1</sup>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.

<sup>2</sup>Section 86 of the Fish and Game Code defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Lead Agency 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.

**Comment 1: Mitigation Measure BIO-1 revisions needed to mitigate impacts to Swainson's hawks to a level of less-than-significant.** As identified in the Initial Study (IS), Swainson's hawk (*Buteo swainsoni*) has been observed near the project site and CNDDDB records indicate potential nesting activity along the Sacramento River. Swainson's hawk is a species listed as *threatened* under CESA, so potential take of the species resulting from the construction disturbance described in the IS could constitute a potentially significant impact under CEQA.

To address this, CDFW recommends making the following revisions to Biological Resources Mitigation Measure BIO-1 to more effectively mitigate to a level-of-less than significant:

- Disclose and adhere to the survey protocol: *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (Swainson's Hawk Technical Advisory Committee 2000)
- Define survey radius as 0.5 miles in accordance with the above protocol

- Consult with a qualified biologist and CDFW if active nests are found during project surveys

**Comment 2: Mitigation Measure BIO-1 revisions needed to mitigate impacts white-tailed kite to a level of less-than-significant.** As identified in the NOP, White-tailed kite (*Elanus leucurus*) been observed near the project site. White-tailed kite is a fully protected species under Section 3511 of the California Fish and Game Code. Surveys described in the IS do not necessarily capture potential impacts needed to ensure appropriate avoidance measures implemented.

To address this, CDFW recommends making the following revisions to Biological Resources Mitigation Measure 1 to more effectively mitigate to a level-of-less than significant:

- Disclose and adhere to the survey protocol: *Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley* (Swainson’s Hawk Technical Advisory Committee 2000)
- Define survey radius as 0.25 miles
- Consult with a qualified biologist and CDFW if active nests are found during project surveys
- Include the following language: “If it is determined during surveys or project implementation that project activities may impact White-tailed kite, project personnel shall fully avoid any impacts and immediately notify CDFW if White-tailed kite is observed to be utilizing the project area or adjacent area.”

**Comment 3: Potential impacts to special-status species (burrowing owls) are not mitigated to a level of less-than-significant.** A review of CDFW records (CDFW BIOS 2020) indicates occupied habitat for burrowing owls (*Athene cunicularia*) is present within 1 miles of the project area. It should be noted that burrowing owls are a species that is known to utilize urban infrastructure for nesting habitat, such as utility conduits and graded subdivision lots that have laid dormant. The IS does not specifically identify a survey protocol to detect burrowing owls within the project area. The measure also does not define avoidance measures in the event burrowing owls are discovered.

To address this comment, CDFW recommends the IS be revised to include adherence to survey protocol and the mitigation strategies defined in the CDFW *Staff Report on Burrowing Owl Mitigation* (2012) to mitigate to a level of less-than significant.

**Comment 4: Mitigation Measure BIO-2 revisions suggested.** CDFW notes that the project will mitigate from a CDFW-approved mitigation bank. Although typically an acceptable option, CDFW recommends also including mitigation at a CDFW-approved conservation site or CDFW-approved conservation bank in the event that either mitigation bank credits are not available (i.e. either sold out or not available to the project). Likewise, CDFW recommends adding an appropriate reference to the *Staff Report Regarding Mitigation for Impacts to Swainson’s Hawks (Buteo swainsoni) in the Central Valley of California* (CDFW 1994) for determination of the mitigation ratio and considerations.

**Comment 5: CDFW recommends enhancing habitat value of landscaping.** CDFW has noted that the IS includes project plans for landscaping improvements in the project area. CDFW recommends consideration of the Homegrown Habitat Plant List (Sacramento Valley Chapter, California Native Plant Society)(Attachment 1) when developing the final planting palette. The Homegrown Habitat Plant List (HHPL) is the result of a coordinated effort of regional stakeholders with the intent of improving landscape plantings for the benefit of property owners and ecosystem. Including plants from the HHPL is intended to produce the following outcomes for landscaping:

- Increased drought tolerance
- Decreased water use
- Decreased maintenance and replacement planting costs
- Increased functionality for local pollinators and wildlife
  - o Increase in overall biodiversity and ecosystem health
- Increased carbon sequestration and climate change resilience
- Educational opportunities for residents

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental documents 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 types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>. The completed form can be sent electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

**CONCLUSION**

CDFW appreciates the opportunity to comment and assist the Lead Agency in identifying and mitigating project impacts on biological resources.

Please contact me at 916-358-2384 or [dylan.a.wood@wildlife.ca.gov](mailto:dylan.a.wood@wildlife.ca.gov) if you have any questions.

Sincerely,

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California Department of Fish and Wildlife

Environmental Scientist

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