



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

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June 27, 2024

Krystine Ball

City of Rio Vista

1 Main Street

Rio Vista, CA 94571

KBall@ci.rio-vista.ca.us

Subject: Brann Ranch Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2024060040, City of Rio Vista, Solano County

Dear Ms. Ball:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) from the City of Rio Vista (City) for the Brann Ranch Project (Project).

CDFW is providing the City, as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (See: Cal. Code Regs., tit. 14, § 15082, subd. (b).).

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration (LSA) Agreement, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The Project would develop a 322-acre master planned community with the following components: 179 acres of housing including 1,073 single-family detached residential houses and 59 multi-family units, approximately 80 acres of open space, including 4 neighborhood parks and a setback to avoid the Watson Hollow stream, a 9.4-acre commercial area, an 8.7-acre school site, 23 acres of stormwater detention and bioretention basins, and infrastructure including roadway improvements, a wastewater

Krystine Ball
City of Rio Vista
June 27, 2024
Page 2

lift station, potable groundwater wells, and wellhead treatment facilities. The Project would rezone the site, currently zoned as R-1 Residential Low Density, RE-1 Residential Estate, I-P-I Industrial Park and/or Industrial, F-W Floodway, and PL Park Land, to R-1 Residential Low Density (PUD), C-2 Community Commercial (PUD), R-4 Residential High Density (PUD), P-L Park Lands (PUD) and F-W Floodway (PUD), and PL Park Land (PUD). The Project would reorganize the existing parcels into a new legal property description including 1,132 residential parcels and parcels for accompanying lands including parks, trails, roads, and commercial lots.

The Project is located in the northwest city of Rio Vista in Solano County, with a center point of approximately 38.19057 °N, -121.72731 °W. The Project site is generally bounded by State Route 12 to the south, McCormack Road to the north, and Province Path and Liberty Island Road on the east. The Project site is comprised of APNs 0048-110-060, 0048-110-100, 0048-110-460, 0048-110-470, 0048-110-480, and 0048-110-490.

The CEQA Guidelines (See: Cal. Code Regs., tit. 14, § 15000 et seq.) require that the EIR incorporate a full project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description:

- Land use changes resulting from, for example, rezoning certain areas;
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes;
- Area and plans for any proposed buildings/structures, ground-disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems;
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features and
- Construction schedule, activities, equipment, and crew sizes.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals that are listed or candidates for listing under CESA or NPPA, either during construction or over the life of

Krystine Ball
City of Rio Vista
June 27, 2024
Page 3

the Project. Under CESA, “take” means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (Fish & G. Code, § 86.) If the Project will impact CESA listed species, such as those identified in **Attachment 1**, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP. CDFW’s issuance of an ITP is subject to CEQA and to facilitate permit issuance, any such project modifications and mitigation measures must be incorporated into the EIR’s analysis, discussion, and mitigation monitoring and reporting program.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, do not eliminate the Project proponent’s obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq., is required for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland habitat; or deposit or dispose of material where it may pass into a river, lake or stream. **The Project includes three vehicle bridges including one emergency vehicle use bridge, please be advised that bridges over streams often require an LSA Notification due to impacts from supporting structures, shading, and other factors.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW may not execute the final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

ENVIRONMENTAL SETTING

The EIR should provide sufficient information regarding the environmental setting (“baseline”) to understand the Project’s, and its alternative’s (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including, but not limited to, all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The

Krystine Ball
City of Rio Vista
June 27, 2024
Page 4

EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include but are not limited to those listed in **Attachment 1**.

Habitat descriptions and the potential for species occurrence included in the EIR should include robust information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, California Aquatic Resources Inventory, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Only with sufficient data and information from the habitat assessment, can the City adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>, CRPR)¹, must be conducted during the blooming period within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrological conditions, and require the identification of reference populations. More than one year of surveys may be necessary based on environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to special-status plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The EIR should discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

¹ CRPR 1B plants are considered rare, threatened, or endangered in California and elsewhere. Further information on CRPR ranks is available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/california-rare-plant-ranks>).

Krystine Ball
City of Rio Vista
June 27, 2024
Page 5

- Land use changes that would reduce open space or agricultural land uses and increase residential or other land use involving increased development;
- Encroachments into riparian habitats, wetlands, or other sensitive areas;
- Potential for impacts to special-status species;
- Loss or modification of breeding, nesting, wintering, dispersal or foraging habitat, including vegetation removal, alteration of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, vegetation overhanging banks); including, but not limited to, loss of nesting, wintering, or foraging habitat for Swainson's hawk (*Buteo swainsoni*) and burrowing owl (*Athene cunicularia*);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; including impacts to migratory birds caused by lighting and reflective building surfaces; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

Please note that the Project site is within the draft Solano Multispecies Habitat Conservation Plan (HCP) Valley Floor Grassland Conservation Area, and according to the draft Solano HCP Mitigation Measure SH 2 for Swainson's hawk and BO 1 for burrowing owl, Valley Floor Grassland Foraging habitat should be mitigated at a ratio of 1:1 (See Section 6.4.8 and Figures 4-21 and 4-22 of the draft Solano HCP at: <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>). Mitigation land should be identified as early in the planning process as possible, and early consultation with CDFW is advised.

The EIR should also identify existing and reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to each impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a special-status species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact. The cumulative impact analysis should consider the planned 17,500-acre new community known as the East Solano Plan or California Forever, which is adjacent to the Project.

The CEQA Guidelines direct the City, as the Lead Agency, to consider and describe in the EIR all feasible mitigation measures to avoid and/or mitigate potentially significant impacts of the Project on the environment based on comprehensive analysis of the

Krystine Ball
City of Rio Vista
June 27, 2024
Page 6

direct, indirect, and cumulative impacts of the Project (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This should include a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

FILING FEES

CDFW anticipates that the proposed Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary to defray the costs of CDFW's review under CEQA (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency.

If you have any questions, please contact Alexander Single, Senior Environmental Scientist (Specialist), at (707) 980-5154 or Alexander.Single@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell

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Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Special-Status Species

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2024060040)

Krystine Ball
 City of Rio Vista
 June 27, 2024
 Page 7

ATTACHMENT 1: Special-Status Species

Species Name	Common Name	Status
<i>Hypomesus transpacificus</i>	Delta smelt	SE, FT
<i>Laterallus jamaicensis coturniculus</i>	California black rail	FP, ST
<i>Thamnophis gigas</i>	giant garter snake	ST, FT
<i>Ambystoma californiense</i>	California tiger salamander	ST, FT
<i>Buteo swainsoni</i>	Swainson's hawk	ST
<i>Agelaius tricolor</i>	tricolored blackbird	ST
<i>Bombus crotchii</i>	Crotch bumble bee	CE
<i>Acipenser medirostris</i>	Green sturgeon, southern Distinct Population Segment	FT, SSC
<i>Aquila chrysaetos</i>	golden eagle	FP, BGEPA
<i>Elanus leucurus</i>	white-tailed kite	FP
<i>Athene cunicularia</i>	burrowing owl	SSC
<i>Charadrius montanus</i>	mountain plover	SSC
<i>Taxidea taxus</i>	American badger	SSC
<i>Ammodramus savannarum</i>	grasshopper sparrow	SSC
<i>Lanius ludovicianus</i>	loggerhead shrike	SSC
<i>Circus hudsonius</i>	northern harrier	SSC
<i>Asio flammeus</i>	short eared owl	SSC
<i>Lasiurus frantzii</i>	western red bat	SSC
<i>Pogonichthys macrolepidotus</i>	Sacramento splittail	SSC
<i>Isocoma arguta</i>	Carquinez goldenbrush	CRPR 1B.1
<i>Lilaeopsis masonii</i>	Mason's lilaeopsis	SR, CRPR 1B.1
<i>Plagiobothrys hystriculus</i>	bearded popcornflower	CRPR 1B.1

Krystine Ball
 City of Rio Vista
 June 27, 2024
 Page 8

<i>Astragalus tener</i> var. <i>tener</i>	alkali milk-vetch	CRPR 1B.2
<i>Atriplex cordulata</i> var. <i>cordulata</i>	heartscale	CRPR 1B.2
<i>Etriplex joaquinana</i>	San Joaquin spearscale	CRPR 1B.2
<i>Hibiscus lasiocarpus</i> var. <i>occidentalis</i>	woolly rose-mallow	CRPR 1B.2
<i>Lathyrus jepsonii</i> var. <i>jepsonii</i>	Delta tule pea	CRPR 1B.2
<i>Sagittaria sanfordii</i>	Sanford's arrowhead	CRPR 1B.2
<i>Symphotrichum lentum</i>	Suisun Marsh aster	CRPR 1B.2
<i>Cicuta maculata</i> var. <i>bolanderi</i>	Bolander's water-hemlock	CRPR 2B.1
<i>Limosella australis</i>	Delta mudwort	CRPR 2B.1
<i>Centromadia parryi</i> ssp. <i>rudis</i>	pappose tarweed	CRPR 4.2

FT = federally listed as threatened under the Endangered Species Act (ESA);
 SE = state listed as endangered under the California Endangered Species Act (CESA);
 ST = state listed as threatened under CESA; CE = state candidate for listing as
 endangered under CESA; SR = stated listed as rare under the Native Plant Protection
 Act; FP = state fully protected under Fish and Game Code; BGEPA = protected under
 the federal Bald and Golden Eagle Protection Act; SSC = state Species of Special
 Concern; CRPR = California Rare Plant Rank