Haggerty, Nicole@Wildlife

From: Wildlife R2 CEQA
Sent: Wednesday, October 1, 2025 10:48 AM
To: Wildlife R2 CEQA
Subject: FW: CDFW Comments on the PA-2500010 (A) / (SCH#2025090235) - MND

From: Donaldson, Hailey@Wildlife
Sent: Friday, September 26, 2025 2:49 PM
To: 'jleal@sjgov.org' <jleal@sjgov.org>
Cc: Wood, Dylan@Wildlife <Dylan.Wood@wildlife.ca.gov>; Sheya, Tanya@Wildlife <Tanya.Sheya@wildlife.ca.gov>; Kilgour, Morgan@Wildlife <Morgan.Kilgour@Wildlife.ca.gov>
Subject: CDFW Comments on the PA-2500010 (A) / (SCH#2025090235) - MND

Dear Jessica Leal:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from the San Joaquin County Community Development Department for the Administrative Use Permit Number PA-2500010 (A) (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 in San Joaquin County; Latitude: 38.14778, Longitude: -121.16474 (WGS 84 datum, decimal degrees); 12405 East Brandt Road, Lockeford, CA 95237; Assessor's Parcel Number 051-320-06.

The Project consists of an Administrative Use Permit to expand an existing pre-cast concrete facility. The project involves the construction of a new 33,750 square feet (0.77 acre) building to include new manufacturing equipment and the expansion of the existing stormwater retention system.

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 the San Joaquin 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 Swainson's hawk (*Buteo swainsoni*), and nesting birds protected under the Migratory Bird Treaty Act (MBTA)

COMMENT 1: Swainson's Hawk (*Buteo swainsoni*) Protocol Level Survey Recommendation, Initial Study: Biological Resources, Page 9.

Issue: The surrounding area of the Project Site consists of agricultural fields which may be providing foraging habitat for Swainson's hawks, and since construction activities are planned on land that is adjacent to potential nesting habitat for Swainson's hawks. Within a 3-mile radius of the project site, there are 8 CNDDB occurrence records for Swainson's Hawk (CDFW 2018; California Natural Diversity Database (CNDDB) layer in Biogeographic Observation and Information System (BIOS)). CDFW recommends that an assessment of Swainson's hawk habitat is included in the MND and a pre-construction Swainson's hawk nesting survey be conducted within a minimum 0.5-mile radius around the project area.

The MND defers mitigation to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and does not include specific analysis or surveys that will adequately minimize identify project impacts by assessing impacts to the species and detecting breeding behaviors of the species. Swainson's hawk is listed as a *threatened* species under CESA and has additional protection under the Migratory Bird Treaty Act (MBTA) and Fish and Game Code sections 3503 and 3503.5, therefore, the omission of potential impacts is inconsistent with CEQA Guidelines requirements to disclose and evaluate effects of special-status species (CEQA Guidelines §15380; see also Comment 2 below). Although the Project Proponent is seeking coverage under the SJMSCP, the environmental documents provided do not specify whether Swainson's hawk will be included as the applicability of this species. This lack of specificity indicates that species impacts have not yet been adequately assessed for this project. If the Project Proponent chooses to cover Swainson's hawk through the SJMSCP, it is the Leady Agency's responsibility to incorporate analysis and mitigation for listed species that will reduce impacts to a less than significant level.

Recommendation or Recommended Mitigation Measure: CDFW recommends that a Qualified Biologist conduct Swainson's hawk protocol-level surveys during all survey periods throughout the nesting season prior to the commencement of all construction activities, regardless of potential

vegetation removal. Protocol-level surveys should be conducted within a minimum 1/2-mile radius around the Project area in accordance with the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (Swainson's Hawk Technical Advisory Committee, 2000) as follows:

BIO 1 - Swainson's hawk Protocol Survey. A qualified biologist shall conduct a Swainson's hawk survey within a minimum 0.5-mile radius around the project area. Prior to the start of construction activities and in each subsequent year in which project activities occur. Surveys shall be conducted according to the following the five-period schedule in accordance with the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (Swainson's Hawk Tech. Advis. Comm., 5/2000):

- January to March 20- One (1) Survey, All Day
- March 20 to April 5- Three (3) Surveys, Sunrise to 1000 / 1600 to Sunset
- April 5 to April 20- Three (3) Surveys, Sunrise to 1200 / 1630 to Sunset
- April 21 to June 10- Monitoring
- June 10 to July 30- Three (3) Surveys, Sunrise to 1200 / 1600 to Sunset

If Swainson's Hawk breeding activity is identified during any of the surveys or during construction activities, compliance with CESA shall be demonstrated.

Swainson's Hawk Nest Avoidance. During the nesting season (approximately March 1 to September 1), ground-disturbing activities within a 1,320-foot buffer of occupied nests or nests under construction shall be prohibited to minimize the potential for nest abandonment. While the nest is occupied or under construction, projects activities outside the buffer can take place provided that they do not stress the breeding pair. If project activities are to occur within 0.5 mile of an active nest, the area should be monitored by a qualified biologist prior to and during project activities. If the nesting pair's behavior suggests agitation or disturbance by project activities, all activities in the area shall immediately stop pending consultation with the San Joaquin Council of Governments (SJCOG) if seeking coverage under the San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP) for project activities, otherwise, consult CDFW and demonstrate compliance with CESA. Following a review of the breeding pair's behavior, the qualified biologist, in coordination with CDFW/SJCOG will determine whether project activities in the area may continue to comply with CESA. The qualified biologist shall monitor project activities to ensure that activities do not occur within the buffer. Any modifications to this buffer shall be implemented in coordination with the SJCOG or CDFW as appropriate. The qualified biologist will be required to monitor the nest and determine that the reduced buffer does not cause nest abandonment.

COMMENT 2: Nesting and Migratory Bird Surveys, Initial Study: Biological Resources, Page 9.

Issue: Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C., §§ 703-712). CDFW implemented the MBTA by adopting the Fish & G. Code section 3513. Fish & G. Code sections 3503, 3503.5 and 3800, which provide additional protection to nongame birds, birds of prey, their nests and eggs. Suitable foraging and nesting habitat for birds and birds of prey is present on and adjacent to the Project area. Ground disturbance and other construction activities could result in the take of migratory native bird species, including ground nesting species such as Killdeer (*Charadrius vociferus*) and California Quail (*Callipepla californica*). Currently the Initial Study does not mention any potential impacts that the Project Activities may have on nesting birds nor does the MND include analysis of how construction activities may have direct or indirect, short-term or long-term adverse impacts which does not effectively reduce or avoid impacts from Project Activities, which the lead agency is required to

disclose, for all special-status and common species (CEQA Guidelines §15126.2). Failure to address potentially significant impacts to nesting birds will not effectively reduce or avoid impacts to birds and their nests if work takes place between February 1 and August 31 whish is inconsistent with CEQA requirements. The MND also does not include avoidance procedures if active nests are found in the Project Area both of which could be considered significant impacts unless mitigation measures are incorporated. The MND refers to seeking coverage under the SJMSCP to compensate for impacts to all Biological Resources potentially impacted by Project Activities, however, the SJMSCP does not cover non-listed species that are protected by the MBTA, and therefore deferring to coverage under the SJMSCP to mitigate for all Biological Resources is not adequate to reduce impacts to birds potentially nesting adjacent to the Project Site.

Recommendation or Recommended Mitigation Measure: CDFW recommends appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the environmental document. Measures to avoid the impacts should include annual preconstruction surveys, species specific work windows, biological monitoring, installation of noise attenuation barriers, etc. Specifically, CDFW recommends implementing the following nesting bird survey measure prior to the initiation of construction activities:

BIO 2 - Nesting Bird Survey. If project-related activities are scheduled between February 1 to August 31 (the typical nesting season), a focused survey for nests shall be conducted by a qualified biologist within no greater than fifteen (15) calendar days prior to the beginning of Project-related activities. A qualified biologist shall survey a minimum radius of 500-feet for migratory birds and 1/2-mile for raptors around the Project area that can be accessed by the project proponent. The results of the survey shall be provided to the City of Jackson upon completion. If no active nests are found, project activities may proceed as scheduled.

> Active Nests. If an active nest is found, active nests should be avoided, and a no disturbance or destruction buffer shall be determined and established by a qualified biologist. The buffer shall be kept in place until after the breeding nesting season or the qualified biologist confirms the young have fledged, are foraging independently, and the nest is no longer active for the season. The extent of these buffers shall be determined by the qualified 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.
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> 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.
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> Project Proponent Responsibility. It is the Project Proponent responsibility to comply with Fish and Game Code Sections 3503, 3503.5, and 3513, regardless of the time of year.

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 MND for the Administrative Use Permit Number PA-2500010 (A) to assist the San Joaquin 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 Hailey Donaldson, Environmental Scientist at (916) 216-6253 or hailey.donaldson@wildlife.ca.gov.

Sincerely,

Hailey Donaldson
California Department of Fish and Wildlife
Environmental Scientist
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CALIFORNIA DEPARTMENT OF FISH and WILDLIFE