Haggerty, Nicole@Wildlife

From: Bryant, Claire@Wildlife
Sent: Wednesday, May 14, 2025 4:51 PM
To: guenocvalleycomments@lakecountyca.gov
Cc: Wildlife R2 CEQA; Wood, Dylan@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: CDFW Comments on the Draft PREIR for the Guenoc Valley Mixed-Use Planned Development Project

Dear Laura Hall:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Draft Partially Revised Environmental Impact Report (PREIR) from Lake County Community Development Department for the Guenoc Valley Mixed-Use Planned Development (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise 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. (Fish & G. Code, § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project site is located north and south of Butts Canyon Road, approximately four miles east of the intersection of State Route 29 and Butts Canyon Road, and 1.5 miles west of the intersection of Snell Balley Road and Butts Canyon Road. The project is approximately 3.5 miles east of Middletown, CA and directly adjacent to the Napa county line.

The Project consists of a General Plan amendment to designate the 16,000-acre Guenoc Valley Ranch property as Resort Commercial and rezone it to Guenoc Valley District (GVD). This would allow for development of up to 400 hotel rooms, 450 resort residential units, 1,400 residential estates, and 500 work force co-housing units within the zoning district. The Project also includes development of a 12.75 acre site in central Middletown, and an off-site water supply well. Phase 1 of the project includes the subdivision, rezoning and related entitlements to develop 401 residential estates, 141 resort residential units, 177 hotel units, and accessory resort and commercial uses. The development of the off-site parcel in Middletown to accommodate 21 single family residences with accessory dwelling units, 29 duplex units in 15 structures, and a community clubhouse with associated infrastructure. The establishment of the off-site well and pipeline located adjacent to and within Butts Canyon Road along with intersection and electrical improvements, and the development of a 3.9 mile emergency road that connects the Guenoc Valley Site with the Grange Road to the north. The Area of Potential Effects (APE) for Phase 1 is approximately 2,453 acres.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Lake County Community Development Department in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

CDFW is primarily concerned with the project impacts to California state listed species, fully protected species, and California Native Plant Society (CNPS) species including but not limited to: Lake County western flax (*Hesperolinon didymocarpum*), Clara Hunt's milk-vetch (*Astragalus claranus*), Loch Lomond button-celery (*Eryngium constancei*), Boggs Lake hedge-hyssop (*Gratiola heterosepala*), Burke's goldfields (*Lasthenia burkei*), Sebastopol meadowfoam *(Limnanthes vinculans*), slender Orcutt grass (*Orcuttia tenuis*), Lake County stonecrop (*Sedella leiocarpa*), Keck's checkerbloom (*Sidalcea keckii*), golden eagle (*Aquila chrysaetos*), white-tailed kite (*Elanus leucurus*), bald eagle (*(Haliaeetus Leucocephalus*), tricolored blackbird (*Agelaius tricolor)*, ring-tailed cat (*Bassariscus astutus*), burrowing owl (*Athene cunicularia*), pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus* townsendii), and western red bat (*Lasiusus blossevilii)*

Additionally, CDFW is concerned about impacts related to sensitive habitats and aquatic resources including wetlands, stream systems, riparian corridors, oak woodlands, wildlife corridors and linkages, and nesting and foraging habitats onsite.

COMMENT 1: Federally and State Listed plants, Mitigation Measure 3.4-2, Mitigation Measure 3.4-3, page 240-243

Issue: The PREIR documents a total of 61 special-status pants species have potential to occur on the project site. Nine of which are state or federally listed plant species (page 140-142) with at least moderate potential to occur in the Guenoc Valley project area: Lake County western flax, Clara Hunt's milk-vetch, Loch Lomond button-celery, Boggs Lake hedge-hyssop, Burke's goldfields, Sebastopol meadowfoam, Slender Orcutt grass, Lake County stonecrop, Keck's checkerbloom. Figure 4-7 shows Lake County western flax and Keck's checkerbloom are within the current Area of Potential Effect (APE) of Phase 1. CDFW recommends that impacts to special status species be avoided and minimized whenever possible. Mitigation Measure 3.4-2 provides avoidance and mitigation for special status plants, however the current language does not recognize the additional protection for listed plants present in the project area. If it is determined that the Project may have the potential to result in "take", as defined in the Fish & G. Code, section 86, of a State-listed species, the PREIR shall disclose an Incidental Take Permit (ITP) or a consistency determination (Fish & G.

Code, §§ 2080.1 & 2081) should be obtained prior to starting construction activities that could result in take. The PREIR does not sufficiently disclose this requirement.

Recommendation or Recommended Mitigation Measure: To address this comment, CDFW recommends that listed plant species be included in the work environmental awareness training (Table 3.4-9 in Final EIR Volume II/ MM3.4-2). CDFW suggests adding additional language disclosing that an Incidental Take Permit (ITP) or a consistency determination (Fish & G. Code, §§ 2080.1 & 2081) should be obtained prior to starting construction activities if take cannot be avoided be added to Mitigation Measure 3.4-3, to recognize the protections provided to listed plant species, separate from CNPS rare plants.

Suggested language: If project activities cannot avoid take of federally or state listed plant species, the applicant shall obtain a California Endangered Species Act (CESA) Incidental Take Permit (ITP) or a Consistency Determination (CD) through CDFW and/or USFWS prior to initiating any work that may result in take of State-listed species.

COMMENT 2: Special Status Birds- Nesting, Mitigation Measure 3.4-8, Page 246

Issue: The PREIR documents 16 special-status bird species with potential to occur in the APE (Table 4.4-2, page 137). Three of the 16 are fully protected species (Fish & G . Code§§ 3511, 4700, 5050 and 5515) that have been observed foraging and/or nesting onsite: golden eagle, white-tailed kite, bald eagle. Mitigation Measure 3.4-8 requires preconstruction surveys for migratory birds and raptors, however the measure limits the raptor surveys to construction areas within .5 miles of a documented eagle or protected falcon species nest. All birds of prey are protected by Section 3503.5 of the Fish and Game Code, and the survey should not be limited only to species of special concern or fully protected species, as the Fish and Game Code protects all migratory birds. Birds of prey often re-use their nest, but new pairs and new nesting sites are regularly established. This measure does not sufficiently reduce impacts to birds of prey to a less than significant level.

Recommendation or Recommended Mitigation Measure: CDFW recommends that Measure 3.4-8 be revised to the following (additions are noted in bold while deletions are noted in strikethrough):

Should any ~~groundbreaking or construction-related work~~ project-related activities begin within the general nesting season (February 1 through August 31), a pre-construction nesting bird survey ~~on and within 200 feet of ground-disturbing activities~~ shall be completed by a qualified biologist no more than five days prior to the start of work. **The qualified biologist shall survey a minimum radius of 500-feet for migratory birds and ½-mile for raptors around the project area. The results of the survey shall be provided to Lake County upon completion.** If no active nests are observed, no further mitigation shall be recommended.

If active nests are observed during the pre-construction survey, a qualified biologist shall demarcate a protective, high-visibility buffer around the nest. Buffer size shall be determined by the biologist based on species, nest location, planned disturbance footprint, and presence of any visual or auditory buffers. The qualified biologist shall also consider any species-specific plans related to acceptable nest-avoidance measures compared to anticipated disturbance levels of construction. The exclusionary buffer shall remain in place until the chicks have fledged, are feeding independently and are no longer dependent on the nest as determined by a qualified biologist. **The qualified biologist shall regularly monitor the nest and shall have stop work authority if construction activities are having an adverse impact on the nest.** ~~Due to the known presence of several nesting raptor species, including eagles, on the overall Guenoc Valley Site primarily outside of the APE, targeted surveys for active raptor nests shall be conducted. For construction activities planned on the Guenoc~~

~~Valley Site, Grange Road Connector, Middletown Housing Site, or the Off-Site Infrastructure Improvement Areas within 0.5 miles of a documented eagle or protected falcon species nest, pre-construction surveys shall be conducted in accordance with the most current guidance available from USFWS and CDFW. If a special-status raptor nest~~ **If a fully protected species or otherwise listed species** is determined to be present on or within 0.5 miles of the work area**, a qualified biologist shall develop an avoidance plan, using best available science, in** consultation with the USFWS and/or CDFW, based on regulatory jurisdiction, **to ensure impacts to the species are avoided prior to the initiation of construction activities.** ~~,shall occur and any~~ **Any** measures recommended or required by those agencies shall be incorporated into the project design.

Project Delay. If a lapse in project-related work of fourteen (14) calendar days or longer occurs, the qualified biologist shall complete another focused survey before Project work can be reinitiated.

Project Proponent Responsibility. It is the Project proponent's responsibility to comply with Fish and Game Code Sections 3503, 3503.5, and 3513, regardless of the time of year.

COMMENT 3: Tricolored Blackbird, Biological Resource Assessment, page 30

Issue: The PREIR states that tricolored blackbirds (TRBL) have a high potential to occur within the APE (Table 4.4-2). The attached Biological Resources Assessment states that the APE is adjacent to reservoirs containing emergent vegetation that may support nesting, with a known occurrence within 1 mile of the property. TRBL is listed as *threatened* under CESA. Construction activities near suitable TRBL nesting habitat could result in significant impacts to nesting TRBL through loss of foraging habitat, noise, fugitive dust, human presence, and/or night lighting. Noise from road use, generators, and other equipment may disrupt TRBL mating calls or songs which could impact their reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Bayne et al. (2008) found that songbird abundance and density was significantly reduced in areas with high levels of noise. Mitigation Measure 3.4-8 is not adequate reducing impacts to TRBL to a less-than significant level.

Recommendation or Recommended Mitigation Measure: CDFW recommends adding the following TRBL preconstruction survey measure to the PREIR:

Tricolored Blackbird Nesting Survey. Prior to initiation of construction in areas containing or adjacent to tricolor blackbird (TRBL) habitat (typically characterized by emergent vegetation) a qualified biologist shall conduct protocol-level surveys within a ¼-mile of project work areas to evaluate the presence of TRBL breeding colonies, suitable nesting and foraging habitat. Surveys shall be conducted during the nesting season (March 15 to July 31). If construction is initiated in the project work area during the nesting season, three (3) surveys shall be conducted within fifteen (15) days prior to the construction activity, with one of the surveys within three (3) days prior to the start of the construction. The surveys shall be based on survey methods identified in the Results of the 2017 Tricolored Blackbird Statewide Survey, Appendix 1 (Meese 2017). If breeding colonies are found, the foraging behavior of the colony shall also be documented. Many TRBL breeding colonies expand over time as additional birds are recruited at the edges of established colonies. For this reason, it is important to reassess the extent of a breeding colony before the start of construction activities. If TRBL are found, no work shall begin until CDFW has been consulted with to determine the appropriate avoidance or minimization measures and compliance with CESA can be demonstrated.

COMMENT 4: Fully Protected Species: Ringtail Cat, Mitigation Measure 3.4-5, page 244.

Issue: The PREIR recognizes the potential for ring-tailed cats, a fully protected species (Fish & G . Code§§ 4700, 5515)**,** to occur in the project area, and requires a pre-construction survey within suitable habitat to avoid impacts. Mitigation Measure 3.4-5 calls for an exclusionary buffer of no less than 50 feet. Ring-tailed cats have a home range that spans from 9 hectare (Morales, 2006) to 560 hectare (Ackerson & Harveson, 2006), as such a 50-foot buffer does not reduce impact to the species below a significant level.

Recommendation or Recommended Mitigation Measure: CDFW recommends that Measure 3.4-4 be revised to the following (additions are noted in bold while deletions are noted in strikethrough):

No more than 14 days before the start of ground disturbance activities within open grassland, oak woodland, or riparian forest habitat, a qualified biologist shall conduct preconstruction surveys to determine if ringtail dens are present. If no active ringtail dens are observed, no further mitigation shall be recommended. If **active** ringtail dens ~~with young~~ are determined to be present within the work area, the biologist shall **notify Lake County**, **and develop an avoidance plan** ~~establish a clearly marked exclusionary buffer of no less than 50 feet with high-visibility flagging~~ **using best available scientific practices, in consultation with CDFW, to ensure impacts to the species are avoided prior to the initiation of construction activities. The plan shall include an appropriately sized avoidance buffer based on environmental conditions of the den site and project activities in the vicinity.**

COMMENT 5: Burrowing Owl, Mitigation Measure 3.4-9, page 247

Issue: On October 10, 2024, the California Fish and Game Commission granted the western burrowing owls candidate species protections under CESA. The candidacy designation temporarily affords the burrowing owl broad CESA protections (including prohibitions against “take” without permit authorization) throughout the entirety of California over the next 12-18 months while CDFW conducts a species status review to confirm whether (and where) listing is warranted and to recommend management and recovery actions. Projects with potential impacts to burrowing owl are encouraged obtain an ITP from CDFW in order to comply with CESA. In the event that CDFW does confirm listing is warranted for the burrowing owl in the future when the Project’s construction phase is set to occur and take of burrowing owl or its nest is unavoidable, then the Project proponent can obtain an ITP from CDFW and provide suitable mitigation for loss of nesting habitat. As currently written, Mitigation Measure 3.4-9 is limited to passive exclusion which may result in take of burrowing owl and will require the project proponent to fully comply with CESA through an ITP.

Recommendation or Recommended Mitigation Measure: CDFW recommends that Measure 3.4-9 be revised to the following (additions are noted in bold while deletions are noted in strikethrough):

A pre-construction survey shall be performed by a qualified biologist prior to the start of ~~ground disturbing~~ **project** activities where suitable burrowing owl burrows (such as ground squirrel complexes) are present. The survey shall be performed according to the standards set forth by the Staff Report for Burrowing Owl Mitigation (CDFW, 2012). Pre-construction surveys shall occur no more than 14 days prior to ground disturbance.

Should a burrow be observed in use by a burrowing owl, or if a burrow shows signs of use (pellets, whitewash, feathers) **no work shall begin until appropriate burrowing owl avoidance or minimization measures have been established by the qualified biologist. The size of the no disturbance buffer shall be consistent with the *Staff Report on Burrowing Owl Mitigation***

shown in Table 1. The no disturbance buffer shall be clearly marked with high-visibility flagging, signage, or other methods determined by the qualified biologist.

Table 1. Burrowing Owl Avoidance Buffers

Time of Year	Buffer Size (in feet) per Level of Disturbance		
	Low	Medium	High
April 1- Aug 15	650	1650	1650
Aug 15- Oct 15	650	650	1650
Oct 16- Mar 31	165	330	1650

To ensure the buffer is sufficiently sized to avoid take, the qualified biologist shall conduct a minimum of two days of baseline monitoring of burrowing owl behavior prior to the start of project activities and then be onsite to monitor the burrow during the start of project activities. No disturbance buffers shall remain in place until the qualified biologist determines the burrow is unoccupied by adults or young (occupation includes individuals or family groups using the burrow or foraging on or near the site following fledging). Should project activities cause burrowing owls to exhibit territorial or agitated behavior (e.g. flushing, vocalizing, making defensive flights at intruders, etc.) then the no disturbance buffer shall be increased such that activities are far enough from the burrow so that the bird(s) no longer display the agitated behavior. Any reductions or modifications to this buffer shall be approved by CDFW prior to its implementation. The buffer reduction request shall include relevant rationale and may propose new measures to further justify the buffer reduction.
~~project activities shall be excluded within a 250- foot high-visibility buffer until the qualified biologist determines the owls are no longer present. For active burrows within an area of impact, passive exclusion techniques, such as one way doors, may be used to exclude burrowing owls from occupied burrows outside the nesting season or if the qualified biologist determines the burrow does not support an active nest. Once exclusion is completed and the biologist determines that the burrow is not occupied, the burrows shall be collapsed.~~

COMMENT 6: Bat Maternity Roosts and Special Status Bat Impacts, Mitigation Measure 3.4-6, page 245

Issue: The PREIR recognizes potential habitat for Pallid Bat, Townsend's big-eared bat, and Western red bat exists within the project area. Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish and Game Code §4150, CCR §251.1). These bat species are also considered Species of Special Concern (SSC), which meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines §15065); therefore, impacts may be considered potentially significant unless adequate mitigation is incorporated. CDFW is concerned that the fourteen-day pre-construction survey and tree removal protocol provided in PREIR Mitigation Measure 3.4-6 is too limited in scope to reduce project impacts on the bat species with potential to occur in the project area.

Recommendation or Recommended Mitigation Measure: CDFW recommends that Mitigation Measure 3.4-6 be revised to the following (additions are noted in bold while deletions are noted in strikethrough):

A habitat assessment shall be conducted by a qualified biologist for potentially suitable bat habitat within six months of Project activities. The habitat assessment shall include a visual inspection of suitable habitat features (e.g., trees, bridges, and other structures) for suitable bat roosting habitat within the project area and a minimum of a 500-foot radius adjacent to these areas that may be impacted by Project activities.
~~no more than 14 days prior to the start of construction in locations suitable for roosts or tree removal. Surveys of potential bat roost habitat shall concentrate on large trees (DBH >12 inches) specifically looking for relevant bat use features such as loose bark or cavities, broadleaf trees in riparian woodland habitat, buildings, bridges, and cliffs/rocky outcroppings on or within 100 feet of any planned work areas. Prior to construction on the Middletown Housing Site, foliage suitable for western red bat roosting shall also be surveyed.~~ If no potential bat habitat ~~roosts~~ are observed, no further mitigation shall be necessary. **If the habitat assessment reveals suitable bat habitat, then a qualified bat biologist shall do a presence/absence survey during the peak activity periods. If bats are present, then the qualified biologist shall develop a bat avoidance plan, in consultation with CDFW.**
The bat avoidance plan should identify:

1. **The location of the roosting sites.**
2. **The number of bats present at the time of assessment (count or estimate).**
3. **The species of bats present.**
4. **The type of roost: maternity, hibernaculum, or a roost.**
5. **Species specific measures to avoid and minimize impacts to bats. The bat avoidance plan shall evaluate the length of time of disturbance, equipment noise, and type of habitat present at the project.**

If an occupied bat roost is found, the qualified bat biologist should establish a no-disturbance buffer around the roost in consultation with CDFW. The width of the buffer should be determined by the qualified bat biologist based on the bat species, site specific conditions, and level of disturbance. The buffer should be maintained until the qualified bat biologist determines that the roost is no longer occupied.

For ~~trees~~ **structures** ~~proposed for removal~~ **that must be removed** that have been identified as **containing an active bat roost** ~~potentially suitable habitat for special-status species, the following shall apply~~, **the qualified bat biologist should prepare a plan for the passive exclusion of the bats from the roost, in consultation with CDFW. Exclusion should be scheduled either (1) between approximately March 1 (or when evening temperatures are above 45°F and rainfall less than ½ inch in 24 hours occurs) and April 15, prior to parturition of pups; or (2) between September 1 and October 15 prior to hibernation (or prior to evening temperatures dropping below 45°F and onset of rainfall greater than ½ inch in 24 hours). If project activities occur outside these periods, the qualified bat biologist should monitor the roost prior to exclusion to confirm that it does not support a maternity colony or hibernaculum.**

Trees ~~proposed for removal~~ **that must be removed,** that have been identified as potentially suitable ~~special status~~ bat habitat, shall be removed **during the March 1 to April 15 time period (following the temperature and rainfall measures described above),** using the two-day phased removal method**.** ~~described below:~~ On day 1, branches and small limbs not containing potential bat roost habitat (cavities, crevices, exfoliating bark, etc.) shall be removed using chainsaws only. The remainder of the tree shall be removed on day 2. ~~Removal shall occur during seasonal periods of bat activity. Removal shall occur as possible outside of maternity season. The maternity roosting season~~

~~for bats is approximately February 1 through September 1 (but varies due to rainfall and temperature). The best time for removal of structures that may support maternity roosting is between February 1 and April 15.~~
If an active maternity roost **or hibernaculum** is detected, the tree(s) or structures shall be retained until after **there is no longer a hibernaculum present, or until after** the young bats are no longer dependent on their parents for care as determined by a qualified biologist. If a special-status bat roost is observed during preconstruction surveys, appropriate avoidance or exclusion measures shall be developed in consultation with CDFW.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be submitted online or mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov

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

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the PREIR for the Guenoc Valley Mixed-Use Planned Development to assist Lake County Community Development Department in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Claire Bryant, Environmental Scientist, at 530-333-7748 or Claire.Bryant@Wildlife.ca.gov.

Thank you

Claire Bryant
Environmental Scientist
CDFW Region 2
(530) 333-7748