



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Northern Region  
601 Locust Street  
Redding, CA 96001  
wildlife.ca.gov

**GAVIN NEWSOM, Governor**  
**MEGHAN HERTEL, Director**



April 7, 2026

James Phelps  
Deputy Director of Planning  
County of Siskiyou  
806 S. Main Street  
Yreka, CA 96097

**SUBJECT: REVIEW OF MORILL ZONE CHANGE AND USE PERMIT (Z-23-01, UP-23-04) PROJECT, SISKIYOU COUNTY, STATE CLEARINGHOUSE NUMBER 2026030562**

Dear James Phelps:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Initial Study and Mitigated Negative Declaration (MND), dated March 2026, for the above-referenced project (Project) posted for public comment on March 12, 2026. CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines<sup>1</sup>.

**CDFW's 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 Agency capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for 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. Likewise, to the extent implementation of the Project as proposed may

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<sup>1</sup> 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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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.) or state listed rare plants pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code § 1900 et seq.), authorization as provided by the applicable Fish and Game Code may be required.

#### California Endangered Species Act

This Project has the potential to impact CESA-listed species. Please be advised that a CESA permit<sup>2</sup> must be obtained if the Project has the potential to result in “take” (hunt, pursue, catch, capture, kill, or attempt thereof) of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project has the potential to result in the take of a CESA-listed species, early consultation is encouraged, as significant modification to the Project may be necessary to minimize and fully mitigate impacts as required by Fish and Game Code section 2081 (b)(2).

#### Lake and Streambed Alteration Agreements

This Project has the potential to result in substantial impacts to rivers, lakes, or streams. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Substantially divert or obstruct the natural flow of the bed, channel, or bank of any river, stream, or lake; or
- Substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or
- Deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Lake and Streambed Alteration (LSA) Program staff are available to assist and can be contacted at [r1lsredding@wildlife.ca.gov](mailto:r1lsredding@wildlife.ca.gov). To obtain information about the 1602 Notification process, please visit the LSA Program website<sup>3</sup>.

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<sup>2</sup> <https://wildlife.ca.gov/Conservation/CESA/Permitting>

<sup>3</sup> <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

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### **Project Description**

The Project, as described in the MND, is as follows:

*"The proposed project is a zone change from Prime Agricultural (AG-1) to Non-Prime Agricultural (AG-2) and use permit to legalize a previously established commercial Labrador Retriever dog kennel. Commercial dog kennels are not allowed in the Prime Agricultural (AG-1) district; however, they are allowed in the Non-Prime Agricultural district with approval of a use permit. If this zone change and use permit project is approved, the proposed use permit will bring the illegal commercial dog kennel operation into compliance."*

### **Biological Setting**

The Project is located within the Shasta Valley just east of Yreka and just west of Montague in central Siskiyou County. The regional landscape is characterized by a mosaic of Great Basin shrub-steppe, annual grassland, irrigated pasture, volcanic foothill habitats, and riparian/riverine corridors associated with the Shasta River and its tributaries. The valley occupies a rain-shadowed region north of Mount Shasta and receives substantially less precipitation than the surrounding Klamath Mountains.<sup>4</sup> Land use near the Project area appears to consist of irrigated agriculture, livestock grazing, and rural residential development.

### **Comments and Recommendations**

CDFW recognizes that the Project applicant has taken some appropriate steps to identify and assess biological resources and special status species that have the potential to occur within or in proximity to the Project area. CDFW offers the following comments and recommendations to assist the Lead Agency in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources. Editorial comments or other suggestions may also be included to improve the document for this Project.

#### Wetlands

The MND concludes that impacts to state or federally protected wetlands would be "less than significant" because no development is proposed within Freshwater Emergent Wetland or Riverine Habitat mapped by the U.S. Fish and Wildlife Service (USFWS) National Wetland Inventory (NWI). However, while NWI

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<sup>4</sup> Mack, S. (1960). *Geology and ground-water features of Shasta Valley, Siskiyou County, California*. USGS Water Supply Paper 1484, describing geography, geology, precipitation, and agricultural land use

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datasets are a useful preliminary tool for identifying potential wetlands and deepwater habitats, they rely on remote analysis of high -altitude imagery and therefore “should not be interpreted as representing the presence, absence, or extent of wetlands that may be covered under one or more federal, state, Tribal, or local laws”<sup>5</sup>. The USFWS further notes that aerial-image-based mapping carries an inherent margin of error and that field verification may revise wetland boundaries or classifications<sup>6</sup>. Accordingly, appropriately conducted, site specific- delineations which follow established regulatory protocol should take precedence over NWI mapping.

In response to early consultation with CDFW, both a site specific Preliminary Aquatic Resources Delineation Report (PARD) and a Biological Resource Assessment (BRA) were prepared following ecological surveys by Quercus Consultants, Inc., which identified approximately 75 aquatic features within the Project area. Aquatic resources as identified in these reports included: four hydrologically connected manmade ponds, seasonal depressional wetlands, and several intermittent and ephemeral streams, all of which are tributary to the Shasta River during high flows.

The MND identifies four seasonal wetlands located within areas planned for development, as well as seven seasonal wetlands within 50 feet of project development activities. Given the severe state-wide decline of wetlands, CDFW considers wetland impacts as potentially significant and adheres to a “no net loss” policy. CDFW strongly discourages disturbance or development in wetland areas. Projects impacting wetlands are damaging to fish and wildlife resources if they result in a net loss of wetland acreage or wetland habitat value<sup>7</sup>. Therefore, CDFW recommends revising the site plan to relocate proposed structures that could affect mapped wetland features and to maintain a minimum 50-foot buffer, as advised in the MND. If relocation is not feasible, permanent and temporary wetland impacts must be quantified and appropriate mitigation for wetland loss identified. Construction of structures or fencing in or near these features may result in inadvertent temporary or permanent fill of wetland habitat and may be prohibited unless properly permitted<sup>8</sup>.

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<sup>5</sup> <https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper>

<sup>6</sup> USFWS Wetlands Data Limitations, Exclusions and Precautions: <https://www.fws.gov/page/wetlands-data-limitations-exclusions-and-precautions>

<sup>7</sup> Fish and Game Commission Wetlands Resources Policy (Amended 8/18/05)

<sup>8</sup> Permitting requirements may involve consultation with United States Army Corps of Engineers, California State or Regional Water Quality Control Board(s), and/or CDFW.

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#### Instream Work and Expansion of Ponds

CDFW has regulatory authority over certain activities affecting rivers, streams and lakes, pursuant to Fish and Game Code section 1600 et seq., as outlined under CDFW's role above. The PARD and BRA identify four man-made on-channel ponds and multiple culvert structures which convey flows from intermittent and/or ephemeral streams located on the Project properties. On-stream ponds have the capacity to substantially obstruct and impound natural streamflow, while stream crossing work can result in substantial changes to a stream's bed, channel, and banks to allow vehicle passage.

The MND indicates that the proposed Project may involve future expansion of one or more of the existing ponds. While CDFW does not expressly prohibit such activities, any future maintenance, expansion, replacement, or upgrade of existing ponds or culvert structures—or any other work within the bed, channel, or banks of rivers, streams, or lakes (including ponds)—may require notification to CDFW pursuant to Fish and Game Code section 1602. CDFW recommends that all in-stream structures be sized and appropriately designed to meet current design standards to accommodate 100-year flows, limiting potential risk of structural failure and downstream sediment delivery that could impact sensitive natural resources. In addition, man-made impoundment structures may also be subject to registration requirements for the storage of surface water with the State Water Resources Control Board, Division of Water Rights.

#### Water Quality

Fish and Game Code prohibits the unregulated discharge of substances or wastes that could result in negative impacts to waters of the state—which includes all surface or groundwater, including saline waters, that are located within the boundaries of California<sup>9</sup>. Specifically, Fish and Game Code section 5650 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state any substance or material deleterious to fish, plant life, mammals, or bird life.

The MND analyzes impacts to water quality at the project site, citing that the proposed project would have “less than significant impact” to water quality standards, but only addresses potential sediment impacts incidental to future construction activities on-site. The MND specifically cites regulatory requirements which call for compliance with construction best management

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<sup>9</sup> California Water Code §13050(e).

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practices to control erosion and the discharge of sediment associated with development activities.

The proposed kennel operation, having the capacity to hold up to 360 dogs, will result in the generation of substantial quantities of animal waste. Due to this, the MND proposes mitigation measure 4.3 (MM4.3), which calls for immediate bagging, removal, and appropriate disposal of animal wastes to prevent disease transmission and limit contamination of aquatic resources. While immediate removal of animal waste may be effective in minimizing nutrient and bacteriological pollution, CDFW recognizes that facilities will need to be cleaned periodically to minimize spread of disease and to maintain healthy animals. While not addressed specifically in the water quality section, the MND also discusses infrequent use of potentially hazardous substances (i.e., kennel sanitization chemicals) but indicates that limited use would not create any significant hazard to the public or environment through routine transport, use, or disposal. While CDFW understands that use of these chemicals may be infrequent, use of these products within existing and/or proposed kennel facilities, specifically those that occur within or near identified aquatic resources (including an ephemeral stream and multiple seasonal depressional wetlands), places these substances where they can pass into waters of the state. As these substances are meant to disinfect and sanitize, they have qualities that could result in potential harm to downstream aquatic resources and are therefore considered deleterious.

The MND should more fully evaluate potential water quality impacts from kennel cleaning activities, including nutrient and bacterial runoff, as well as runoff associated with chemical disinfectants, soaps/detergents, or residual insecticides used for flea and tick control. Consistent with recommendations for protecting wetland resources, CDFW recommends revising the site plan to relocate proposed structures that could affect mapped aquatic resources and to maintain the minimum 50-foot buffer identified in the MND.

The Project area is adjacent to sensitive aquatic habitats (i.e., depressional wetlands) and streams that are tributary to the Shasta River—a sensitive waterbody that supports several sensitive aquatic species, including spawning habitat for state and federally threatened Southern Oregon Northern California Coast Coho Salmon (*Oncorhynchus kisutch*). To prevent a net-increase in stormwater runoff from new development, CDFW encourages the implementation of low impact development (LID) strategies for sustainable

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stormwater management<sup>10</sup>. These strategies may include permeable pavers, pollution prevention and good-housekeeping practices, vegetated stormwater bioswales, buffer strips, and retention basins designed to treat, retain, and infiltrate stormwater (including washdown water) generated on-site. LID features are typically designed so that project generated stormwater runoff does not exceed runoff volumes associated with a 100-year storm event. This approach helps protect water quality and ensures stormwater is managed as close to its source as possible. Implementing LID strategies also helps reduce flooding risks and minimizes the discharge of harmful pollutants—such as pathogens, nutrients, detergents, disinfectants, and pesticides—that may be associated with kennel operations and can be deleterious to aquatic life.

To further prevent the placement of deleterious substances where they may enter waters of the state, CDFW also recommends implementing avoidance and minimization measures (AMMs) that ensure all chemicals—including sanitizers, disinfectants, and insecticides—are properly stored in secured areas where they cannot wash into, or infiltrate, nearby rivers, lakes, streams, or groundwater.

### Hydrology

The Sustainable Groundwater Management Act (SGMA) requires local agencies to develop Groundwater Sustainability Plans (GSP) for specific areas designated as high or medium priority to assess and manage future groundwater conditions<sup>11</sup>. The Project site exists within the Shasta Valley Groundwater Sustainability Plan area, which is designated a medium-priority groundwater basin in California.

The three properties that make up the Project site are each supplied by a separate groundwater well. At full build-out under Phase I and Phase II, kennel operations could accommodate up to 360 dogs and 28 people on site. Although the MND acknowledges that the Project site lies within the Shasta Valley Groundwater Sustainability Plan area, the MND concludes that the Project would not conflict with applicable water quality control plans or sustainable groundwater management plans. CDFW recommends further

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<sup>10</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/low\\_impact\\_development/](https://www.waterboards.ca.gov/water_issues/programs/low_impact_development/)

<sup>11</sup> [https://www.waterboards.ca.gov/sgma/about\\_sgma.html](https://www.waterboards.ca.gov/sgma/about_sgma.html)

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discussion in the MND to support its conclusion that increased demand for groundwater extraction—associated with watering, kennel cleaning, and other operational demands—would not result in significant impacts to groundwater resources.

### Special Status Plants

Yreka phlox (*Phlox hirsuta*) is a federal endangered species and CESA endangered perennial plant endemic to Siskiyou County, occurring only in the Yreka area<sup>12</sup>. It typically grows on shallow and rocky serpentine soils. It's narrow habitat specialization, combined with threats such as development, off-highway vehicle use, invasive plants, and habitat disturbance, contributes to its extremely limited distribution and high conservation concern.

The BRA and MND provide limited analysis of the potential for Yreka phlox to occur within the Project area. The BRA mentions Yreka phlox in 'Appendix A. Special-Status Species and Potential to Occur within Study Area', which concludes that this species' preferred habitat is absent and the species has no potential to occur; however, this determination is not adequately supported in the BRA or the MND.

An expert-verified occurrence<sup>13</sup> of Yreka phlox was observed in 2022 on Assessor Parcel Number (APN) 013-110-380. This parcel shares a boundary with the Project area, and review of NRCS Soil Survey<sup>14</sup> indicates that soils within the Project area are classified the same as those associated with this Yreka phlox occurrence. Given the species' known association with specific soil types and proximity to a positive observation, this information suggests that potentially suitable habitat may be present in the Project area.

Although the BRA indicates protocol-level floristic surveys were conducted during the appropriate blooming period in 2023, non-detection does not necessarily support a conclusion that suitable habitat is absent. The BRA does not provide sufficient explanation reconciling the presence of nearby occurrences and potentially suitable soils with the determination of no potential to occur.

Additional clarification in the MND is warranted to determine whether Project activities could result in a potentially significant impact on Yreka phlox.

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<sup>12</sup> <https://wildlife.ca.gov/Conservation/Plants/Endangered/Phlox-hirsuta>

<sup>13</sup> <https://www.calflora.org/entry/poe.html#vrid=mu22398>

<sup>14</sup> <https://websoilsurvey.nrcs.usda.gov/app/>

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Specifically, the MND should (1) provide a more detailed habitat suitability assessment for Yreka phlox; (2) address any nearby documented occurrences and explain if the Project area supports similar habitat conditions; (3) clarify whether the species is thought to be absent or potentially present; and (4) if the assessment concludes potentially suitable habitat occurs within the Project area, a focused pre-construction survey should be performed by a qualified biologist following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities<sup>15</sup>. Since the surveys referenced in the MND are no longer current, CDFW recommends that updated Yreka phlox surveys are completed prior to Project approval. CEQA requires that impact assessments rely on the best available scientific information, and outdated surveys may not adequately characterize the presence of special-status species or sensitive habitats. Absent this information, the conclusion that Project activities would have no impact on Yreka phlox may not be fully supported by substantial evidence.

The MND and supporting BRA identify two additional special status plant species observed during surveys of the Project site including woolly balsamroot (*Balsamorhiza lanata*) and Peck's lomatium (*Lomatium peckianum*). To avoid impacts and preserve existing populations of these special status plants, the MND recommends MM 4.1 prescribing no-development buffers, and MM 4. for the management of invasive plant species.

While CDFW agrees with implementation of the proposed mitigation measures to minimize potential impacts to sensitive plant populations, CDFW additionally recommends that all equipment involved in ground disturbance activities, or removal of non-native, invasive species, be properly decontaminated to prevent the spread of non-native plants. Prevention best management practices and guidelines for invasive plants can be found on the California Invasive Plant Council's website<sup>16</sup>.

#### Special Status Bumble Bees

On September 30, 2022, the California Fish and Game Commission reinstated the candidacy of four California bumble bee species under the CESA, including Western bumble bee (*Bombus occidentalis*), Crotch's bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*) and Suckley cuckoo bumble bee (*Bombus suckleyi*), re-advancing these species to the

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<sup>15</sup> <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

<sup>16</sup> <http://www.cal-ipc.org/ip/prevention/index.php>

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candidacy stage of the CESA listing process. Candidate species are granted full protection under CESA and CDFW considers impacts to species that are candidates for CESA listing to be significant under CEQA. Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by state law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

According to the California Natural Diversity Database Biogeographic Information and Observation System, the Project area occurs within the currently known range for all four bumble bee species listed above. The BRA and MND indicate these species have “low” potential to occur; however, based on the information provided, the Project area may provide potentially suitable habitat for nesting, overwintering and foraging special status bumble bees. A comprehensive habitat assessment was not included in the BRA or the MND for special status bumble bees.

To adequately assess this Project's potentially significant impacts on special status bumble bees, the MND should include an analysis of the Project's impact on floral resources, nesting habitat, and overwintering habitat found onsite. Floral resources should not be limited to preferred plant species only, but should include all flowering plants, non-natives and invasives, as bumble bees have been observed to use most blooming plants available. Nesting resources can include bare ground, rodent burrows, and other potential nesting sites that may support bumble bee colonies and should be quantified. Leaf litter and woody forest edge that could provide overwintering habitat should also be described.

Without appropriate avoidance and minimization measures, potentially significant impacts associated with the Project activities may occur, including but not limited to, loss of foraging plants, changes in foraging behavior, burrow collapse resulting in entrapment or crushing in burrows, nest abandonment, reduced nest success, reduced health, and vigor of eggs, young, and/or queens, in addition to direct mortality. CDFW recommends the Lead Agency condition the follow avoidance and minimization measures to comprehensively analyze, avoid and minimize impacts to special status bumble bees:

“The Project proponent shall implement the following avoidance and minimization measures to avoid significant impacts to special-status bumble bees:

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Prior to issuance of county permits, a qualified biologist shall conduct a biological assessment to determine whether suitable habitat is present within the Project area. If suitable habitat is determined to be present, a qualified biologist shall conduct surveys for special status bumble bees prior to the start of construction, following CDFW's June 2023 Survey Considerations for CESA Candidate Bumble Bee Species<sup>17</sup>, which indicates three onsite surveys shall be conducted two to four weeks apart during peak flight season, weather depending, and when floral resources are present.

- a) Species identification and photographic vouchers shall be submitted to CDFW and experts from the Bumble Bee Watch for species verification by an experienced taxonomist prior to the start of land modification and/or vegetation removal.
- b) If special-status bumble bees are detected, a nesting survey as the protocol is described in CDFW's June 2023 Survey Considerations for CESA Candidate Bumble Bee Species, shall be performed throughout the project area.
- c) If special-status bumble bees and/or their nests are detected, the potential for "take" as defined by Fish and Game Code section 86 shall be analyzed and quantified. If suitable avoidance and minimization measures to fully avoid take are not feasible, CDFW shall be consulted regarding the need for take authorization pursuant to Fish and Game Code section 2081 (b). Otherwise, suitable avoidance and minimization measures to fully avoid take should be employed, and/or the formulation of a Mitigation and Monitoring Plan should be developed for impacts to suitable western bumble bee habitat.
- d) All data, including negative and/or positive observations, shall be submitted to the CNDDDB and Bumble Bee Watch."

#### Swainson's Hawk

The MND discusses potential impacts to Swainson's hawk (*Buteo swainsoni*, CESA Threatened) and concludes that while there is suitable foraging habitat found on site, limited nesting habitat exists on the Project properties. The MND further concludes that both existing and proposed kennel operations are unlikely to significantly impact potential nesting habitat as there are no trees within proposed development areas, no nests were observed during field surveys, and Swainson's hawks are generally tolerant of regular human activities around nesting sites. While CDFW staff agree that the Project area

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<sup>17</sup> <https://wildlife.ca.gov/Conservation/Survey-Protocols>

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may contain little suitable nesting habitat for Swainson's hawk, suitable nesting habitat may occur near or adjacent to the Project area and Swainson's hawks could be using the Project area for foraging. Even with limited nesting habitat availability and low likelihood of impacts to *nesting* raptors, the MND does not adequately address direct and/or indirect impacts to foraging habitat from Project development activities and ongoing operations.

The MND does not include AMM's for Swainson's hawk. Without appropriate AMM's, potentially significant impacts to nesting Swainson's hawks may be associated with ongoing operations and future development of the Project site due to an increase in ambient noise levels, line-of-sight disturbance, prey dispersal, and altered foraging behavior. Project activities which result in nest abandonment, starvation of young; and/or reduced health and vigor of eggs and nestlings may result in the take of Swainson's hawks. The taking of Swainson's hawk in this manner may be a violation of Section 2080 of the Fish and Game Code and should be avoided.

As a CESA threatened species, Swainson's hawk warrants special considerations if indirect and/or direct impacts from the Project are anticipated. Recently reported observations of Swainson's hawk in eBird<sup>18</sup> indicate that suitable nesting habitat may occur near or adjacent to the Project site, therefore CDFW recommends that Swainson's hawk surveys<sup>19</sup> are conducted by a qualified biologist at the appropriate time of year, prior to implementation of Project activities.

According to methods developed in the document *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*<sup>20</sup>, surveys should be conducted within a 0.5-mile radius around the Project area during at least two specific survey windows defined in the protocol. The protocol also includes early season surveys to assist in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities. If ground-disturbing Project activities will take place during the Swainson's hawk nesting season (March 1 through September 15), and surveys find active nests, CDFW recommends a minimum no-disturbance buffer of 0.5 mile be delineated around active nests. If "take" or adverse impacts to Swainson's

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<sup>18</sup> <https://ebird.org/map/swahaw>

<sup>19</sup> <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>

<sup>20</sup> <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>

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hawk cannot be avoided during Project activities, a CESA Incidental Take Permit must be obtained pursuant to Fish and Game Code section 2080 et seq.

CDFW also recommends including an analysis for the loss of Swainson's hawk foraging habitat in the MND due to development of proposed infrastructure as well as potential impacts resulting from prey dispersal due to ongoing kennel and dog training operations.

#### Nesting Birds Avoidance During Site Development and Project Construction

Nesting birds are protected by Fish and Game Code sections 3503 and 3503.5, as well as the federal Migratory Bird Treaty Act. The BRA includes a list of various bird species observed throughout the Project area during the nesting season, including the following ground-nesting species: western meadowlark (*Sturnella neglecta*), killdeer (*Charadrius vociferus*), horned lark (*Eremophila alpestris*) and common nighthawk (*Chordeiles minor*). Section 7.2 of the BRA evaluates the potential for Project activities to impact nesting birds and recommends avoiding and minimizing impacts by either: (1) restricting vegetation removal to the non nesting period (September 1–January 31), or (2) conducting pre-disturbance nesting bird surveys by a qualified wildlife biologist within seven days of Project activities.

Although vegetation removal is addressed, proposed development activities beyond vegetation clearing have the potential to result in significant impacts on nesting birds, particularly ground nesting species. However, the MND only includes measures to protect nesting birds from impacts associated with vegetation removal and does not address other Project related activities that may cause direct or indirect disturbance during the nesting season.

While CDFW concurs with the BRA's recommendation for pre-disturbance nesting bird surveys, CDFW recommends that the Lead Agency incorporate the following additional measures into the MND:

“To avoid impacts to nesting birds protected under Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act, one of the following should be implemented:

- a) Vegetation removal, land modification, and ground-disturbing activities should occur between September 1 and January 31, when birds are not anticipated to be nesting.

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- b) If vegetation removal, land modification and ground disturbing activities cannot occur outside of the nesting season, a pre-construction nesting bird survey should be conducted by a qualified biologist to identify active nests in and adjacent to the Project area.

Surveys should begin prior to sunrise and continue until vegetation and nests have been sufficiently observed. The survey should consider acoustic impacts and line of sight Project disturbances to determine a sufficient survey radius to maximize observations of nesting birds. A nesting bird survey report should be prepared and, at a minimum, the report should include a description of the area surveyed, date and time of the survey, ambient conditions, bird species observed, a description of any active nests observed, any evidence of breeding behaviors (e.g., courtship, carrying nest materials or food, etc.), and a description of any outstanding conditions that may have impacted the survey results (e.g., weather conditions, excess noise, presence of predators).

If an active nest is located during pre-construction surveys, a non-disturbance buffer should be established around the nest by a qualified biologist in consultation with CDFW and U.S. Fish and Wildlife Service to comply with Fish and Game Code sections 3503 and 3503.5 and the Migratory Bird Treaty Act. Compliance measures may include, but are not limited to, exclusion buffers, sound-attenuation measures, seasonal work closures based on the known biology and life history of the species identified during the survey, as well as ongoing monitoring by biologists.

Nesting bird surveys should be conducted no more than one week prior to the initiation of construction. If construction activities are delayed or suspended for more than one week after the pre-construction nesting bird survey, the site should be resurveyed."

#### Noise Impacts to Nesting Birds During Project Operation

Section 7.2 of the MND discusses special-status wildlife, including birds, and proposes avoidance measures to minimize impacts to nesting birds from site development activities. In addition to identifying potential for special-status bird species (i.e., Swainson's hawk), the MND identifies numerous non-game bird species, which were observed during surveys of the project area, along with suitable foraging and nesting habitat. Fish and Game Code section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided in the code. In addition, Fish and

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Game Code section 3513 prohibits the take of any migratory non-game bird designated under the Migratory Bird Treaty Act.

The MND identifies the western third of APN 013-110-350 for proposed use as an upland hunting gundog training site, which will involve the periodic use of shotguns. Although the MND evaluates potential construction-phase impacts and recommends pre-disturbance surveys if vegetation removal activities will occur during the nesting season (February 1–August 31), it does not assess the potential direct or indirect impacts to nesting birds—including ground-nesting species—from increased ambient noise associated with ongoing operations and gundog training.

The MND should identify the various onsite nesting habitats and evaluate auditory impacts to nesting species from firearms discharge and dog activity (barking, etc.) and recommend buffers, sound attenuation or insulation structures, time-of-day limitations, and/or seasonal restrictions for certain activities. Where feasible, CDFW recommends seasonal avoidance of nesting species by limiting gundog training activities to the non-nesting season (September 1-January 31).

### Fencing

CDFW recognizes that fencing is often necessary for property management and safety. However, fencing that is poorly designed, placed across wildlife movement areas, or installed directly within stream channels can create significant hazards for terrestrial wildlife, impede fish passage, and exacerbate erosion or channel instability. For these reasons, CDFW strongly encourages the use of wildlife-friendly fencing designs and stream-crossing solutions that avoid creating barriers to wildlife movement, aquatic species, or that may cause debris racking and obstruction of the natural flow of water.

When fencing must cross a watercourse, landowners are encouraged to install “water gaps” that are designed to allow livestock secured access to water while minimizing obstruction within the active channel. Wildlife-friendly water gaps typically incorporate breakaway, or swing-arm panels designed to release under high flow, smooth, non-entangling wire, fence posts installed outside of the defined channel when feasible, and/or raised bottom wires to allow passage of wildlife and unimpeded normal flows.

Proper water-gap design reduces the risk of fencing being swept into downstream habitat during storm events, prevents debris buildup, wildlife

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entanglement, and supports fish passage and channel function. Additional best management practices include locating crossings at narrow, stable portions of the stream and avoiding installation during periods of active fish migration or spawning.

The following references provide guidance on wildlife-friendly fencing, practical design details that reduce impacts on terrestrial and aquatic wildlife while still meeting land management needs:

- USDA NRCS (2017). Conservation Practice Standard 382
- USDA- NRCS (2008). How to Build Fence with Wildlife in Mind<sup>21</sup>

#### Assessor Parcel Numbers

A review of the Project description identified an error in one of the listed APNs. The parcel identified as APN 113-120-320 is listed incorrectly and should be revised to APN 113-110-350. This correction ensures the Project description accurately reflects the location and extent of the proposed activities and aligns with Siskiyou County parcel records. If needed, associated tables, figures, or maps should be updated accordingly to maintain consistency throughout the document.

#### **Submitting Data**

CEQA requires that information developed in environmental documents be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations. (Public Resources Code, § 21003, subd. (e).) Accordingly, please report any observation of special status species to the CNDDDB using the CNNDDB field survey form<sup>22,23</sup>.

#### **Promoting Collaboration**

CDFW is charged with preserving and protecting the state's diverse ecosystems and wildlife; therefore, CDFW maintains a strong commitment to collaborate with local government entities. CDFW is enthusiastic to continue assisting the Lead Agency in implementing comprehensive avoidance and minimization for the benefit of California's sensitive resources and aligning regulatory frameworks and appreciates the collaboration thus far.

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<sup>21</sup> <https://share.google/jVbGc2JcRQOVq0pRQ>

<sup>22</sup> <https://nrm.dfg.ca.gov/fieldSurvey/default.aspx>

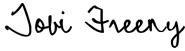
<sup>23</sup> <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

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## Conclusion

CDFW appreciates the opportunity to comment on the MND to assist the Lead Agency in identifying and mitigating Project impacts on biological resources. If you have any questions, please contact Ashley Worth, Senior Environmental Scientist (Specialist) by email at [R1CEQARedding@wildlife.ca.gov](mailto:R1CEQARedding@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
DC5BAE2DD183449...

Tobi Freeny for Adam McKannay, Inland Habitat Conservation Program  
Manager Northern Region

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