

Haggerty, Nicole@Wildlife

From: Oswalt, Caitlyn@Wildlife
Sent: Monday, May 18, 2026 5:07 PM
To: awolfson@cityofgrassvalley.com
Cc: Wildlife R2 CEQA; Wilson, Billie@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: CDFW Comments on Heritage Oaks Phase II; Mitigated Negative Declaration (MND); SCH No. 2019119068

Dear Amy Wolfson,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from City of Grass Valley for the Heritage Oaks Phase II (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

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 on the south side of Joyce Drive, east of the junction of Joyce Drive and Whiting Street (APNs: 029-280-016 & 029-270-033).

The Project consists of 12 single family lots ranging in size from ±2,775 (Lot 8) to ±6,646 square feet (Lot 11). The project is anticipated to provide housing for the City's Very Low and Low-Income group in accordance with the City's adopted 2019-2027 Adopted Housing Element. The project will require off-

haul of ±10,712 cubic yards of contaminated soil and replacement of 7,200 cubic yards of clean soil for remediation, in addition to cut of ±447 cubic yards and fill of ±3,416 cubic yards of fill for grading and construction.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Grass Valley in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project. CDFW is primarily concerned with the project impacts to migratory birds and Little Wolf Creek.

COMMENT 1: *Avoid Impacts to Nesting Birds, pages 26 & 27.*

Issue: The IS/MND describes multiple tree species within the project area including white alders (*Alnus rhombifolia*) and willows (*Salix laevigata* and *S. lasiolepis*). Bird species, including migratory birds and raptors, within the project area are known to use these tree species for nesting and raising their young. The IS/MND does not analyze impacts to nesting birds or provide mitigation measures in the event these species are found on site.

Recommendation: CDFW recommends if project-related activities are scheduled between February 1 to August 31, a focused survey for nests should be conducted by a Designated Biologist prior to the beginning of Project-related activities. The Designated Biologist should survey a minimum radius of 500-foot (for migratory birds) and 1/2-mile (for raptors) around the Project area that can be accessed by the Project proponent. If an active nest is found, active nests should be avoided, and a no disturbance or destruction buffer should be determined and established by a Designated Biologist. The buffer should be kept in place until after the breeding nesting season or the Designated Biologist confirms the young have fledged, are foraging independently, and the nest is no longer active for the season. The extent of these buffers should be determined by the Designated Biologist and will depend on the species present, the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers.

If any special-status species are encountered during project activities, work should be suspended, CDFW notified, and conservation measures should be developed in agreement with CDFW prior to re-initiating the activity. Conversely, if during project activities, any species listed pursuant to the CESA are encountered, work shall be suspended, and CDFW notified. Work may not re-initiate until the Project proponent has consulted with CDFW and can demonstrate compliance with CESA.

COMMENT 2: *Moving out of Harm's Way, pages 26-29.*

Issue: The project area has the potential for fish and wildlife species to be present at time of construction. The IS/MND does not include an evaluation on project impacts to wildlife of low or limited mobility that would otherwise be injured or killed from Project-related activities.

Recommendation: To avoid direct mortality, CDFW recommends the City of Grass Valley state in the IS/MND a requirement for a Designated Biologist with the proper handling permits, be retained to be onsite prior to and during all ground- and habitat-disturbing activities that have the possibility to cause

harm to wildlife species. Furthermore, the IS/MND should describe that the Designated Biologist with the proper permits may move out of harm's way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from Project-related activities, as needed. The IS/MND should also describe Designated Biologist qualifications and authorities to stop work to prevent direct mortality of special-status species. CDFW recommends fish and wildlife species be allowed to move out of harm's way on their own volition, if possible, and to assist their relocation as a last resort. It should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for habitat loss.

COMMENT 3: *Riparian and Native Trees, page 28.*

Issue: The IS/MND describes several native willow trees located within the project area and large trees associated with Little Wolf Creek. CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the IS/MND should include mitigation measures for adverse Project-related impacts to these resources.

Recommendation: CDFW recommends the IS/MND mitigation measures emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration, enhancement, or permanent protection should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable, and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed in the IS/MND as well.

COMMENT 4: *Section 1602 of the Fish and Game Code, pages 8 & 45.*

Issue: The IS/MND has identified Project activities that will require notification to CDFW pursuant to Section 1602 of the Fish and Game Code. For example, activities that could impact the waterway include general site grading, the creation of two storm drain inlets with deepened sumps and the creation of new Bio-Swales, and a retention pond south of the new home construction. The IS/MND describes run-off conveyed through the new retention pond will discharge into Little Wolf Creek.

Recommendation: CDFW recommends the IS/MND identify Project activities that will require notification to CDFW pursuant to Section 1602 of the Fish and Game Code. Notification is required for any activity that may do one or more of the following:

- a. Substantially divert or obstruct the natural flow of any river, stream, or lake;
- b. Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
- c. Deposit debris, waste, or other materials where it may pass into any river, stream, or lake.

Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW will determine if the Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. The Project as currently proposed in the IS/MND will require an LSA Agreement. An LSA Agreement will include measures necessary to protect existing fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the IS/MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, minimization, mitigation, and monitoring and reporting commitments. Additionally, you can go to our website at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA> for more information. To submit a notification, visit our Environmental Permit Information Management System (EPIMS) portal at <https://epims.wildlife.ca.gov/index.do>.

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 (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 submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@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 MND for the Heritage Oaks Phase II project to assist the City of Grass Valley 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 Caitlyn Oswald, Environmental Scientist at (916)358-4315 or caitlyn.oswalt@wildlife.ca.gov.

Sincerely,

Caitlyn Oswald

(She/Her)

Environmental Scientist | 916.358.4315

North Central Region – Region 2

1701 Nimbus Road, Rancho Cordova

California Department of Fish and Wildlife

