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From: Tran, Harvey@Wildlife
Sent: Wednesday, December 17, 2025 4:36 PM
To: CEQA@saccounty.gov
Cc: Wildlife R2 CEQA; Wood, Dylan@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: CDFW Comments on the MND for the Bar None Auction (SCH No. 2025111030)

Dear Julie Newton:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from the County of Sacramento for the Bar None Auction (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 at 6190 Bradshaw Road, approximately 650 feet west of the intersection of Bradshaw Road and Elder Creek Road, in the Vineyard community of unincorporated Sacramento County.

The Project consists of the construction and operation of a new auction sales lot with approximately ten acres of paved areas consisting of required parking, auction yard for the storage of vehicles with tires, and vehicular access around structures; an approximately 30-acre graveled auction yard area for track-equipped pieces of equipment; 6.5-acre stormwater pre-treatment detention and retention area; and a closed-cycle wash rack. The Project also includes the construction of a 21,510 square foot two-story company office building and a 12,800 square foot industrial shop building for inspection and minor service repairs.

COMMENTS AND RECOMMENDATIONS^A

CDFW offers the comments and recommendations below to assist the County of Sacramento 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 raptors, and western burrowing owls (*Athene cunicularia*).

COMMENT 1: Burrowing Owl Mitigation Measures, Mitigation Measure BIO-2: Burrowing Owl, page IS-56 and IS-57

Issue: The MND states that an active burrowing owl (BUOW) nest was detected in the Project Area during a biological survey conducted in June 2025, that an Incidental Take Permit (ITP) would be obtained, and that impacts to the taking of the BUOW would be minimized and fully mitigated. Occupied site or occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow within the last three years. The MND only provides a preconstruction survey and 250-foot avoidance buffer for active nests in its Appendix B Biological Resources Analysis Report. While the South Sacramento Habitat Conservation Plan (SSHCP) provides some mitigation for potentially significant impacts to BUOW, the MND does not provide mitigation the take of an active burrowing owl nest to reduce project impacts to a less-than-significant level.

BUOW is a state candidate species for listing under CESA and as such, it is afforded full protection under the act. It is unlawful to take a State-listed endangered or threatened species (Fish & G. Code §2050 et seq.). Take is defined as "hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture or kill" (Fish & G. Code §86). CESA take authorization, should be obtained if the proposed project cannot fully avoid take of burrowing owls. As burrowing owls have been found onsite, early consultation is encouraged, as modifications to the proposed Project and mitigation measures may be required in order to obtain an ITP. An ITP may only be obtained if the impacts of the authorized take of the species are minimized and fully mitigated and adequate funding has been ensured to implement the mitigation measures. CDFW may only issue an ITP if the CDFW determines that issuance of the permit does not jeopardize the continued existence of the species.

To reach the fully mitigated standard as required by CESA, mitigation for temporary impacts should also be considered. Temporary impacts to the species may include temporary ground disturbance and vegetation removal that may render a nesting site (nesting burrow and satellite burrows) or foraging site unsustainable or unavailable depending on the time frame, resulting in reduced survival or abandonment. 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 facilitate the issuance of an ITP, CDFW recommends the MND include details pertaining to the permanent protection and perpetual management of compensatory habitat necessary to fully mitigate project-related impacts, both permanent and temporary. The type and amount of mitigation should be based on factors including an assessment of the importance of that habitat in the Project Area, the extent to which covered activities will impact the habitat, and the estimate of the acreage required to provide for adequate compensation in coordination with CDFW.

Recommendation or Recommended Mitigation Measure: CDFW recommends the mitigation for the take of an active BUOW best be described in the relevant section of the MND in addition to the discussion of the SSHCP applicability to BUOW. CDFW recommends that the mitigation ratio for BUOW habitat impacts is a minimum of 3:1 to offset the permanent loss of nesting habitat and 2:1 to offset the permanent loss of foraging habitat. CDFW also recommends that the mitigation for temporary impacts is no less than 1:1 for BUOW and their habitat to reduce project impacts to a less-than-significant level. CDFW recommends that mitigation is in the form of purchasing suitable mitigation credits from a CDFW-approved conservation bank, habitat restoration/enhancement onsite or offsite, partnership with other agencies or non-profit groups on suitable restoration projects, or other biologically suitable mechanisms pre-approved by the Lead Agency.

CDFW also recommends that the MND modify the Mitigation Measures to include language to demonstrate that all feasible avoidance measures will be exhausted before allowing for eviction as a last resort after obtaining an ITP from CDFW. Example recommended language is provided below:

1. Burrowing Owl Surveys. Project proponent shall conduct a BUOW survey over all suitable habitat present within Project area. BUOW surveys shall be conducted by a qualified biologist in accordance with the protocol described in the *Staff Report on Burrowing Owl Mitigation* (CDFW, March 7, 2012). If possible, surveys should be conducted during both the breeding (February 1 – August 31) and non-breeding seasons (September 1 – January 31) immediately preceding the planned start of construction activities to ascertain the seasonal residency status of any owls occupying the site. The presence of BUOW or their sign anywhere on the site or within a 500-foot accessible radius around the Project site shall be recorded and mapped. Surveys shall disclose all burrows and occurrence of sign of BUOW on the Project site and within the 500-foot buffer. Results of the survey shall be submitted to the County.
2. Burrowing Owl Take Avoidance. During the breeding season (February 1 to August 31), surveys shall document whether BUOW are nesting in or within 500 feet of the Project area. During the non-breeding season (September 1 to January 31), surveys shall document whether BUOW are using habitat in or directly adjacent to any area to be disturbed. Survey results shall only be valid for the season (breeding or non-breeding) during which the survey

was conducted. If a lapse in Project-related work of fifteen (15) calendar days or longer occurs, another focused survey and consultation with the County and CDFW shall be required before Project work can be reinitiated. If a BUOW or evidence of presence at or near a burrow entrance is found to occur within 500 feet of the Project site, the following measures shall be implemented:

2.1 If BUOW are found during the non-breeding season (approximately September 1 to January 31), the Project applicant shall establish a minimum 160-foot (50-meter) buffer zone around active burrows. The buffer zone shall be flagged or otherwise clearly marked. Measures such as visual screens may be used to further reduce the buffer with CDFW approval and provided a qualified biologist confirms that such measures do not cause agitated behavior.

2.2 If BUOW are found during the breeding season (approximately February 1 to August 31), the Project applicant shall:

a. Avoid all nest sites that could be disturbed by Project construction during the remainder of the breeding season or while the nest is occupied by adults or young (occupation includes individuals or family groups foraging on or near the site following fledging).

b. Establish a minimum 500-foot non-disturbance buffer zone around nests, unless otherwise approved by the County in writing, in consultation with CDFW. The buffer zone shall be flagged or otherwise clearly marked. Should construction activities cause the nesting bird to vocalize, make defensive flights at intruders, or otherwise display agitated behavior, then the exclusionary buffer will be increased such that activities are far enough from the nest so that the bird(s) no longer display this agitated behavior. Construction shall only occur within the 500-foot buffer zone during the breeding season if a qualified biologist monitors the nest and determines that the activities do not disturb nesting behavior, or the birds have not begun egg-laying and incubation, or that the juveniles from the occupied burrows have fledged and moved off site. Any modifications to this buffer shall be approved by the County, in consultation with CDFW prior to its implementation. The buffer reduction request shall include relevant information and/or propose new measures to justify the buffer reduction. The buffer area must be clearly marked to prevent Project-related activities from occurring within the buffer zone.

3. Eviction of Burrowing Owls. If after all applicable avoidance and minimization measures are implemented and Project proponent needs to evict BUOW, an ITP shall be obtained for the activity and a BUOW eviction plan shall be developed by a qualified biologist for the County's review and approval, in consultation with CDFW. This plan, including its proposed mitigation, shall be consistent with the most recent available guidelines (e.g., *2012 Staff Report on Burrowing Owl Mitigation*). Burrow eviction shall only be conducted during the non-breeding season for burrows located in the Project footprint, and in limited instances within a buffer zone around the Project site, as determined by the County in consultation with CDFW after all avoidance and minimization measures have been exhausted.

COMMENT 2: Subject, Mitigation Measure BIO-3 Raptor Nest Protection and BIO-5 Preconstruction Surveys for Migratory Nesting Birds, pages IS-57 and IS-58.

Issue: The MND states that a pre-construction nesting bird survey shall be performed within 50 feet of the Project Area to locate any migratory birds and 500 feet for nesting raptors and active nest shall be protected with 100-foot buffers (migratory birds) and 500-foot buffers (raptors) within 14 days (migratory birds) and 30 days (raptors) prior to commencement of project construction activities. A larger survey buffer of 0.5-mile for raptors, conducting subsequent surveys no more than seven (7) calendar days if there is a break in construction activity, and performance-based buffers would be more protective for species that rebuild nest quickly.

Recommendation or Recommended Mitigation Measure: CDFW recommends the MND describes how the considerations identified below will be implemented and incorporated into the appropriate MND section(s):

1. CDFW recommends Project proponent add specific avoidance and minimization measures to the Mitigation Measures section. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, visual barriers, and buffers, where appropriate. The MND should include appropriate preconstruction surveys for non-listed migratory birds at a minimum radius of 500 feet (for migratory birds) and 0.5-mile (for raptors) around the Project area that can be accessed by Project proponent. The MND should include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. One example is a nest buffer radius which can be determined by having a qualified biologist monitor the active nests and determine the distance that activities will disturb the nesting birds.
2. CDFW recommends including performance-based protection measures for avoiding all nests protected under the Migratory Bird Treaty Act and Fish and Game Code. While some birds may tolerate disturbance within 50 or 500 feet of construction activities, other birds may have a different disturbance threshold and "take" could occur if the temporary disturbance buffers are not designed to reduce stress to that individual pair. It is the Project proponent's responsibility to confirm that avoid take/nest failure with a sufficient buffer.
3. CDFW recommends a final preconstruction survey be required no more than seven (7) calendar days prior to the start of vegetation clearing or ground disturbance activities, as instances of nesting could be missed in earlier surveys. Monitoring of potential nesting activities in the Project area should continue, at a minimum, until the end of the avian nesting season (September 1). If a lapse in Project-related work of seven (7) calendar days or longer occurs, the qualified biologist should complete another focused survey before Project work can be reinitiated. 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.

4. CDFW recommends that any removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity to reduce impacts resulting from the loss of nesting habitat. If any nests observed are of raptor species that have a special-status, CDFW recommends further consultation prior to any removal of nests.

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 Bar None Auction to assist the County of Sacramento 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 Harvey Tran, Senior Environmental Scientist (Specialist) at (916) 358-4035 or harvey.tran@wildlife.ca.gov.

CDFW is available to discuss this Project further and provide guidance on how to integrate with the SSHCP, considering it is a covered activity but would not have BUOW take coverage.

Sincerely,

Harvey Tran

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^[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.