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DEPARTMENT OF FISH AND WILDLIFE

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March 26, 2026

Blake Maule, Planner
County of San Luis Obispo
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**Subject: Herndon Major Grading Permit GRAD2024-00088(ED25-0005) SCH
2026021041 (APN: 019-261-036) (Project)
Initial Study and Draft Mitigated Negative Declaration (MND)
SCH No.: 2026021041**

Dear Blake Maule:

The California Department of Fish and Wildlife (CDFW) received an MND from the San Luis Obispo County for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under 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

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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biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, 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 is also submitting comments 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.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Enrique Herndon

Objective: The Project proposes the construction of a 1,760 square foot single family residence, installation of a new septic system, and grading for an access driveway. The proposed work would result in approximately 0.67 acres of site disturbance.

Location: The proposed Project would be located at 10580 E Highway 46, Paso Robles, CA 93446, within Accessor's Parcel Number (APN) 019-261-036.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist San Luis Obispo County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

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Currently, the MND acknowledges that the Project site is within the geographic range of several special status animal species and provides specific recommendations and measures. CDFW has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take of several special-status species, including the State and federally threatened California tiger salamander (*Ambystoma californiense*); the state fully protected golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*); the State candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumble bee (*Bombus crotchii*); and the State species of special concern and federally proposed threatened western spadefoot (*Spea hammondi*).

California Tiger Salamander

The Project site is within the known range of California tiger salamander (CTS); however, the species was not specifically mentioned within the MND, CDFW was unable to locate Appendix C within the MND, which appears to have been provided to justify the species incorporated within the MND, and no mitigation measures were provided for the species. CTS are known to breed and develop in vernal and seasonal pools and stock ponds in grassland habitat types and have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from these habitats. A breeding population of CTS has been documented about 1.5 miles south of the Project site and suitable breeding and dispersal habitat may be present within the Project vicinity. As such, CDFW recommends MND incorporate the following:

Recommended Mitigation Measure 1: CTS Habitat Assessment and Consultation

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support CTS. Potential breeding and dispersal habitats should be evaluated as part of this assessment. If potentially suitable habitat is identified, consultation with the CDFW is recommended for guidance on the development of survey approaches, as well as mitigation measures such as take avoidance, minimization, and mitigation. Please note if take cannot be avoided, an Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Golden Eagle and White-tailed Kite

The Project site is within the known range of white-tailed kite (WTKI) and golden eagle (GOEA); however, the species was not specifically mentioned within the MND, CDFW was unable to locate Appendix C within the MND, which appears to have been provided to justify the species incorporated within the MND, and no mitigation measures were provided for the species. Suitable foraging and nesting habitats, including oak woodland, grassland, and cropland habitats, were identified within the Project site. As the Project is within the range of GOEA and WTKI, suitable habitat appears to be

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present within the Project vicinity, and no mitigation measures were incorporated within the MND, CDFW recommends that the following measures be incorporated:

Recommended Mitigation Measure 2: WTKI and GOEA Surveys

CDFW recommends that a qualified biologist conduct focused surveys for nesting GOEA and WTKI prior to beginning Project-related activities within the Project site. GOEA evaluations should follow the *Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations guidelines* (Pagel et al. 2010).

Recommended Mitigation Measure 3: WTKI and GOEA Avoidance Buffer

CDFW recommends a minimum no-disturbance buffer of ½ mile be delineated around active nests of GOEA and WTKI until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. CDFW advises Project proponents not to allow reductions in no-disturbance buffer size for GOEA and WTKI or any fully protected bird species absent a compelling biological or ecological reason to do so. Further consultation with CDFW is warranted to discuss Project implementation and take avoidance.

Western Burrowing Owl

The MND states that there is a low potential for western burrowing owl (BUOW) to be found at the Project site and notes that no suitable BUOW burrows were documented during fall surveys. Additionally, no mitigation measures are proposed to mitigate for potential significant impacts to the species prior to the initiation of Project activities. As the Project is within the range of BUOW, and suitable habitat appears to be present within the Project site and immediate vicinity, CDFW recommends the MND include the following measures:

Recommended Mitigation Measure 4: BUOW Pre-construction Surveys

CDFW recommends that a focused preconstruction survey be conducted, following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report) (CDFG 2012), immediately prior to the initiation of Project-related activities.

Recommended Mitigation Measure 5: BUOW Avoidance Buffer

Should a BUOW or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

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Recommended Mitigation Measure 6: BUOW Take Authorization

If a BUOW or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report on Burrowing Mitigation are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Crotch's Bumble Bee

The Project site is within the known range of Crotch's bumble bee (CBB); however, the species was not specifically mentioned within the MND, CDFW was unable to locate Appendix C within the MND, which appears to have been provided to justify the species incorporated within the MND, and no mitigation measures were provided for the species. CBB are known to inhabit areas of grasslands, scrub habitat, and ruderal vegetation that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, and these habitat elements may be present within the Project site. As the Project is within the range of CBB, suitable habitat may be present within the Project vicinity, and no mitigation measures were incorporated within the MND, CDFW recommends that the following measures be incorporated:

Recommended Mitigation Measure 7: CBB Habitat Assessment

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment.

Recommended Mitigation Measure 8: CBB Surveys

If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023).

Recommended Mitigation Measure 9: CBB Avoidance

If CBB is detected, then CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

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Recommended Mitigation Measure 10: CBB Take Authorization

If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Western Spadefoot

The Project site is within the known range of western spadefoot (WESP); however, the species was not specifically mentioned within the MND, CDFW was unable to locate Appendix C within the MND, which appears to have been provided to justify the species incorporated within the MND, and no mitigation measures were provided for the species. WESP are known to occur within grassland and agricultural habitats, and these features may be present within the Project site. As the Project is within the range of WESP, suitable habitat may be present within the Project vicinity, and no mitigation measures were incorporated within the MND, CDFW recommends that the following measures be incorporated:

Recommended Mitigation Measure 11: WESP Habitat Assessment

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support WESP.

Recommended Mitigation Measure 12: WESP Surveys and Minimization

If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for WESP, using appropriate survey methodologies, prior to any ground-disturbing activities that may occur as part of the Project. If WESP burrows, cracks, loose soil areas or other refugia are found to be used by WESP during focused surveys, avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around these resources, including all potential breeding habitat, which can include agricultural sumps and irrigation ditches in addition to any areas that pool water for only a few weeks. Avoidance of potential breeding habitat should occur even when dry, since post-metamorphic WESP juveniles have a unique adaptation to the drying of their temporary breeding pools; they utilize the dried pond bottom as a refuge, burying themselves in the desiccation cracks and damp soil beneath the surface crust (Baumberger et al., 2020). If any lifestage of WESP are observed on the Project site, Project activities in their immediate vicinity should cease, allowing individuals to leave the Project site on their own accord.

On September 24, 2025, the California Fish and Game Commission (Commission) received a petition to list the northern population of WESP as threatened species and the southern population of WESP as an endangered species under CESA. If the Commission takes action and WESP becomes listed

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as a Candidate for listing pursuant to CESA (possible in 2026), or ultimately becomes listed as threatened or endangered pursuant to CESA, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA if full avoidance of WESP could not be achieved. Please note that implementation of the above recommended measures would help minimize impacts to WESP as required by CEQA, but would not fully avoid impacts and thus take; additional measures would need to be implemented to avoid take of WESP. In the event that WESP becomes protected under CESA, CDFW recommends early consultation to help identify if avoidance is feasible or if not, to initiate discussions regarding the need for ITP acquisition.

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 mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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

CDFW appreciates the opportunity to comment on the MND to assist the San Luis Obispo County in identifying and mitigating this Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed, Attachment 1, Mitigation Monitoring and Reporting Program (MMRP) table, which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or evelyn.barajas-perez@wildlife.ca.gov.

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Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment 1-MMRP

ec: State Clearinghouse
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REFERENCES

- Baumberger, K., A. Backlin, E. Gallegos, C. Hitchcock, and R. Fisher. 2020. Mitigation ponds offer drought resiliency for western spadefoot (*Spea hammondi*) populations. *Southern California Academy of Sciences*, 119(1), pp. 6-17.
- California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act candidate bumble bee species. California Department of Fish and Wildlife, Sacramento, California, USA.
- Pagel, J., D. Whittington, and G. Allen. 2010. Interim golden eagle inventory and monitoring protocols; and other recommendations. Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Arlington, Virginia, USA.

Attachment 1

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Herndon Major Grading Permit GRAD2024-00088(ED25-0005) SCH 2026021041 (APN: 019-261-036) (Project)

SCH No.: 2026021041

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
California Tiger Salamander (CTS)	
Recommended Mitigation Measure 1: CTS Habitat Assessment and Consultation	
White tailed Kite (WTKI) and Golden Eagle (GOEA)	
Recommended Mitigation Measure 2: WTKI and GOEA Surveys	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 4: BUOW Pre-construction Surveys	
Recommended Mitigation Measure 6: BUOW Take Authorization	
Crotch's Bumble Bee	
Recommended Mitigation Measure 7: CBB Habitat Assessment	
Recommended Mitigation Measure 8: CBB Surveys	
Recommended Mitigation Measure 10: CBB Take Authorization	
Western Spadefoot (WESP)	
Recommended Mitigation Measure 11: WESP Habitat Assessment	
Recommended Mitigation Measure 12: WESP Surveys and Minimization	
<i>During Construction</i>	
White tailed Kite (WTKI) and Golden Eagle (GOEA)	

Recommended Mitigation Measure 3: WTKI and GOEA Avoidance Buffer	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 5: BUOW Avoidance Buffer	
Crotch's Bumble Bee (CBB)	
Recommended Mitigation Measure 9: CBB Avoidance	