



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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August 19, 2025

Cameron Welch, Senior Planner
El Dorado County
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Subject: Creekside Village Specific Plan
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH No. 2020110052

Dear Cameron Welch,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a DEIR from El Dorado County for the Creekside Village Specific Plan (Project) pursuant to 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.

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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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 west side of Latrobe Road, south of Investment Boulevard, directly adjacent to the southern boundary of the El Dorado Hills Business Park within an unincorporated area of El Dorado County in the community of El Dorado Hills.

The Project proposes to develop approximately 208 acres of land with a mix of residential, parks, neighborhood commercial, and open space land uses.

The Project description should include the whole action as defined in the CEQA Guidelines section 15070 and should include appropriate detailed exhibits disclosing the Project area including temporary impacted areas such as equipment staging areas, spoils areas, adjacent infrastructure development, and access and haul roads if applicable.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist El Dorado County 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 an Environmental Impact Report is appropriate for the Project.

COMMENT 1: Incidental Take Permit for CESA or NPPA listed Species

Issue: The DEIR identified species that are state-listed as rare, candidate, threatened, or endangered under CESA or NPPA within the project area. CDFW is particularly concerned with project impacts to Boggs Lake hedge-hyssop (*Gratiola heterosepala*), tricolored blackbird (*Agelaius tricolor*), and burrowing owl (*Athene cunicularia*). The DEIR fails to fully analyze impacts to tricolored blackbird (*Agelaius tricolor*) nesting habitat for the life of the project or include sufficient measures to reduce impacts to a less than significant level. The DEIR also fails to fully analyze the potential take of state listed Endangered Boggs Lake hedge-hyssop (*Gratiola heterosepala*) or include sufficient measures for no net loss of the species or its habitat. Therefore, impacts are not reduced to a less than significant level.

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Recommendation: CDFW recommends a qualified biologist complete individual biological assessments for all project areas covered under this DEIR. An ITP should be obtained where the Project has the potential to result in take of a species state-listed as rare, candidate, threatened, or endangered under CESA or NPPA, either through construction or over the life of the Project. Plant species not listed as rare, threatened, endangered, or candidates for listing under CESA or NPPA may nevertheless meet the definition of rare or endangered provided in CEQA (Cal. Code Regs., tit. 14, § 15380, subd. (b)). Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To issue an ITP, CDFW must demonstrate that the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code § 2081 (b)). To facilitate the issuance of an ITP, CDFW recommends the PEIR include species specific measures to minimize and fully mitigate the impacts to any state-listed species the Project activities have the potential to take.

COMMENT 2: Section 3.3 Biological Resources; Boggs Lake hedge-hyssop (*Gratiola heterosepala*); Pages 3.3-12, 3.3-23, and 3.3-39

Issue: Boggs Lake hedge-hyssop is an annual herb that is State listed as Endangered. Per the DEIR, this species has a moderate potential to occur on the project site based on site and soil conditions. CESA and the Native Plant Protection Act (NPPA) prohibit the take or possession of state-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances. The DEIR fails to address take of the species and its habitat or analyzing project impacts to habitat fragmentation including increased human activity after project completion. The DEIR should include sufficient measures to reduce impacts to a less than significant level.

Recommendation: CDFW recommends using the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, 3/2018; Attachment 1), to conduct a minimum of two focused special-status plant surveys prior to construction during the blooming season for special-status plant species that may occur on the project site. Surveys should be spaced a minimum of three (3) weeks apart during the blooming period. Exact survey timing should be determined by a qualified biologist with experience with the species being surveyed. If special-status plants are discovered during these surveys, coordination with CDFW to develop a plan for avoiding project impacts to special-status plants is recommended. The DEIR should cover a range of possibilities for mitigation. The use of relocation, salvage, and/or transplantation as the sole mitigation for impacts to rare, threatened, or endangered species are generally experimental in nature and largely unsuccessful. Therefore, the DEIR should describe additional mitigation measures utilizing habitat restoration, conservation, and/or preservation, in addition to avoidance and minimization measures, if it is determined that there may be impacts to rare, threatened, or endangered species. Take of state-listed plants due to Project activities may only be permitted under an appropriate CESA take authorization. Furthermore, please be aware that the County's in-lieu fee program may not meet the full mitigation standard under CESA.

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COMMENT 3: Section 3.3 Biological Resources; Boggs Lake hedge-hyssop (*Gratiola heterosepala*); Pages 3.3-12, 3.3-23, and 3.3-39

Issue: On page 3.3-23, Policy 7.4.2.8 it states, “*Conserve contiguous blocks of important habitat to offset the effects of increased habitat loss and fragmentation elsewhere in the County through a Biological Resource Mitigation Program.*” Fragmentation of special status plants can lead to genetic bottlenecking and a loss of genetic diversity. Conserving contiguous blocks of habitat is important to ensure long term species success. The DEIR fails to analyze the cumulative and continued habitat fragmentation of rare plant species habitat.

Recommendation: CDFW recommends the DEIR analyze continued habitat fragmentation on rare plant species habitat within this Project area. The DEIR should describe avoidance, minimization and mitigation measures to reduce the project’s contribution to habitat fragmentation.

COMMENT 4: Section 3.3 Biological Resources; 3.3.1 Impacts to Tricolored Blackbird; page 3.3-28

Issue: Project grading would result in the removal of approximately 0.10-acres of Valley Foothill riparian (e.g., blackberry thicket associated with riparian wetland) that is suitable tricolored blackbird nesting habitat. Indirect human disturbances and noise from construction activities have the potential to cause colony abandonment and death of young or loss of reproductive success during nesting season. Human occupation of the portion of the project site nearest to the nesting colony location after construction is complete could result in disturbance of future nesting colony activities, potentially causing tricolored blackbirds to discontinue use of this nesting habitat.

As stated in the DEIR, only twelve colony locations are known to exist within El Dorado County. Cumulative projects in the vicinity have removed suitable foraging habitat and induced abandonment of colonies such as the one within the Carson Creek Specific Plan Area to the west of the project area. The project area has known nesting habitat with a recorded tricolored blackbird nesting colony at the project site in 2022, 2023, and 2024. The tricolored blackbird colony was an active breeding colony in 2022 and 2024. The removal of 0.10 acres of Valley Foothill riparian (e.g., blackberry thicket) coupled with the indirect and direct impacts human disturbances and noise from construction have the potential to cause colony abandonment and death of young or loss of reproductive success during nesting season. Take of state-listed species due to Project activities may only be permitted under an appropriate CESA take authorization and is a significant impact.

Recommendation: CDFW recommends the project avoid suitable habitat onsite, such as the blackberry thicket, to decrease the potential for colony abandonment. Cumulative projects in the vicinity have removed suitable foraging habitat and induced abandonment of colonies such as the one within the Carson Creek Specific Plan Area to the west of the project area. CDFW recommends the El Dorado County include measures to further avoid

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indirect and direct impacts through fragmentation and habitat removal including but not limited to permanent fencing (with an appropriate buffer), preserved habitat areas, and habitat corridors.

COMMENT 5: Section 3.3 Biological Resources; BIO-5 Tricolored Blackbird; page 3.3-32 and 3.3-33

Issue: Mitigation Measure BIO-5 is not adequate in reducing impacts to tricolored blackbird to a less-than significant level. Construction activities near suitable tricolored blackbird nesting habitat could result in significant impacts to nesting tricolored blackbird through loss of foraging habitat, noise, fugitive dust, human presence, and/or night lighting. Noise from road use, generators, and other equipment may disrupt tricolored blackbird 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. As a result, the nesting bird mitigation measure included in the DEIR does not reduce impacts to tricolored blackbird to less than significant.

Recommendation: CDFW recommends implementing the following Tricolored Blackbird preconstruction survey measure prior to initiation of construction activities:

Tricolored Blackbird Nesting Survey. Prior to initiation of construction in the project work area and within a ¼-mile of the project work area, a qualified biologist shall conduct protocol-level surveys to evaluate the presence of tricolored blackbird 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. If breeding colonies are found, the foraging behavior of the colony shall also be documented. Many tricolored blackbird 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 tricolored blackbirds are found, no work shall begin until CDFW has been consulted and compliance with CESA can be demonstrated.

COMMENT 6: Section 3.3 Biological Resources; BIO-7 Burrowing Owl Avoidance; page 3.3-33-3.3-34

Issue: Mitigation Measure BIO-7, Burrowing Owl Avoidance, fails to acknowledge that burrowing owl is currently a candidate for listing under CESA. Mitigation Measure BIO-7 currently states *“If this is infeasible, the project applicant shall consult with CDFW to obtain an Incidental Take Permit (if necessary based on species listing decision) and develop a detailed mitigation plan such that the habitat acreage, number of burrows, and burrowing owls impacted are replaced.”*

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Recommendation: CDFW recommends the DEIR reflect burrowing owl candidate status and change Mitigation Measure BIO-7 to *"If this is infeasible, because the burrowing owl is currently a candidate for listing under CESA and afforded all protections under CESA, the project applicant should consult with CDFW to obtain an Incidental Take Permit and develop a detailed mitigation plan such that the habitat acreage, number of burrows, and burrowing owls impacted are replaced if it is still a candidate or has become CESA listed."*

COMMENT 7: Section 1602 of the Fish and Game Code; BIO-9 Wetland Compensatory Mitigation; page 3.3-36

Issue: The DEIR has identified 7 acres of perennial, intermittent, and ephemeral rivers, and other hydrologically connected aquatic features both on and offsite. These identified Project activities will require notification to CDFW pursuant to Section 1602 of the Fish and Game Code. Impact 3.3-2 does not fully analyze the removal of vegetation within riparian areas and fails to address Section 1602 of the California Fish and Game Code within Mitigation Measure BIO-9. The DEIR should include measures to reduce impacts to aquatic features including obtaining a Streambed Alteration Agreement to bring project impacts a less than significant level.

Recommendation: The DEIR should propose appropriate avoidance, minimization and/or mitigation measures to reduce impacts to a less than significant level including but not limited to Project impacts to water temperature, water nutrient concentrations, and turbidity.

The DEIR has identified 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:

- Substantially divert or obstruct the natural flow of any river, stream, or lake;
- Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
- 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 DEIR will require a LSA Agreement. A LSA Agreement will include measures necessary to protect existing fish and wildlife resources.

CDFW's issuance of a LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the DEIR should

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fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, minimization, mitigation, and monitoring and reporting commitments.

COMMENT 8: 3.3 Biological Resources; BIO-10 Stream Preservation with Park Design; Page 3.3-37

Issue: The DEIR states the final park design shall incorporate fencing, including but not limited to post and cable fencing, around the buffer area to prevent public entry into the channel and buffer. Certain fence designs can inadvertently trap wildlife and would be considered a significant impact unless sufficient avoidance and minimization measures are incorporated into the DEIR.

Recommendation: CDFW recommends the DEIR consider capping all top opening or fill the three holes on the top (e.g., with a bolt and nut), of any of u-channel posts, signs, or vertical poles installed temporarily or permanently throughout the course of the Project to prevent the entrapment of wildlife, especially birds of prey. When animals collide or tangle in fences they can be injured or killed. By tailoring fence design and placement, you can prevent wildlife injuries. CDFW recommends using “A Landowner’s Guide to Fences and Wildlife” (2012, Attachment 2) to construct and modify your fencing and crossings to be friendlier to wildlife while still meeting fencing needs. A Biologist should check fence posts, signs, or vertical poles for this requirement at the completion of the Project.

COMMENT 9: 3.3 Biological Resources; BIO-3 Work Area Delineation and Fencing; page 3.3-31

Issue: Mitigation Measure BIO-3 states “*The exact location of the fencing shall be determined by the resident construction contractor coordinating with a qualified biologist.*” A qualified biologist should be consulted and onsite during all fencing activities before the start of construction and grading. Buffers should not be determined by construction contractors.

Recommendation: Before any site clearing, grading or other ground disturbing activity occurs within the project site, the project applicant shall ensure that temporary orange barrier fencing is installed around the project site adjacent to sensitive habitat areas to be avoided, as appropriate. A qualified biologist experienced with the native flora and fauna of the project site should oversee establishing buffers for species on site.

CDFW recommends the following sentence be changed “*The exact location of the fencing shall be determined by a qualified biologist coordinating with the resident construction contractor.*” The fencing should also be checked regularly and maintained by a qualified biologist until all construction is complete.

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COMMENT 10: 3.3 Biological Resources; BIO-2 Environmental Awareness Training; page 3.3-30

Issue: Mitigation Measure BIO-2 fails to acknowledge multiple construction years and between construction years new personnel may be added to the project as well prolonged times between construction years.

Recommendation: Construction personnel should have refresher and introductory Environmental Awareness Training as needed and appropriate. CDFW recommends that BIO-2 be changed to read as the following:

“Before any work occurs in the project site and at the beginning of each construction year, including site clearing, grading, and equipment staging, all construction personnel shall participate in an environmental awareness training provided by a qualified biologist regarding special-status species and sensitive habitats present in the project site. If new construction personnel are added to the project, they must receive the mandatory training before starting work.”

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.

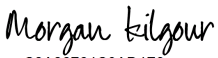
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CDFW appreciates the opportunity to comment on the DEIR for the Creekside Village Specific Plan to assist El Dorado County in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Caitlyn Oswalt, Environmental Scientist at (916) 358-4315 or caitlyn.oswalt@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Morgan Kilgour
Regional Manager

Attachments

1. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW, 3/2018)
2. Paige, C. 2012. A Landowner's Guide to Fences and Wildlife: Practical Tips to Make Your Fences Wildlife Friendly. Wyoming Land Trust, Pinedale, WY. 52 pp.

ec: Billie Wilson, Senior Environmental Scientist (Supervisory)
Caitlyn Oswalt, Environmental Scientist
Department of Fish and Wildlife

Office of Land Use and Climate Innovation, State Clearinghouse, Sacramento

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REFERENCES

Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW, 3/2018)

Patricelli, G. L., and J. L. Blickley. 2006. Avian communication in urban noise: causes and consequences of vocal adjustment.

Halfwerk, W., L. J. M. Holleman, C. M. Lessels, and H. Slabbekoorn. 2011. Negative impact of traffic noise on avian reproductive success. *Journal of Applied Ecology*

Bayne, E. M., L. Habib, and S. Boutin. 2008. Impacts of chronic anthropogenic noise from energy-sector activity on abundance of songbirds in the boreal forest. *Conservation Biology*