



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
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GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



September 23, 2022

Ms. Mindy Fogg  
County of Ventura  
800 S. Victoria Ave.  
Ventura, CA 93003  
[Mindy.Fogg@ventura.org](mailto:Mindy.Fogg@ventura.org)



**Subject: Ojai Valley Organics, Mitigated Negative Declaration, SCH No. 2022080552;  
City of Ojai, Ventura County**

Dear Ms. Fogg:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) from the County of Ventura (County) for Ojai Valley Organics (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

### **CDFW's 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 & Game Code, §§ 711.7, subdivision (a) & 1802]. 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). CDFW is charged 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 State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 *et seq.*). To the extent implementation of the Project as proposed may result in "take" of any species protected under the California Endangered Species Act (CESA; Fish & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

### **Project Description and Summary**

**Objective:** The Project involves a modified Conditional Use Permit (CUP) to authorize the reoperation of a previously discontinued green waste processing facility. Operations are

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proposed for seven days a week. No more than two full time employees will be on site at the facility at any given time. No new grading or construction is proposed, and only prefabricated portable structures will be used, which do not require foundations or utility connections. The facility will process 150 cubic yards of green waste per day. Truckloads will be limited to 40 per day. The modified CUP will also include additional equipment (e.g., bins) for windrow composting. Additionally, a canopy shelter, roll-off storage container, and small portable restroom structure would be installed to replace the temporary structures on site. Electrical service to the facility would be provided by the connection of two exterior outlets to an existing power pole. Electrical service would be used to power associated computer equipment, lighting, and video security system.

**Location:** The Project site is located on 534 Baldwin Road in Ojai. The site is surrounded by agricultural, industrial, residential, and natural land uses. The Project site is directly adjacent to the Ventura River.

## **Comments and Recommendations**

CDFW offers the comments and recommendations below to assist the County in adequately identifying, avoiding, and/or mitigating significant, or potentially significant, direct and indirect impacts on fish and wildlife biological resources based on the planned activities of this proposed Project. CDFW recommends the measures below be included in a science-based monitoring program with adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

## **Specific Comments**

### **Comment #1: Impacts from daily operations**

**Issue:** CDFW is concerned that the Project may impact sensitive riparian and upland special status species.

**Specific Impact:** The Project has the potential to impact several rare, threatened, and/or endangered species due to construction noise, vibration, and lighting. Impacts may disrupt or alter species behavior in the area. Species forced from their territory into adjacent habitat, which may be less suitable, may be at heightened risk of predation, starvation, or other injury.

**Why impact would occur:** Project activities could impact special status species due to increased noise, lighting, dust, and human traffic. The MND did not include any avoidance, minimization, or mitigation measures to reduce these potential impacts related to noise, lighting, dust, or traffic.

The Project's proposed operational hours may disrupt and alter behaviors necessary for survival for special species. Most wildlife species are most active during early morning hours and at dusk (NPS 2022). Substantial noise may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55-60 dB (Barber et al. 2009). The MND did not offer a noise study to assess whether Project operations would be within acceptable thresholds for wildlife. Likewise, use of sound reducing equipment was not offered as a mitigation measure within the document. Anthropogenic noise can disrupt the

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communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011). Moreover, the MND did not include a photo increased ambient lighting levels can increase predation risks and disorientation and disrupt normal behaviors of wildlife in adjacent feeding, breeding, and roosting habitat (Longcore and Rich 2004).

According to the California Natural Diversity Database (CNDDB) the following special status wildlife species have a high potential to occur around the Project site:

- Species of Special Concern (SSC) Dulzera Pocket mouse (*Chaetodipus californicus femoralis*) (CDFW 2022a)
- Endangered Species Act (ESA)-listed and SSC California red-legged (*Rana draytonii*) (CDFW 2022b)

Likewise, the following species have potential to occur around the Project site:

- CESA and ESA-listed southwestern willow flycatcher (*Empidonax traillii*)
- CESA and ESA-listed least Bell's Vireo (*Vireo bellii pusillus*)
- SSC western pond turtle (*Emys marmorata*)
- SSC pallid bat (*Antrozous pallidus*)
- SSC burrowing owl (*Athene cunicularia*)

**Evidence impact would be significant:** Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). CEQA provides protection not only for State and federally listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the County (CEQA Guidelines, § 15065). CDFW considers impacts to CESA-listed and SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures.

Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

#### **Recommended potentially feasible mitigation measure(s):**

**Mitigation Measure #1:** Appropriate authorization from CDFW under CESA may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required

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to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.

**Mitigation Measure #2:** Focus surveys should be performed on site and in the surrounding area (300 feet) for the above species. Surveys should follow proper protocols:

- California red-legged frog. Follow U.S. Fish and Wildlife Service's (USFWS) 2005 [Revised Guidance on Site Assessments and Field Surveys for the California Red-Legged Frog](#) (USFWS 2005a).
- Southwestern willow flycatcher. Follow U.S. Geological Survey's (USGS) 2010 [Natural History Summary and Survey Protocol for the Southwestern Willow Flycatcher](#) (USGS 2010a).
- Least Bell's vireo. Follow USFWS 2001 [Least Bell's Vireo Survey Guidelines](#) (USFWS 2001b).
- Western pond turtle. Follow USGS 2006 [Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion](#) (USGS 2006b)
- Burrowing owl. Follow CDFW 1995 [Burrowing Owl Survey Protocol and Mitigation Guidelines](#) (CDFW 1995c).

**Mitigation Measure #3:** The MND should perform a noise and vibration analysis to ensure Project activities are within acceptable thresholds not to adversely affect wildlife in the surrounding area. Sounds generated from any means should be below the 55-60 dB range within 50 feet from the source.

**Mitigation Measure #4:** CDFW recommends the Project restrict use of equipment and lighting to hours least likely to disrupt wildlife (e.g., not at dusk or in early morning before 9 am).

CDFW recommends use of noise suppression devices such as mufflers or enclosure for generators. Generators should not be used except for temporary use in emergencies. Unnecessary construction vehicle use, and idling time should be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously for safe construction activities, its engine should be shut off. Lighting on site should follow guidelines within the Ventura County's [Dark Sky Ordinance](#) (CVRMA 2022). Likewise, lighting should not spill over into adjacent riparian areas and use of spotlights should also be avoided.

**Mitigation Measure #5:** Parking, driving, lay-down, stockpiling, and vehicle and equipment storage should be limited to previously compacted and developed areas. No off-road vehicle use should be permitted beyond the Project site and designated access routes. Disturbances to adjacent native vegetation should be minimized.

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## **Comment #2: Impacts due to invasive pests, invasive plants, and noxious weeds.**

**Issue:** The Project facility may act as a vector for invasive pests, plants, and noxious weeds.

**Specific Impact:** Project operations include the movement, collection, and processing of green waste on site. These activities could result in the spreading of invasive pests, invasive plants, and noxious weeds.

**Why impact would occur:** Movement of green waste is a documented invasion pathway for pests into new areas over long distances (Lynch 2019). Page 2 of the MND states, "The Initial Study finds that the proposed use of the site as a green waste facility allows for the spread of invasive species through the handling of wood and plant materials. In December 2015, the County Agricultural Commissioner trapped an individual of the polyphagous shot hole borer (*Euwallacea* sp) genus." Collection of this material and improper disposal of vegetation may result in the spread of tree insect pests and disease into areas not currently exposed to these stressors. This could result in expediting the loss of oaks and other trees in California which support a high biological diversity including special status species.

Moreover, this potential impact is especially detrimental around the Project area, which is within the Sierra Madre-Castaic wildlife corridor and directly adjacent to the Ventura River. Spread of noxious weeds and pathogens may be exacerbated due to the Project site abutting the Ventura River. The Ventura River may act as a pathway that further spreads invasive or infected plant material downstream and throughout the lower watershed.

**Evidence impact would be significant:** The Project may have a substantial adverse effect on any sensitive natural communities identified in local or regional plans, policies, and regulations or by the CDFW or USFWS. The Project may result in a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS that are dependent on habitats susceptible to insect and disease pathogens.

**Mitigation Measure #1:** Non-native plants, including noxious weeds (as listed by the [California Invasive Plant Council](#)) (CALIPC 2022a), should be prevented from establishing in temporarily disturbed areas, either by hand-weeding or selective application of herbicide. CDFW recommends limited use of herbicides due to the site's proximity to the Ventura River. A weed monitoring program with regular inspection (monthly), mapping, and removal should be implemented. CDFW recommends consulting with [the Ventura County Weed Management Area](#) group (CALIPC 2022b).

**Mitigation Measure #2:** In addition to the measures already provided in MM-1 of the MND, additional measures should be offered to reduce impacts throughout the entirety of the process (e.g. material pick up, transport, unloading, storing, and disposal). Collection personnel should perform a visual inspection of the material before loading to the extent feasible. Materials loaded on trucks should be completely covered so that seeds, propagules, or other plant materials are unable to fall from or get blown off vehicles. Unloading should only occur within the facility. An impermeable fencing (block wall) should be built around the perimeter of the facility to keep noxious weed and invasive plant seed propagules contained. Vehicles, equipment, and shoes should all be inspected for plant materials and cleaned before exiting the facility. Large pieces of plant material at high risk for invasive pest infestation should be inspected for signs of invasive

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beetle species after unloading to the extent feasible. Plant material should be fed through a woodchipper then solarized to minimize risk of invasive pests (UCANR 2018).

**Mitigation Measure #3:** As part of the proposed Pest Management Plan (PMP), CDFW recommends the County/Applicant work with the certified arborist to identify all trees and species surrounding the Project site and inspect those trees for contagious tree diseases including but not limited to: [thousand canker fungus](#) (TCD 2021), [polyphagous shot hole borer](#) (UCANR 2018), and [goldspotted oak borer](#) (UCIPM 2021). Pest inspection should be performed monthly. A summary report documenting inspection methods, number and species of trees inspected, results, and conclusions, including negative findings, should be submitted to the Ventura County Resource Management Agency Planning Division. If present, the County/Applicant should describe how any affected trees would be monitored, salvaged, disposed of, and replaced as part of the Project. The summary report should also include photographic documentation of entry/exit holes and evidence of pests/disease.

**Mitigation Measure #4:** If invasive pests and/or diseases are detected, the County/Applicant should provide an infectious tree disease management plan and describe how it will be implemented to avoid significant impacts under CEQA. To avoid the spread of infectious tree diseases, diseased trees should not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.

The Project Applicant should be responsible for the inspection, salvaging, removal, and replacement of trees impacted by the activities of the facility. Within the PMP, the Applicant should include appropriate replacement ratios for any heritage or protected trees lost due to Project activities. A contingency account should be put in place for these cases.

### **Additional Recommendations**

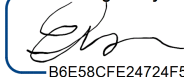
Rodenticides. CDFW highly discourages the use of rodenticides and second-generation anticoagulant rodenticides due to their harmful effects on the ecosystem and wildlife. CDFW recommends the Applicant include a mitigation measure prohibiting the use of such harmful materials.

### **Conclusion**

We appreciate the opportunity to comment on the Project to assist the County in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the County has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Angela Castanon, Environmental Scientist, at [Angela.Castanon@wildlife.ca.gov](mailto:Angela.Castanon@wildlife.ca.gov) or (626) 513-6308.

Sincerely,

DocuSigned by:



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Erinn Wilson-Olgin  
Environmental Program Manager I  
South Coast Region



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cc: CDFW

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OPR

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**GAVIN NEWSOM, Governor**  
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## Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP should reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
<b>MM-BIO-1-ITP</b>	Appropriate authorization from CDFW under CESA may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document shall also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Also, biological mitigation monitoring and reporting proposals shall be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate	Prior to Project construction and activities	County of Ventura/ Applicant

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	species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.		
<b>MM-BIO-2-Focus Surveys</b>	Focus surveys shall be performed on site and in the surrounding area (300 feet) for the above species. Surveys shall follow proper protocols, see above.	Prior to Project construction and activities	County of Ventura/ Applicant
<b>MM-BIO-3-Impacts from Noise</b>	The MND shall perform a noise and vibration analysis to ensure Project activities are within acceptable thresholds not to adversely affect wildlife in the surrounding area. Sounds generated from any means shall be below the 55-60 dB range within 50-feet from the source.	Prior to Project construction and activities	County of Ventura/ Applicant
<b>MM-BIO-4-Impacts from Noise and Light</b>	<p>The Project shall restrict use of equipment and lighting to hours least likely to disrupt wildlife (e.g., not at dusk or in early morning before 9 am).</p> <p>Use of noise suppression devices such as mufflers or enclosure for generators shall be used when needed. Generators shall not be used except for temporary use in emergencies. Unnecessary construction vehicle use, and idling time shall be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously for safe construction activities, its engine shall be shut off. Lighting on site shall follow guidelines within the Ventura County's <a href="#">Dark Sky Ordinance</a> (CVRMA 2022). Likewise, lighting shall not spill over into adjacent riparian areas and use of spotlights shall also be avoided.</p>	Prior to/ During Project construction and activities	County of Ventura/ Applicant
<b>MM-BIO-5-Impacts to Native Vegetation</b>	Parking, driving, lay-down, stockpiling, and vehicle and equipment storage shall be limited to previously compacted and developed areas. No off-road vehicle use shall be permitted beyond the Project site and designated access routes. Disturbances to adjacent native vegetation shall be minimized.	Prior to/ During Project construction and activities	County of Ventura/ Applicant

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<b>MM-BIO-6- Impacts due to Invasive Plants and Noxious Weeds</b>	Non-native plants, including noxious weeds (as listed by the <a href="#">California Invasive Plant Council</a> ) (CALIPC 2022a), shall be prevented from establishing in temporarily disturbed areas, either by hand-weeding or selective application of herbicide. Limited use of herbicides due to the site's proximity to the Ventura River is recommended. A weed monitoring program with regular inspection (monthly), mapping, and removal shall be implemented. CDFW recommends consulting with <a href="#">the Ventura County Weed Management Area</a> group (CALIPC 2022b).	Prior to Project construction and activities	County of Ventura/ Applicant
<b>MM-BIO-7- Pests, Diseases, and Noxious Weeds</b>	In addition to the measures already provided in MM-1 of the MND, additional measures shall be offered to reduce impacts throughout the entirety of the process (e.g. material pick up, transport, unloading, storing, and disposal). Collection personnel shall perform a visual inspection of the material before loading to the extent feasible. Materials loaded on trucks shall be completely covered so that seeds, propagules, or other plant materials are unable to fall from or get blown off vehicles. Unloading shall only occur within the facility. An impermeable fencing (block wall) shall be built around the perimeter of the facility to keep noxious weed and invasive plant seed propagules contained. Vehicles, equipment, and shoes shall all be inspected for plant materials and cleaned before exiting the facility. Large pieces of plant material at high risk for invasive pest infestation shall be inspected for signs of invasive beetle species after unloading to the extent feasible. Plant material shall be fed through a woodchipper then solarized to minimize risk of invasive pests (UCANR 2018).	Prior to Project construction and activities	County of Ventura/ Applicant
<b>MM-BIO-8- Pest Management Plan</b>	As part of the proposed Pest Management Plan (PMP), CDFW recommends the County/Applicant work with the certified arborist to identify all trees and species surrounding the Project site and inspect those trees for contagious tree diseases including but not limited to: <a href="#">thousand canker fungus</a> (TCD 2021), <a href="#">polyphagous shot hole borer</a> (UCANR 2018), and <a href="#">goldspotted oak borer</a> (UCIPM 2021). Pest inspection should be performed monthly. A summary report documenting inspection methods, number and species of trees	Prior to Project construction and activities	County of Ventura/ Applicant

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	inspected, results, and conclusions, including negative findings, should be submitted to the Ventura County Resource Management Agency Planning Division. If present, the County/Applicant should describe how any affected trees would be monitored, salvaged, disposed of, and replaced as part of the Project. The summary report should also include photographic documentation of entry/exit holes and evidence of pests/disease.		
<b>MM-BIO-9- Pest Management Plan- Contingency Account</b>	<p>If invasive pests and/or diseases are detected, the County/Applicant shall provide an infectious tree disease management plan and describe how it will be implemented to avoid significant impacts under CEQA. To avoid the spread of infectious tree diseases, diseased trees shall not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.</p> <p>The Project Applicant shall be responsible for the inspection, salvaging, removal, and replacement of trees impacted by the activities of the facility. Within the PMP, the Applicant shall include appropriate replacement ratios for any heritage or protected trees lost due to Project activities. A contingency account shall be put in place for these cases.</p>	Prior to Project construction and activities	County of Ventura/ Applicant
<b>REC-1- Rodenticides</b>	CDFW highly discourages the use of rodenticides and second-generation anticoagulant rodenticides due to their harmful effects on the ecosystem and wildlife. CDFW recommends the Applicant include a mitigation measure prohibiting the use of such harmful materials.	Prior to Project construction and activities	County of Ventura/ Applicant