



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Ave
Fresno, California 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



August 3, 2022

Jennifer Guetschow
Supervising Planner
County of San Luis Obispo Planning and Building Department
976 Osos Street, Room 200
San Luis Obispo, California 93408
jGuetschow@co.slo.ca.us

Subject: Dana Reserve Specific Plan (Project)
Draft Environmental Impact Report (DEIR)
SCH No.: 2021060558

Dear Ms. Guetschow:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (DEIR) from the County of San Luis Obispo Planning and Building Department for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

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

¹ 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.

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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). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest 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).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: Dana Reserve, LLC

Objective: The Project applicant, Dana Reserve, LLC, submitted a draft Specific Plan and Vesting Tentative Tract Map (VTTM) in June 2020 for the 288-acre Dana Ranch property (previously referred to as Cañada Ranch). The Dana Reserve Specific Plan (DRSP) is a primarily residential project with over 75% of the Specific Plan Area designated for residential uses, which would accommodate up to 1,289 single-family and multi-family residential units. However, it identifies a mix of land uses within the Specific Plan Area to serve the new neighborhoods and surrounding community. The DRSP would allow for the future phased development of residential uses, village and flex commercial uses (including a hotel, educational/training facilities, and light industrial uses), open space, trails, and a public neighborhood park within the Specific Plan Area.

Location: The Project area is located within the unincorporated area of San Luis Obispo County. The Specific Plan Area is located adjacent to the northern boundary of the Nipomo Urban Reserve Line (URL)/community of Nipomo, and directly west of U.S. Route 101 (US-101). The cross streets are Willow Road and Highway 101.

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- Longitude: 35° 2' 43.59"; Latitude: -120° 30' 1.73"
- Assessor's Parcel Numbers: 091-301-073; 091-301-031, and 091-301-030 – totaling approximately 288-acres. The main parcel is 091-301-073 (274.4 acres in size). The other parcels connect the main parcel to Willow Road. The project also includes the off-site dedication of an open space and conservation easement on a property known as Dana Ridge (APNs 090-031-003 and 090-031-004), located approximately 2.1 miles east/southeast of the project site.

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

CDFW previously commented on the Notice of Preparation (NOP) for the Project in a letter dated July 23, 2021. Our July 23, 2021 letter (attached) provided recommendations for listed plant and wildlife species, and concerns for Project impacts. CDFW recognizes that some of the recommendations from the letter were included in the DEIR for the Project. CDFW maintains the same recommendations for advised survey methods and mitigation measures be included in the DEIR. CDFW has the following comments and recommendations on specific mitigation measures to be included in the DEIR in regard to compliance with the California Endangered Species Act (CESA) and Fish and Game Code section 1600 *et seq.*

White-Tailed Kite (*Elanus leucurus*) (WTK)

The State fully protected WTK has the potential to nest and/or forage within the Project site and its vicinity (Biogeographic Information and Observation System (BIOS). Accessed July 7, 2022). Without appropriate mitigation measures, Project activities conducted within occupied territories have the potential to significantly impact this species. Potentially significant impacts that may result from Project activities include nest abandonment, loss of nest trees, and/or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. The Project will involve noise, groundwork, and movement of workers that may occur directly adjacent to large trees and other features with potential to serve as nest sites. These activities have the potential to significantly impact fully protected raptor populations.

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation to determine if the Project site or its vicinity (within ½ mile) contains suitable habitat for fully protected raptors. CDFW also recommends that focused surveys be conducted by experienced biologists at the Project site prior to Project implementation. To avoid impacts to these species, CDFW recommends conducting these surveys in accordance with protocols developed by CDFW. If Project activities are to take place during the typical bird breeding season (February 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests

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be conducted by a qualified biologist no more than 10 days prior to the start of Project activity.

In the event a WTK is found within ½ mile of the Project site, implementation of avoidance measures is warranted. CDFW recommends that a qualified wildlife biologist be on-site during all Project-related activities and that a ½-mile no-disturbance buffer be implemented. If the ½-mile no-disturbance buffer cannot feasibly be implemented, contacting CDFW for assistance with additional avoidance measures is recommended. Fully addressing potential impacts to the WTK and requiring measurable and enforceable mitigation in the DEIR is recommended.

Burrowing Owl (*Athene cunicularia*) (BUOW)

Due to the presence of suitable habitat (grassland and small mammal burrows) BUOW, a State species of special concern (SSC) that relies on burrows year-round, could be present in the Project area. No mitigation measures were included in the DEIR for this species due to no sightings of BUOW during surveys. However, BUOW could potentially be using the site between the time surveys were conducted and the time of the Project will be constructed. Potentially significant direct impacts from construction activities may result in burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

No-disturbance buffers differ regarding time of year and level of disturbance, please refer to the table below.

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Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Western Spadefoot (*Spea hammondi*) (WESP)

WESP was not included in species that may be present at the Project site or area. WESP, an SSC, inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the breeding season (Thomson et al. 2016). Therefore, this species has the potential to be present. Habitat loss and fragmentation from agricultural and urban development is the primary threat to WESP. Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows. If WESP are observed on the Project site, CDFW recommends that Project activities in their immediate vicinity cease and individuals be allowed to leave the Project site on their own accord. Alternatively, a qualified biologist with appropriate take authorization can move them out of harm's way and to a suitable location.

Coast Live Oak Woodland (*Quercus agrifolia/Adneostoma fasciculatum*) (CLO)

CEQA was amended to include Public Resources Code (PRC) Section 21083.4, which states that a county shall determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment. If a county determines that there may be a significant effect to oak woodlands, the county shall require appropriate oak woodlands mitigation alternatives to mitigate the significant effect of the conversion of oak woodlands. CDFW considers the removal of oaks in the Project area as significant and agrees with the County's significance determinations in the DEIR. However, CDFW recommends the county require oak mitigation as required by CEQA Section 21083.4 since the Project, as proposed, will remove high quality oak woodlands as part of this future development.

In addition to the mitigation required by CEQA Section 21083.4, retaining large oak trees (greater than 12 inches in diameter as measured at breast height) on the Project site to the maximum extent possible is recommended during any construction activities. Large, acorn-bearing oak trees are a critical source of food for wintering deer and other wildlife, including migratory and resident birds. Location and routing of access roads, utility connections, septic systems and building sites where they will require the minimum amount of disturbance to large oak trees is advised.

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Per Project information, approximately 78.3 acres of the 288-acre Project area (27%) is CLO woodland, specifically, the *Quercus agrifolia/Adenostoma fasciculatum - (Salvia mellifera)* association, which is a Global and State ranked (G3/S3) sensitive community and identified as a biologically significant resource by the County. It provides important native habitat for plants and wildlife.

The proposed project will result in the permanent loss of 75.3 acres of available CLO woodland habitat, approximately 96% of the CLO woodland on the site. The vast majority of all species found during biological surveys were in this oak woodland area. Only three acres would be preserved on-site per Project information. Considering edge effects around this small preserve, it is reasonable to assume that this large oak woodland area and the majority of the species it supports will almost certainly be destroyed by the construction of the proposed Project.

CLO woodland and, in particular, this CLO woodland/Burton mesa chaparral association contributes significantly to the Project area and the region's overall biological diversity, directly supporting eight special-status plants (*Pismo clarkia (Clarkia speciosa)*, mesa horkelia (*Horkelia cuneata* var. *Puberula*), Nipomo Mesa ceanothus (*Ceanothus impressus* var. *Nipomensis*), mesa manzanita (*Arctostaphylos rudis*), Michael's rein orchid (*Platanthera michaelii*), California spineflower (*Mucronea californica*), sand almond (*Prunus fasciculata punctata*), and sand buckbrush (*Ceanothus cuneatus*)) and four special-status nesting birds which include (Cooper's hawk (*Accipiter cooperii*), oak titmouse (*Baeolophus inornatus*), white-tailed kite, and Nuttall's woodpecker (*Dryobates nuttallii*)).

Sensitive reptiles such as Blainville's (coast) horned lizard (*Phrynosoma blainvillii coronata*) are also supported by this habitat. California's Central Coast contains 80% of the state's CLO woodlands (Gaman 2008). This habitat type is considered sensitive due to its biological diversity and presence of sensitive plant and animal species; therefore, impacts would be considered significant, and mitigation should be a requirement to reduce project impacts. However, mitigation may not be feasible per Project information, and the DEIR goes on to say that potential impacts would be significant and unavoidable. CDFW believes a Class 1 impact is not acceptable due to the richness of this habitat area and association of CLO woodland and Burton Mesa chaparral and that a Conditional Use Permit (CUP) should not be issued until feasible mitigation is both identified, encumbered, and protected.

I. Editorial Comments and/or Suggestions

Nesting birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections referenced above.

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To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, monarch butterfly and CRLF, which were discussed in the previous comment letter for this project. Take under FESA is more broadly defined than CESA; take under FESA 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. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be

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mailed electronically to CNDDDB at the following email address:
CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at
the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. 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. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the County of San Luis Obispo Planning and Building Department in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Kelley Nelson, Environmental Scientist at (559) 580-3194 or Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Bob Stafford

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for Julie A. Vance
Regional Manager

Attachments

ec: Office of Planning and Research, State Clearinghouse, Sacramento

Kelley Nelson
California Department of Fish and Wildlife

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REFERENCES

- California Burrowing Owl Consortium (CBOC). 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.
- California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game. March 7, 2012
- CDFW. 2022. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed July 7, 2022.
- Gaman. 2008. Oak Woodland Conservation Management Planning in Southern CA – Lessons Learned.
- Thomson, R. C., A. N. Wright, and H. Bradley Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Dana Reserve Specific Plan

SCH No.: 2021060558

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: BUOW Surveys	
Mitigation Measure 2: BUOW Passive Relocation and Mitigation	
Mitigation Measure 4: Western Spadefoot Surveys	
Mitigation Measure 6: Special-Status Species Habitat Assessment	
Mitigation Measure 8: Species-Specific Species Surveys	
Mitigation Measure 9: Special-Status Species Take Authorization	
<i>During Construction</i>	
Mitigation Measure 3: BUOW Avoidance	
Mitigation Measure 5: Western Spadefoot Avoidance	
Mitigation Measure 7: Special-Status Species Take Avoidance	



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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

July 23 2021

STATE CLEARINGHOUSE

July 23, 2021

Jennifer Guetschow
Project Manager
County of San Luis Obispo Planning and Building Department
976 Osos Street
San Luis Obispo, California 93401

**Subject: Dana Reserve Specific Plan (Project)
Notice of Preparation (NOP) of an Environmental Impact Report (EIR)
SCH No.: 2021060558**

Dear Ms. Guetschow:

The California Department of Fish and Wildlife (CDFW) received a NOP of an EIR from County of San Luis Obispo Planning and Building Department for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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 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.

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest 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).

PROJECT DESCRIPTION SUMMARY

Proponent: Dana Reserve, LLC

Objective: The Project consists of an adoption of a Specific plan, vesting master tentative tract map number 3149, conditional use permit, and development agreement for a phased master planned community. The objective of the Project is to define a guide for development of the Reserve, by defining land use and development standards for residential, commercial, and open space land uses.

Location: The Project area is located within the unincorporated area of San Luis Obispo County and adjacent to the Urban Reserve Line of the community of Nipomo. The cross streets are Willow Road and Highway 101. The Project is a total of 288-acres.

- Longitude: 35° 2' 43.59"; Latitude: -120° 30' 1.73"
- Assessor's Parcel Numbers: 091-301-073; 091-301-031; 091-301-030; 091-325-022; 091-301-029; 090-031-003

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist County of San Luis Obispo Planning and Building Department 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. There are many special-status resources present within and adjacent to the Project area. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes.

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The NOP indicates there is potential for significant impacts unless mitigation measures are implemented, however, the measures listed are general and non-specific and/or may be inadequate to reduce impacts to less than significant. CDFW is concerned regarding potential impacts to special-status species including, but not limited to: Federal candidate Monarch butterfly (*Danaus plexippus pop. 1*), the State species of special concern and federally threatened California red-legged frog (*Rana draytonii*), State species of special concern American badger (*Taxidea taxus*), burrowing owl (*Athene cunicularia*), western spadefoot (*Spea hammondi*), legless lizard (*Anniella pulchra*), coast horned lizard (*Phrynosoma blainvillii*), special-status bat species, and federally and State-listed special-status plant species.

In order to adequately assess any potential impacts to biological resources, CDFW recommends that focused protocol-level surveys be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species and/or suitable habitat features are present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, especially in the areas not in irrigated agriculture, and to identify any Project-related impacts under CESA and other species of concern.

Additionally, when an EIR is prepared, mitigation measures must be specific and clearly defined and cannot be deferred to a future time. The specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation, when an EIR is prepared. The CEQA document must provide quantifiable and enforceable measures as needed that will reduce impacts to less than significant levels.

I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS)?

COMMENT 1: Monarch Butterfly

Issue: Monarchs can be found overwintering along the California coast, specifically in non-native eucalyptus trees (Pelton 2016). Project-related activities have the potential to impact special-status species. Overwintering monarchs have been documented to occur near the Project area (CDFW 2021). CDFW recommends that the EIR includes an impact analysis on monarchs with the potential to occur in the Project area.

Specific impact: Without appropriate avoidance and minimization measures for the species mentioned above, potential significant impacts associated with the Project's construction include roost destruction, inadvertent entrapment, reduced reproductive

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success, reduction in health and vigor of eggs and/or young, and direct mortality of individual monarchs.

Evidence impact would be significant: During the last decade overwintering monarch populations have declined by nearly 90-percent (Jepsen et al. 2015). Habitat loss and fragmentation is among the primary threats to the population (USFWS 2020). Project activities have the potential to significantly impact the species by reducing possible roosting habitat.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts of the Project to special-status species, CDFW recommends conducting the following assessment of the Project area, including the following mitigation measures, and requiring them as conditions of approval in the Project's EIR.

Recommended Mitigation Measure 1: Monarch Butterfly Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment, well in advance of Project implementation, to determine if individual project area or its immediate vicinity contain habitat suitable to support monarchs.

Recommended Mitigation Measure 2: Monarch Butterfly Surveys

If suitable habitat is present, CDFW recommends assessing presence of monarchs by conducting surveys following recommended protocols or protocol-equivalent surveys.

Recommended Mitigation Measure 3: Monarch Butterfly Take Avoidance

Detection of monarchs within or in the vicinity of the Project area, warrants consultation with CDFW and USFWS to discuss how to implement ground-disturbing activities and avoid take.

COMMENT 2: American Badger

Issue: American badger are known to occur in the area near the Project site (CDFW 2021). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e. ground squirrels, pocket gophers, etc.) (Zeiner et al. 1990). The Project site may support these requisite habitat features. Therefore, the Project has the potential to impact American badger.

Specific impact: Without appropriate avoidance and minimization measures for American badger, potentially significant impacts associated with ground disturbance include direct mortality or natal den abandonment, which may result in reduced health or vigor of young.

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Evidence impact is potentially significant: Habitat loss is a primary threat to American badger (Gittleman et al. 2001). The Project has the expectation to promote the growth of the City of Nipomo, resulting in a high degree of land conversion and potential habitat fragmentation. As a result, ground-disturbing activities have the potential to significantly impact local populations of American badger.

Recommended Potentially Feasible Mitigation Measure(s):

To evaluate potential impacts to American badger associated with the Project, CDFW recommends conducting the following evaluation of the Project sites, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 4: American Badger Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for American badger and their requisite habitat features (dens) to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 5: American Badger Avoidance

Avoidance whenever possible is encouraged via delineation and observation of a 50-foot no-disturbance buffer around occupied dens and a 250-foot no-disturbance buffer around natal dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

COMMENT 3: California Red-Legged Frog (CRLF)

Issue: CRLF primarily inhabit ponds but can also be found in other waterways including marshes, streams, and lagoons, and the species will also breed in ephemeral waters (Thomson et al. 2016). CRLF have been documented to occur in the vicinity of the Project site (CDFW 2021). The Project site contains upland habitat that may support the species. Avoidance and minimization measures are necessary to reduce impacts to CRLF to a level that is less than significant.

Specific impact: Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the Project's activities include loss of upland refugia, inadvertent entrapment, destruction of eggs and oviposition (i.e., egg-laying) sites, degradation of water quality, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

Evidence impact would be significant: CRLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to CRLF

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(Thomson et al. 2016, USFWS 2017). Project activities have the potential to significantly impact CRLF.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to CRLF, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 6: CRLF Surveys

CDFW recommends that a qualified wildlife biologist conduct protocol level surveys for CRLF in areas where potential habitat exists. CDFW recommends surveys in accordance with the “Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog” (USFWS 2005) to determine if the species is within or adjacent to the Project area. Please note that dip-netting would constitute take as defined by Fish and Game Code section 86, so it is recommended this survey technique be avoided. In addition, CDFW advises surveyors adhere to Appendix E “The Declining Amphibian Task Force Fieldwork Code of Practice,” of the CDFW “Considerations for Conserving the Foothill Yellow-Legged Frog” (CDFW 2018a).

Recommended Mitigation Measure 7: CRLF Avoidance

If any CRLF are found during pre-construction surveys or at any time during construction, consultation with CDFW is warranted to determine if the Project can avoid take. CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (October 15 and May 1). When ground-disturbing activities must take place between October 15 and May 1, CDFW recommends a qualified biologist monitor construction activity daily for CRLF.

COMMENT 4: Burrowing Owl (BUOW)

Issue: The Project location is within the known range of BUOW and the species occurs throughout the area (CDFW 2021). BUOW inhabit open grassland or adjacent canal banks, rights-of-ways (ROWs), vacant lots, etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Review of aerial imagery indicates that the Project site has annual grassland, thus BUOW has the potential to occur on the Project site.

Specific impact: Potentially significant direct impacts associated with subsequent activities include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

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Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California (Gervais et al. 2008). The Project site is some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture and residential use. Therefore, subsequent ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to BUOW, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 8: BUOW Surveys

CDFW recommends that a qualified biologist assess if suitable BUOW habitat features are present within or adjacent to the Project site (e.g., burrows). If suitable habitat features are present, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

Recommended Mitigation Measure 9: BUOW Avoidance

CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

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Recommended Mitigation Measure 10: BUOW Passive Relocation and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

COMMENT 5: Western spadefoot

Issue: Western spadefoot inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the breeding season (Thomson et al. 2016). Review of aerial imagery indicates that the Project contains upland habitat and near vicinity of the site there are other habitat elements where the species could be supported.

Specific impact: Without appropriate avoidance and minimization measures for western spadefoot, potentially significant impacts associated with ground disturbance include; collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to western spadefoot (Thomson et al. 2016). The Project area is within the range of western spadefoot, contains suitable upland habitat (i.e., grasslands interspersed with burrows) and near possible breeding sites (i.e., seasonal wetlands, vernal pools and swales). As a result, ground-disturbing activities associated with development of the Project site have the potential to significantly impact local populations of this species.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to western spadefoot associated with the Project, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

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Recommended Mitigation Measure 11: Western Spadefoot Surveys

CDFW recommends that a qualified biologist conduct focused surveys for western spadefoot and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 12: Western Spadefoot Avoidance

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows. If western spadefoot are observed on the Project site, CDFW recommends that Project activities in their immediate vicinity cease and individuals be allowed to leave the Project site on their own accord. Alternatively, a qualified biologist with appropriate take authorization can move them out of harm's way and to a suitable location.

COMMENT 6: Other Special-Status Species

Issue: Project-related activities have the potential to impact other special-status species. Northern California legless lizard, coast horned lizard, Pallid bat, Townsend's big-eared bat, and western mastiff bat has the potential to occur within the vicinity of the Project area (CDFW 2021). CDFW recommends that the CEQA document includes an impact analysis on all species with the potential to occur in the Project area including, but not limited to, these species listed above.

Specific impact: Without appropriate avoidance and minimization measures for the species mentioned above, potential significant impacts associated with the Project's construction include burrow or den collapse, nest or roost destruction, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individual special-status wildlife species.

Evidence impact would be significant: Habitat loss resulting from development is among the primary threats to special-status species. As a result, ground disturbance resulting from development of the Project has the potential to impact habitat that supports special-status species, which may result in significant impacts to local populations of these species.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts of the Project to special-status species, CDFW recommends conducting the following assessment of the Project area, including the following mitigation measures, and requiring them as conditions of approval in the Project's CEQA document.

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Recommended Mitigation Measure 13: Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment, well in advance of Project implementation, to determine if individual project areas or their immediate vicinity contain habitat suitable to support special-status plant or animal species, including, but not limited to, those mentioned above.

Recommended Mitigation Measure 14: Species-Specific Surveys

If suitable habitat is present, CDFW recommends assessing presence/absence of special-status species by conducting surveys following recommended protocols or protocol-equivalent surveys. Recommended protocols vary by species. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

Recommended Mitigation Measure 15: Take Avoidance

Detection of special-status plant or animal species within or in the vicinity of the Project area, warrants consultation with CDFW to discuss how to implement ground-disturbing activities and avoid take.

Recommended Mitigation Measure 16: Take Authorization

In the case of State-listed species, detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an incidental take permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 7: Special-Status Plant Species

Issue: Several special-status plant species have been documented to occur within and near the vicinity of the Project area (CDFW 2021). The Project site contains habitat suitable to support numerous special-status plant species meeting the definition of rare or endangered under CEQA Guidelines Section 15380 including, but not limited to, the federally endangered and state threatened La Graciosa thistle (*Cirsium scariosum* var. *loncholepis*) and the federally endangered and State Rare Pismo clarkia (*Clarkia speciosa* ssp. *immaculata*). The NOP states that these species may be impacted, but does not list any mitigation measures to reduce impacts to a level that is less than significant. CDFW recommends that the EIR includes an impact analysis on all species with the potential to occur in the Project area including, but not limited to, these species listed above.

Specific impact: Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts resulting from ground- and vegetation-

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disturbing activities associated with Project construction include inability to reproduce and direct mortality.

Evidence impact would be significant: Special-status plant species known to occur in the vicinity of the Project site are threatened by residential development, road maintenance, vehicles, grazing, trampling, and invasive, non-native plants (CNPS 2021), all of which may be unintended impacts of the Project. Therefore, impacts of the Project have the potential to significantly impact populations of the species mentioned above.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to special-status plant species associated with the Project, CDFW recommends conducting the following evaluation of the Project area, editing the IS/MND to include the following additional measures, and including the following mitigation measures as conditions of approval.

Recommended Mitigation Measure 17: Special-Status Plant Surveys

If suitable habitat is present, CDFW recommends that the Project site be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities” (CDFW 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

Recommended Mitigation Measure 18: Special-Status Plant Avoidance

CDFW recommends that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 19: State-Listed Plant Take Authorization

If a plant species listed pursuant to CESA or State designated as rare is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground-disturbing activities may be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b) for State listed threatened or endangered plants or pursuant to the Native Plant Protection Act and Fish and Game Code section 1900 et seq. for State designated rare plants.

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II. Editorial Comments and/or Suggestions

Nesting birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, monarch butterfly and CRLF. Take under FESA is more broadly defined than CESA; take under FESA 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. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or

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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 CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. 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. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist County of San Luis Obispo Planning and Building Department in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Aimee Braddock, Environmental Scientist at (559) 977-3352 or aimee.braddock@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Bob Stafford
5343A684FF02469...
Julie A. Vance
Regional Manager

Attachments

- A. MMRP for CDFW Recommended Mitigation Measures

cc: Office of Planning and Research, State Clearinghouse, Sacramento

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REFERENCES

- California Burrowing Owl Consortium (CBOC). 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.
- California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game. March 7, 2012
- California Department of Fish and Wildlife (CDFW). 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. California Department of Fish and Wildlife. March 20, 2018.
- CDFW. 2021. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed July 19, 2021.
- California Native Plant Society (CNPS), Rare Plant Program. 2019. Inventory of Rare and Endangered Plants of California (online edition, v8-03 0.39). Website <http://www.rareplants.cnps.org>. Accessed July 19, 2021.
- Gervais, J.A., D.D. Rosenberg, and L.A. Comrack. Burrowing Owl (*Athene cunicularia*) in Shuford, W.D. and T. Gardali, editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento, California, USA.
- Gittleman, J. L., S. M. Funk, D. MacDonald, and R. K. Wayne. 2001. Carnivore conservation. Cambridge University Press, Cambridge, United Kingdom.
- Jepsen, S., D. F. Schweitzer, B. Young, N. Sears, M. Ormes, and S. H. Black. 2015. Conservation Status and Ecology of Monarchs in the United States. 36pp. NatureServe, Arlington, Virginia, and the Xerces Society for Invertebrate Conservation, Portland, Oregon.
- Pelton, E., Jepsen, C. Schultz, C. Fallon, and S.H. Black. 2016. State of the Monarch Butterfly Overwintering Sites in California. 40+vi pp. Portland, Oregon: The Xerces Society for Invertebrate Conservation. www.xerces.org
- Thomson, R. C., A. N. Wright, and H. Bradley Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press.
- United States Fish and Wildlife Service (USFWS). 2005. Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog. March 2005. 26 pp.

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USFWS. 2017. Species Account for California Red-legged frog. March 2017. 1 pp.

USFWS. 2020. Monarch (*Danaus plexippus*) Species Status Assessment Report. V2.1 96 pp + appendices.

Zeiner, D. C., W. F. Laudenslayer, Jr, K. E. Mayer, and M. White. 1990. California's Wildlife Volume I-III. California Department of Fish and Game, editor. Sacramento, CA, USA.

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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
 (MMRP)**

PROJECT: Dana Reserve Specific Plan

SCH No.: 2021060558

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Monarch Butterfly Habitat Assessment	
Mitigation Measure 2: Monarch Butterfly Surveys	
Mitigation Measure 4: American Badger Surveys	
Mitigation Measure 6: CRLF Surveys	
Mitigation Measure 8: BUOW Surveys	
Mitigation Measure 10: BUOW Passive Relocation and Mitigation	
Mitigation Measure 11: Western Spadefoot Surveys	
Mitigation Measure 13: Special-Status Species Habitat Assessment	
Mitigation Measure 14: Species-Specific Species Surveys	
Mitigation Measure 16: Special-Status Species Take Authorization	
Mitigation Measure 17: Special-Status Plant Surveys	
Mitigation Measure 19: State-Listed Plant Take Authorization	
<i>During Construction</i>	
Mitigation Measure 3: Monarch Butterfly Take Avoidance	
Mitigation Measure 5: American Badger Avoidance	
Mitigation Measure 7: CRLF Avoidance	
Mitigation Measure 9: BUOW Avoidance	

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Mitigation Measure 12: Western Spadefoot Avoidance	
Mitigation Measure 15: Special-Status Species Take Avoidance	
Mitigation Measure 18: Special-Status Plant Avoidance	

SLO Planning Commission
c/o Jennifer Guetschow; jguetschow@co.slo.ca.us

Debra Sauerbier
670 Del Sol St.
Ag.

mailed 8.1.22
revd 8.3.22

I am writing to express my concern regarding the Proposed Dana Reserve Project, a development project that will develop 288 acres in the Unincorporated County Community of Nipomo.

After reading the Draft Environmental Impact Report (DEIR), the Unmitigatable Significant Class 1 issue which concerns me most is (circle item/highlight or write in your greatest concern):

Oak trees support many animal + bird species!

- Housing (imbalanced housing vs job creation, which also increases traffic)
- Transportation (increase traffic, impacts on many roads throughout Nipomo)
- Air Quality
- Greenhouse Gas Emission
- Land Planning (multiple elements of the project are out of alignment with the south county area plan, including how this land was intended to be developed vs the present project)
- Biological impacts (3,948 oak trees to be removed, federally endangered species to be removed, special habitats to be removed)

• Write in other issues of concern (i.e Water, public services) not determined to be a class 1 issue in the EIR

We have no water! Every element of construction from excavation to landscape planting requires water - before any residents even move into the homes!

The limited social and economic benefits of the Dana Reserve Project will not outweigh the many significant impacts of the project. As a citizen of Nipomo, I ask that this project be denied until revised to such an extent that the impacts of the development are greatly decreased. We owe it to Nipomo to present a project that does not significantly decrease the quality of life for existing residents and retains the natural beauty of the land given to Captain Dana in 1837.

we
Don't
believe
their
promises

DATE: 7-31-22 SIGNED: Debra Sauerbier
email: Surfblue@Charter.net

*copy this letter into your word processing program.

Highlight or circle your concern from list.

Date/Sign/add email.

Copy and paste into your email program.

send to jguetschow@co.slo.ca.us

OR

mail to: Department of Planning and Building

ATTN: Dana Reserve/Jennifer Guetschow

976 Osos Street, Room 300

San Luis Obispo, CA 93408

MUST BE RECEIVED BY AUGUST 1

July 25, 2022

Jennifer Guetschow
County of San Luis Obispo

Jeff Ellis
536 Pomeroy
Nipomo
mailed 7.28.22
rcvd. 8.2.22

Regarding: Dana Reserve Project

Ms. Geutschow,

After review of the Dana Reserve Project, I am writing you to share my concerns regarding this project. The impacts from the Dana Reserve Project will not overcome the social and economic benefits of the project.

There are numerous reasons I present these concerns to your attention. Most importantly, I am concerned about the negative impact that this development imposes on the entire community of Nipomo. Secondly, I reside at 536 Pomeroy Nipomo and am adjacent to the development.

Of top concern, our area has been in different stages of a drought for several years. The reliability of future water supply is uncertain; couple that by an increase for water demand from a significant population growth suggested by this development (4500+ people) and our area will be strangled by even more significant water shortage and increased water prices. If this development is to serve a low-income population, how will they and the rest of the Nipomo residents be able to afford and have access to water?

Secondly, this project is labeled for "affordable housing". With the starting price of \$600,000.00, who are the developers targeting to buy these houses? Additionally, along with the price of the house, who is going to be deemed responsible for upkeep of such identified equestrian trail and parks? Will the homeowners continue to have increasing HOA fees to live within an affordable housing project? In my opinion, this does not meet any standard of "affordable housing". Will the county be responsible for the maintenance of parks and trails? How will this impact the current financial crisis of the county and/or its residents?

Another concern is public facilities. Please address how the county is going to allow for a developer to propose parks, request a waiver of the Quimby Fees, and expect that the upkeep will be maintained adequately? The county's own parks department identified that the park would not be adequately accommodated. Additionally, our schools are at capacity. What is the plan for schools offsetting the number of children added to our local schools by this development? LMUSD has already voiced concerns about the current plan. If these houses are aimed to attract working force residents, how do you expect the residents to accommodate dropping off and picking up their children from schools on the other side of Nipomo when our streets and roads are already congested with backed up traffic?

To continue with the concern about traffic, I am interested to know if anyone considering adopting this project, or the developer, has had the pleasure of using Tefft Street during the

weekday morning and afternoon hours to get to the 101? How about having to grocery shop at the Vons on Sunday and have to wait extensively to get to and from the store because of the swat meet traffic? The roads identified in the project identifies roads that will need safety improvements. The plan does not offer any insight into who will be responsible for such improvements. My driveway is on the corner of Pomeroy, and one house away from Sandydale. I have lived here for 24 years and have noticed a significant increase in traffic. I have assisted many drivers out of their cars after crashing in our neighbor's yards and have also had the coroner place a body in my driveway because of a deadly accident that occurred in front of my house. Adding another 4500+ residents to this immediate area does not make any sense until our road and street infrastructure can accommodate the additional load.

This development is not environmentally responsible for preserving oak trees and relocation of wildlife. There will be 3,948 oak trees lost with this development! Replanting of oaks outside of SLO county and/or on the Dana Ridge is not appropriate and an inadequate mitigation. In my opinion, it undermines the existing oak tree ordinance and places the entire central coast at risk of losing the oak population.

Lastly, I am concerned about the proposed property changing from rural residential to single or multi family residential. Despite the fact that planning commissioner charged residents to "get over" having a large development adjacent to our property, this area is used for agriculture. Along with many of our neighbors, we have livestock that is not appropriate to have in single and multifamily living areas. Perhaps creating a new community within the rural residential foundation is more appropriate.

As previously stated, the impacts from the Dana Reserve Project will not overcome the social and economic benefits of the project. This project will negatively impact the entire Nipomo community and I strongly oppose the project for the following reasons:

1. Water
2. Affordable housing
3. Public Facilities
4. Transportation and road safety
5. Biological impact
6. Land planning

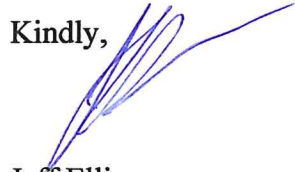
Perhaps revisiting the design of the development to significantly reduce the amount of housing within the acreage will:

1. ensure adequate and affordable water,
2. ensure residents of the project can continue to afford to live there without increasing HOAs to maintain the community,
3. prevent over populating of schools and over extending an already tight county maintenance budget,
4. allow for the county to devise and implement to ensure safety within our road, street, and highway infrastructure,
5. prevent the eradication of oak trees being destroyed from the project and future projects,

6. avoid overpopulation by creating a plan for rural residential.

I appreciate your time and I look forward to your input.

Kindly,

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Jeff Ellis
536 Pomeroy Road
Nipomo CA 93444
(805) 266-5178
Katie.e@sbcglobal.net

Jim + Peggie Cox
720 Black Oak Ln.
Nipomo

mailed 7-28-22
revd 8-2-2022

July 28, 2022

ATTN: Jennifer Guetschow
County of San Luis Obispo

RE: Dana Reserve Project!!

"The social and economic benefits of the project will not outweigh the impacts of this project!"

at this time in Nipomo's history the last thing we need is the "Dana Reserve Project. The drought we are dealing with should mean no new building permits - no more water hookups. The fact that this project would mean destroying 3948 Oak Trees and Chaparral is heart-breaking and against the rules. They cannot be replaced.

The effect on our schools and the increased traffic, jobs, air quality and much more will affect everybody negatively! Please do not approve the

Dana Reserve Project!

My family has been involved in "Pepomo" since the early 1900's, off and on. We love it here.

There has to be a way to turn this around.

Thank you -

Jim & Peggie Coy
720 Black Oak Lane
Pepomo, CA 93444-8822
805-929-2598
jimpeg65@ATT.NET

July 25, 2022

Jennifer Guetschow
County of San Luis Obispo

Kathryn
Ellis
536 Pomeroy
Nipomo

Post-marked 7.28.22
received 8.2.22

Regarding: Dana Reserve Project

Ms. Geutschow,

After review of the Dana Reserve Project, I am writing you to share my concerns regarding this project. The impacts from the Dana Reserve Project will not overcome the social and economic benefits of the project.

There are numerous reasons I present these concerns to your attention. Most importantly, I am concerned about the negative impact that this development imposes on the entire community of Nipomo. Secondly, I reside at 536 Pomeroy Nipomo and am adjacent to the development.

Of top concern, our area has been in different stages of a drought for several years. The reliability of future water supply is uncertain; couple that by an increase for water demand from a significant population growth suggested by this development (4500+ people) and our area will be strangulated by even more significant water shortage and increased water prices. If this development is to serve a low-income population, how will they and the rest of the Nipomo residents be able to afford and have access to water?

Secondly, this project is labeled for "affordable housing". With the starting price of \$600,000.00, who are the developers targeting to buy these houses? Additionally, along with the price of the house, who is going to be deemed responsible for upkeep of such identified equestrian trail and parks? Will the homeowners continue to have increasing HOA fees to live within an affordable housing project? In my opinion, this does not meet any standard of "affordable housing". Will the county be responsible for the maintenance of parks and trails? How will this impact the current financial crisis of the county and/or its residents?

Another concern is public facilities. Please address how the county is going to allow for a developer to propose parks, request a waiver of the Quimby Fees, and expect that the upkeep will be maintained adequately? The county's own parks department identified that the park would not be adequately accommodated. Additionally, our schools are at capacity. What is the plan for schools offsetting the number of children added to our local schools by this development? LMUSD has already voiced concerns about the current plan. If these houses are aimed to attract working force residents, how do you expect the residents to accommodate dropping off and picking up their children from schools on the other side of Nipomo when our streets and roads are already congested with backed up traffic?

To continue with the concern about traffic, I am interested to know if anyone considering adopting this project, or the developer, has had the pleasure of using Tefft Street during the

weekday morning and afternoon hours to get to the 101? How about having to grocery shop at the Vons on Sunday and have to wait extensively to get to and from the store because of the swat meet traffic? The roads identified in the project identifies roads that will need safety improvements. The plan does not offer any insight into who will be responsible for such improvements. My driveway is on the corner of Pomeroy, and one house away from Sandydale. I have lived here for 24 years and have noticed a significant increase in traffic. I have assisted many drivers out of their cars after crashing in our neighbor's yards and have also had the coroner place a body in my driveway because of a deadly accident that occurred in front of my house. Adding another 4500+ residents to this immediate area does not make any sense until our road and street infrastructure can accommodate the additional load.

This development is not environmentally responsible for preserving oak trees and relocation of wildlife. There will be 3,948 oak trees lost with this development! Replanting of oaks outside of SLO county and/or on the Dana Ridge is not appropriate and an inadequate mitigation. In my opinion, it undermines the existing oak tree ordinance and places the entire central coast at risk of losing the oak population.

Lastly, I am concerned about the proposed property changing from rural residential to single or multi family residential. Despite the fact that planning commissioner charged residents to "get over" having a large development adjacent to our property, this area is used for agriculture. Along with many of our neighbors, we have livestock that is not appropriate to have in single and multifamily living areas. Perhaps creating a new community within the rural residential foundation is more appropriate.

As previously stated, the impacts from the Dana Reserve Project will not overcome the social and economic benefits of the project. This project will negatively impact the entire Nipomo community and I strongly oppose the project for the following reasons:

1. Water
2. Affordable housing
3. Public Facilities
4. Transportation and road safety
5. Biological impact
6. Land planning

Perhaps revisiting the design of the development to significantly reduce the amount of housing within the acreage will:

1. ensure adequate and affordable water,
2. ensure residents of the project can continue to afford to live there without increasing HOAs to maintain the community,
3. prevent over populating of schools and over extending an already tight county maintenance budget,
4. allow for the county to devise and implement to ensure safety within our road, street, and highway infrastructure,
5. prevent the eradication of oak trees being destroyed from the project and future projects,

6. avoid overpopulation by creating a plan for rural residential.

I appreciate your time and I look forward to your input.

Kindly,



Kathryn Ellis
536 Pomeroy Road
Nipomo CA 93444
(805) 266-5178
Katie.e@sbcglobal.net

James Clarke
Linda Clarke
825 Inga Rd.
Nipomo

Dear Jennifer Guetschow,

I am a resident of Nipomo, and will be living 2 blocks away from the proposed project "Dana Reserve."

mailed 7.30.22
recd. 8.2.22

Here are my concerns:

1. Housing density- changing land zoning from rural residential to single family or multi-family residential. There are concerns from myself and neighbors adjacent to this project that have livestock and roosters, chickens, etc. so close to this development.
2. Land planning- Many of the project plans are out of alignment with the south county area plan. The preservation of oak trees and open space uses was to be the first priority. If we consider alternatives, Alternative 3 is the most beneficial, and reduces the overall impact for the oak woodlands.
3. Biological impacts-Over 3,900 oak trees would be removed, federally endangered species, and special habitats removed, as indicated in the draft EIR. This will undermine the existing Oak Tree Ordinance for all future developments to come.
4. Water- Although NCS D has assured water should be adequate for this project, the current drought situation for California makes water reliability for the future supply a concern.
5. Transportation- All amenities for Nipomo are accessed by way of Teft Street. The Nipomo Swapmeet on North Frontage causes huge backups on Sundays. There are no additional improvements planned for this area and the additional 4,000 plus people travelling to businesses or the freeway which will just add to the congestion already evident. The Highway 101 will be impacted as well, with people commuting north or south for jobs or services.
6. Schools- The EIR states that Nipomo High School is already at capacity and buildout of the Specific Plan Area would further impact this community. D. Lange Elementary doesn't have the capacity to accommodate the student increase expected if the Dana Reserve Project goes through, and most likely students would be shifted to Nipomo Elementary which would contribute to more traffic and congestion of Teft Street.

Jennifer, the benefits of this project do not really benefit Nipomo as proposed. Many of these project concerns are voiced by the residents of the majority of Nipomo. Just consider postponing any decisions until the concerns are fully addressed.

Sincerely,

Linda Clarke

SLO Planning Commission
c/o Jennifer Guetschow; jguetschow@co.slo.ca.us

Short
536 Chorro Way
Nipomo
mailed 7-29-22
rcvd 8-2-22

I am writing to express my concern regarding the Proposed Dana Reserve Project, a development project that will develop 288 acres in the Unincorporated County Community of Nipomo.

After reading the Draft Environmental Impact Report (DEIR), the Un-mitigatable Significant Class 1 issue which concerns me most is (circle or write in your greatest concern):

- Housing (imbalanced housing vs job creation, which also increases traffic)
- Transportation (increase traffic, impacts on many roads throughout Nipomo)
- Air Quality
- Greenhouse Gas Emission
- Land Planning (multiple elements of the project are out of alignment with the south county area plan, including how this land was intended to be developed vs the present project)
- Biological impacts (3,948 oak trees to be removed, federally endangered species to be removed, special habitats to be removed)
- Write in other issues of concern (i.e Water, public services) not determined to be a class 1 issue in the EIR

Water availability demands + public services
public issue potential

The limited social and economic benefits of the Dana Reserve Project will not outweigh the many significant impacts of the project. As a citizen of Nipomo, I ask that this project be denied until revised to such an extent that the impacts of the development are greatly decreased. We owe it to Nipomo to present a project that does not significantly decrease the quality of life for existing residents and retains the natural beauty of the land given to Captain Dana in 1837.

DATE: 7/29/2022 SIGNED: [Signature]
email: _____

- Water availability issues long & short term
- Law enforcement decrease: past experience with similar low-income integration development projects has dramatically increased demands on public safety personnel & services. This is a commonly overloaded issue with these projects

SLO Planning Commission
c/o Jennifer Guetschow; jguetschow@co.slo.ca.us

Shirley
5306 Chorro Way
Nipomo
mailed 7.29.22
revd 8.2.22

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DATE: 7.29.22

SIGNED: _____

email: _____