



NOTICE OF APPEAL

Monterey County Code
Title 19 (Subdivisions)
Title 20 (Zoning)
Title 21 (Zoning)

RECEIVED
MONTEREY COUNTY

DEC 20 2024

H.D.
8:40
A.M.

CLERK OF THE BOARD
Vicente Ramirez
VICENTE RAMIREZ DEPUTY

No appeal will be accepted until written notice of the decision has been given. If you wish to file an appeal, you must do so on or before _____ (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: December 11, 2024

1. Appellant Name: Protect San Benito County; Jamie Collins, Ardel Pointer, Demetrio Pruneda, Sally Pruneda
Address: c/o M.R. Wolfe & Associates, PC. 580 California St. Ste 1200, San Francisco CA 94104
Telephone: 415-369-9400

2. Indicate your interest in the decision by placing a check mark below:

Applicant _____

Neighbor _____

Other (please state) Non-profit conservation organization and individuals concerned with impacts to wildlife

3. If you are not the applicant, please give the applicant's name:

Jimenez Salvador Jr. Trust

4. Fill in the file number of the application that is the subject of this appeal below:

Type of Application Area

a) Planning Commission: PLN 140602 amendments to Use Permits ZA-3117 and ZA-3629, Aromas

b) Zoning Administrator: PLN _____

c) Administrative Permit: PLN _____

Notice of Appeal

5. What is the nature of your appeal?

a) Are you appealing the approval or denial of an application? Approval

b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing _____
The findings or decision or conditions are not supported by the evidence XX
The decision was contrary to law XX

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary)

The Planning Commission erred in approving this project based only on a negative declaration under CEQA. There is substantial evidence in the record that the Project will have significant unmitigated impacts on biological resources, including special-status species. An EIR is required.

8. As part of the application approval or denial process, findings were made by the decision-making body (Planning Commission, Zoning Administrator, or Chief of Planning). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary)

Please refer to attached correspondence.

9. You must pay the required filing fee of \$3,716.10 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)

Agreed.

10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

The appeal and applicable filing fee must be delivered to the Clerk to the Board by the deadline. A mailed copy of the appeal and filing fee will be accepted only if it is received by Clerk of the Board by the deadline. The appeal and applicable filing fee should be mailed to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and received by Clerk of the Board by the deadline.

APPELLANT SIGNATURE May Heia-Coron on behalf of all appellants Date: Dec 19, 2024

RECEIVED SIGNATURE [Signature] Date: 12/20/2024

ATTACHMENT

December 10, 2024

By E-Mail

Monterey County Planning Commission
168 W. Alisal St.
Monterey, CA 93901
pchearingcomments@co.monterey.ca.us

**Re: PLN140602 – Jimenez Salvador Jr. Trust (AKA The Red Barn)
Item No. 7, December 11, 2024 Meeting**

Ders Members of the Planning Commission:

On behalf of unincorporated Monterey County residents Jamie Collins, Ardel Pointer, Demetrio Pruneda, and Sally Pruneda, and Protect San Benito County, a tax-exempt non-profit organization, this is to request that the Planning Commission DENY the proposed amendments to Use Permits ZA-3117 and ZA-3629 to allow new construction and new uses within the Red Barn structure and adjacent areas at 1000 Highway 101 in Aromas (“Project”), near the San Benito County border. As explained below and in the accompanying letter from consulting biologist Scott Cashen, M.S., the Project’s new and expanded uses will have significant impacts on biological resources in the area that were not disclosed, evaluated, or mitigated in the Initial Study and Mitigated Negative Declaration (“IS/MND”) that the County has prepared. For this reason, further environmental review in the form an environmental impact report (“EIR”) is required to comply with the California Environmental Quality Act (“CEQA”).

Mr. Cashen is an experienced environmental biologist with over 30 years of experience in wildlife biology and natural resource management. He reviewed the latest version of the IS/MND, as redlined, which removes references to previously proposed new uses including a paintball club, go-cart track, and outdoor movie theater, and nursery events. Mr. Cashen concludes that even with these uses eliminated, the Project will still have potentially significant impacts on special-status

species and habitat. Please note that his letter cites and relies on several published studies that support his opinion. These studies, which total several hundred pages, are available in a Dropbox cloud storage folder available at this link:

<https://www.dropbox.com/scl/fo/zrxxv7qofdkav7a8p5h1/APSxSO-d6euPcqTUVcFnzRk?rlkey=uccb3bupvcvwmovf6v0bpsbpr&dl=0>

We incorporate these studies by reference here, and ask that the County include them in the record.

Following is a summary of key points from Mr. Cashen's comments on the IS/MND.

Inaccurate Impact Determinations:

- The IS/MND claims the site contains no native vegetation, sensitive habitats, or protected wetlands, but aerial imagery and field knowledge contradict this.
- The site includes oak woodlands, grasslands, riparian vegetation, and branches of Carneros Creek, which are sensitive and protected areas.

Potential Impacts on Special-Status Species:

- Likely affected species include the California red-legged frog, Coast Range newt, northwestern pond turtle, least Bell's vireo, and Monterey dusky-footed woodrat.
- Impacts arise from increased human activity, nighttime lighting, habitat degradation, and altered hydrology due to paving and irrigation.

Environmental Degradation:

- Increased impervious surfaces and unpermitted activities will lead to loss of natural areas and risk of runoff contamination.
- Changes to Carneros Creek could degrade habitat quality, harming both local species and downstream ecosystems like Elkhorn Slough.

Human Activity and Light Pollution:

- Expanded uses will bring substantial increases in human presence, vehicle traffic, and nighttime events, potentially disrupting wildlife behavior and habitat use.
- Night lighting poses significant risks, particularly to nocturnal species reliant on darkness for survival.

Deficiencies in IS/MND Analysis:

- The IS/MND fails to adequately assess cumulative and indirect effects, such as ecological light pollution and changes to water quality and hydrology.

Under Public Resources Code section 21080(d), if there is substantial evidence in light of the whole record before a lead agency that a project it intends to carry out or approve may have a significant effect on the environment, the lead agency must prepare an EIR. Under Public Resources Code section 21080(c)(1), a lead agency may adopt a negative declaration or mitigated negative declaration for a project, only if an initial study shows there is no substantial evidence in light of the whole record before the agency that the project may have a significant effect on the environment. If a lead agency is presented with a “fair argument” that a project may have a significant effect on the environment, the lead agency shall prepare an EIR, even though it may also be presented with other substantial evidence that the project will not have a significant effect. *No Oil, Inc. v. County of Los Angeles* (1974) 13 Cal. 3d 68; 14 Cal.Code.Reg. § 15064(f)(1).

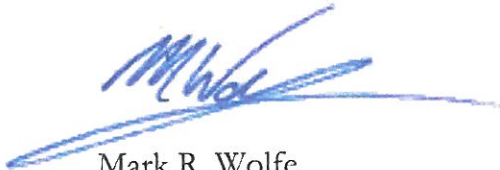
For purposes of CEQA, “substantial evidence” is defined as including: “facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.” 14 Cal.Code.Reg. § 15064(f) (5), underline added. Thus, if there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the lead agency “shall treat the effect as significant and shall prepare an EIR.” *Id.* at subd. 15064(g).

Mr. Cashen's letter constitutes substantial evidence that the Project not only may, but likely will, have significant effects on the environment. Under these circumstances, preparation of an EIR is required. The Planning Commission should therefore decline to approve the requested Use Permit amendments and this time, and should instead direct Staff to initiate the process to prepare an EIR for the Project.

Thank you for your consideration of these comments on concerns.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C



Mark R. Wolfe

On behalf of... and Protect San Benito County

MRW:

attachment

cc: Mary Israel, Supervising Planner

December 9, 2024

Mark R. Wolfe
M.R. Wolfe & Associates
580 California Street, Suite 1200
San Francisco, CA 94104

Subject: Comments on the Initial Study and Mitigated Negative Declaration for the Red Barn Revised General Development Plan and Use Permit Project

Dear Mr. Wolfe:

This letter contains my comments on the Initial Study and Mitigated Negative Declaration (“IS/MND”) prepared by the County of Monterey (“County”) for the Red Barn Revised General Development Plan and Use Permit (“Project”), included as Exhibit C to the Dec. 5, 2024 Staff Report prepared for the Planning Commission hearing on this matter. The Project Applicant, 101 Red Barn, LLC (“Applicant”), proposes expansion of the current outdoor use area by adding 34,505 square feet of retail sales area and 18,137 square feet of fire lanes/vehicle access area. In addition, the Applicant proposes new uses of the property, including (a) social activities (e.g., weddings, quinceañeras, community activities, and corporate events); and (b) an on-site storage area for vendors. The proposed Project would be located at a 32-acre site south of Highway 101 in Aromas, California.

I am an environmental biologist with 30 years of professional experience in wildlife biology and natural resources management. I have served as a biological resources expert for over 200 projects in California. My experience and scope of work in this regard has included assisting various clients with evaluations of biological resource issues; preparation and peer review of environmental compliance documents prepared pursuant to the California Environmental Quality Act (“CEQA”) and the National Environmental Policy Act (“NEPA”); and preparation of written comments that address deficiencies with CEQA and NEPA documents. My work has included written and oral testimony for the California Energy Commission, California Public Utilities Commission, and Federal courts. My educational background includes a B.S. in Resource Management from the University of California at Berkeley, and a M.S. in Wildlife and Fisheries Science from the Pennsylvania State University. A copy of my current curriculum vitae is attached hereto.

I worked as a field biologist for Caltrans’ Prunedale Improvement Project (“PIP”) in northern Monterey County.¹ The comments herein are based on my familiarity with the Project area, a review of scientific literature pertaining to biological resources known to occur in the Project area, and the knowledge and experience I have acquired during my 30-year career in the field of natural resources management.

¹ The Prunedale Improvement Project constructed three new interchanges/overpasses along US 101 through North Monterey County at Russell/Espinosa, Blackie/Reese, and Crazy Horse Canyon/Echo Valley Roads.

The County's Determinations Regarding Impacts to Biological Resources Are Unsupported and Conflict with Scientific Evidence

The IS/MND makes the following determinations regarding the Project's impacts on biological resources:

1. "The project site is completely disturbed and contains no native vegetation communities or sensitive habitats. Therefore, the additional uses on the project site (as described in Section II.A) would not have a substantial adverse effect on any candidate, sensitive, or special-status species."
2. "The project site is completely disturbed and does not contain any riparian or other sensitive natural communities ... Therefore, the project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community."
3. "The project site does not include any state or federally protected wetlands or wetland habitats on site. Therefore, the project would have no impact on state or federally protected wetland habitats."²

These conclusions are clearly erroneous. First, aerial imagery and Figure 3 in the IS/MND clearly show that the Project site contains native (or naturalized) vegetation communities, including oak woodland and grassland (Figure 1). Second, the Project site contains two branches of Carneros Creek, both of which contain a nearly continuous corridor of riparian vegetation (Figure 1). This riparian vegetation is considered "sensitive habitat," and it is probably a "sensitive natural community" (depending on species composition).³ Third, because Carneros Creek drains into Monterey Bay via Elkhorn Slough, both branches of Carneros Creek at the Project site are protected (riverine) wetlands at both the state and federal level (Figure 2).⁴ As discussed further below, the terrestrial and aquatic habitats at the Project site likely support special-status species.

² IS/MND, pp. 31 and 32.

³ The IS/MND does not identify the that plant species in the site's riparian areas or elsewhere.

⁴ It is obvious that Carneros Creek is a jurisdictional aquatic resource. This determination is further substantiated by Caltrans, who determined that a segment of Carneros Creek upstream from the Project site is federally and state jurisdictional wetland. *See* Caltrans. 2021. Jurisdictional Delineation Report: Various Locations on State Route 101 in Monterey County. In: Caltrans. 2022 Sep. Initial Study with Negative Mitigated Declaration for the Prunedale Drainage Improvements Project. Volume II.

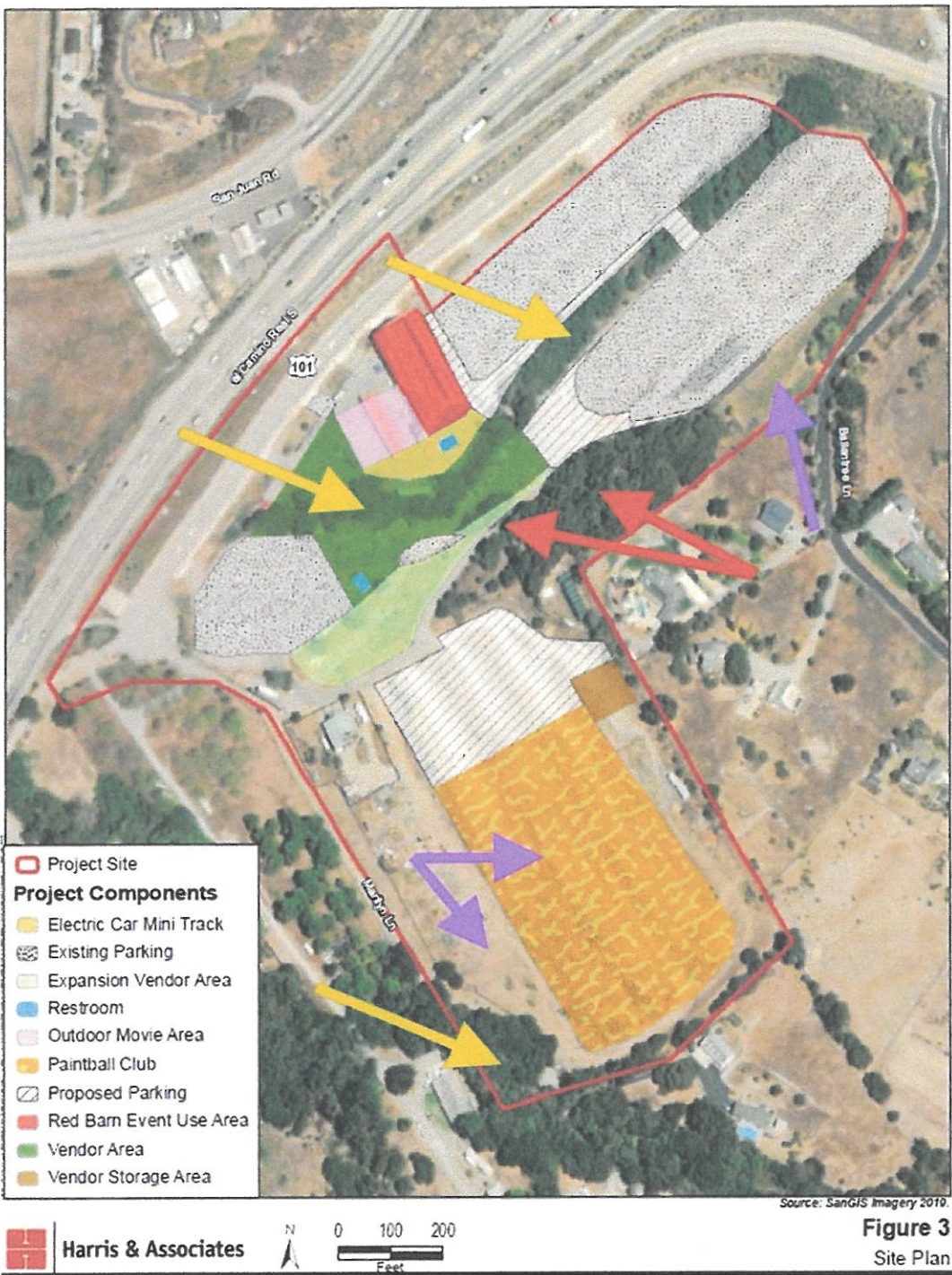


Figure 1. Native (or naturalized) vegetation communities at the Project site, including oak woodland (red arrows), grassland (purple arrows), and riparian (yellow arrows). Image adapted from IS/MND, Figure 3.



Figure 2. Branches of Carneros Creek and associated riparian vegetation (red arrows) at the Project site.⁵

The Project Would Have Potentially Significant Impacts on Special-Status Species

Based on my field experience in the Project area, my review of aerial imagery, and information provided by Caltrans (2022),⁶ the riparian vegetation at the Project site probably qualifies as a Central Coast Live Oak Riparian Forest, which is considered a sensitive natural community.⁷ Irrespective of its classification as a sensitive natural community, the segments of Carneros Creek (and associated riparian vegetation) at the Project site provide potential habitat for the following special-status species: California red-legged frog, Coast Range newt, northern

⁵ Image adapted from U.S. Fish and Wildlife Service. 2024. National Wetlands Inventory, Wetlands Mapper. [accessed 2024 Aug 22]. <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>

⁶ Caltrans. 2022 Sep. Initial Study with Negative Mitigated Declaration for the Prunedale Drainage Improvements Project.

⁷ See California Department of Fish and Wildlife. 2024. Natural Communities [web page]. [accessed 2024 Aug 21]. <<https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>> “For parts of the state that have not been classified according to state standards (the inverse of [this map \(PDF\)](#)), it may be appropriate to use the vegetation types as described in “Preliminary Descriptions of the Terrestrial Natural Communities of California” ([Holland 1986 \(Excel\)](#)). This is particularly true for sensitive natural community types.” Vegetation in Monterey County has not been classified according to the state standards. Central Coast Live Oak Riparian Forest was classified as a rare (sensitive) natural community by Holland (1986).

California legless lizard, northwestern pond turtle, least Bell’s vireo, and Monterey dusky-footed woodrat (Table 1).

Table 1. Special-status species that may occur at the Project site.

<u>Species</u>	<u>Status^a</u>	<u>Rationale</u>
California red-legged frog (<i>Rana draytonii</i>)	FT, SSC	Occurs in various aquatic, riparian, and upland habitats. ⁸ Often disperses along shaded streams. ⁹ Known to occur in the Project area; ¹⁰ detected in tributary to Carneros Creek, 1.5 miles east of the Project site. ¹¹
Coast Range newt (<i>Taricha torosa</i>) ¹²	SSC	Optimum habitats are in or near streams in valley-foothill hardwood and hardwood-conifer habitats. ¹³ Detected in Carneros Creek near Project site. ¹⁴
No. CA legless lizard (<i>Aniella pulchra</i>)	SSC	Suitable habitat is present in riparian areas and oak woodlands. ¹⁵
Northwestern pond turtle (<i>Actinemys marmorata</i>)	FPT, SSC	Detected in tributary to Carneros Creek, 1.5 miles east of the Project site. ¹⁶
Least Bell’s vireo (<i>Vireo bellii pusillus</i>)	FE, SE	Associated with riparian habitats. Breeding pair detected 1.5 miles south of Project site. ¹⁷
Mont. dusky-footed woodrat (<i>Neotoma macrotis luciana</i>)	SSC	Personal experience at PIP site. Detected in Carneros Creek riparian habitat approximately 2,000 feet from Project site. ¹⁸

^a FE = Federally Endangered
 FPT = Federally Proposed as Threatened
 FT = Federally Threatened
 SE = State Endangered
 SSC = California Species of Special Concern

⁸ U.S. Fish and Wildlife Service. 2002. Recovery Plan for the California Red-Legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp. [accessed 2024 Aug 21]. https://ecos.fws.gov/docs/recovery_plan/020528.pdf

⁹ Thomson RC, Wright AN, Shaffer HB. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife. Oakland (CA): University of California Press. [accessed 2024 Aug 21]. <https://wildlife.ca.gov/Conservation/SSC/Amphibians-Reptiles>

¹⁰ Caltrans. 2022 Sep. Initial Study with Negative Mitigated Declaration for the Prunedale Drainage Improvements Project.

¹¹ California Natural Diversity Database. 2024. RareFind 5 [Internet]. California Department of Fish and Wildlife [Aug 6, 2024].

¹² California newt (*Taricha torosa*) populations from Monterey County south are referred to as Coast Range newt.

¹³ Kats L, Sweet S. 2018 (update). California Wildlife Habitat Relationship System. Life History account for California newt. [accessed 2024 Aug 19]. <https://wildlife.ca.gov/Data/CWHR/Life-History-and-Range>

¹⁴ Caltrans. 2022 Sep. Initial Study with Negative Mitigated Declaration for the Prunedale Drainage Improvements Project.

¹⁵ *Ibid.*

¹⁶ Elliot R. 2024 Jul 25. Unprocessed Data from CNDDDB Online Field Survey Form [ds 1002]. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System (BIOS). [accessed 2024 Aug 17].

¹⁷ California Natural Diversity Database. 2024. RareFind 5 [Internet]. California Department of Fish and Wildlife [Aug 6, 2024].

¹⁸ Elliot R. 2024 Jul 25. Unprocessed Data from CNDDDB Online Field Survey Form [ds 1002]. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System (BIOS). [accessed 2024 Aug 17].

The IS/MND states: “the additional uses on the project site (as described in Section II.A) would not have a substantial adverse effect on any candidate, sensitive, or special-status species.”¹⁹ The IS/MND’s determination is not supported by evidence or analysis. As explained below, the Project could significantly impact special-status species through: (1) the substantial increase in human activity at the site; (2) night lighting and nighttime human activities at the site; and (3) degradation of aquatic and riparian habitat associated with Carneros Creek.

Increase in Human Activity

The Project site is currently used as an indoor and outdoor flea market. The proposed Project involves expansion of the current outdoor vendor area by 52,642 square feet (34,505 square feet of retail sales area and 18,137 square feet of fire lanes/vehicle access area).²⁰ The flea market, which currently operates on Sundays²¹ from 9:00 a.m. to 4:00 p.m.,²² would be operated up to 200 days per year, with up to 9,000 guests per day.²³

In addition, the Project involves new uses of the site, including: (a) social events (e.g., weddings, quinceañeras, community activities); (b) corporate events; and (c) an on-site storage area for vendors. Social events would occur 52 times per year, with each event attracting an average of 300 guests and 15 employees.²⁴ Corporate events would occur 32 times per year, with each event attracting an average of 1,000 guests and 75 employees.²⁵ Collectively, expansion of the flea market and new uses could attract over a million additional people to the site each year. Even if the Project ends up attracting only several hundred thousand additional people per year, the increase in human activity at the site would be substantial.

The proposed Project would not only cause a substantial increase in human activity, but it would also: (a) increase the frequency of human activity at the site (i.e., up to 7 days per week, as opposed to 1 day per week under existing conditions); and (b) involve nighttime activities, which currently do not exist at the site.

The substantial increase in the frequency and abundance of human activity at the site, coupled with nighttime activities, will have a significant impact on wildlife. For example, it is well established that noise, light, and human activities affect wildlife in ways comparable to predation, including: (a) increased vigilance, fleeing behavior, and energy expenditure; (b) reduced time at essential brooding, sheltering, and resource acquisition activities; and (c)

¹⁹ IS/MND, p. 31.

²⁰ IS/MND, p. 8.

²¹ IS/MND, p. 11.

²² Hours provided by Yelp. [accessed 2024 Aug 21]. <https://www.yelp.com/biz/101-red-barn-aromas-3>

²³ IS/MND, Table 2.

²⁴ *Ibid.*

²⁵ *Ibid.*

changes in habitat selection.²⁶ Although these effects usually occur at the individual level, they can amount to population-level effects for species with small effective population sizes (e.g., northwestern pond turtle, least Bell's vireo), or if numerous individuals are affected over space and time (Marion et al. 2020). Indeed, the collective results of several studies indicate that high levels of human activity can cause extirpation of species.²⁷

Some of the Project's new uses would involve nighttime activities, which currently do not exist at the site. For example, the proposed Project includes an estimated 52 weddings and quinceañeras per year. These events would extend to 11:00 p.m.²⁸ Thus, new uses at the site would pose a threat to both diurnal and nocturnal species.

Several of the special-status species that may occur at the Project site are semi-aquatic organisms (e.g., California red-legged frog, Coast Range newt, northwestern pond turtle) that use both upland and aquatic habitats. Movements between these two habitat types occur primarily at night, and for the Coast Range newt, may involve hundreds of individuals moving through an area. The introduction of nighttime activities at the site, coupled with the overall increase in human activity and vehicles, would greatly increase the risk of habitat degradation, vehicle strikes, and trampling—all of which are significant threats to the California red-legged frog, Coast Range newt, and northwestern pond turtle.²⁹ In addition, nighttime activities at the site would expose wildlife to novel sources of noise and light pollution during a critical period of activity and acoustic signaling (e.g., communication). The resulting impacts would be potentially significant.

Degradation of Aquatic and Riparian Habitat Associated with Carneros Creek

The IS/MND states:

“the project includes new paving that would result in new impervious surface (approximately 18,137 sf). The project includes grading to maintain current/positive surface storm water drainage patterns. The potential for increased

²⁶ Frid A, Dill L. 2002. Human-caused disturbance stimuli as a form of predation risk. *Conservation Ecology* 6, no. 1. *See also* Price M. 2008. The impact of human disturbance on birds: a selective review. In: Lunney D, Munn A, Meikle W, editors. *Too close for comfort: contentious issues in human-wildlife encounters*. Royal Zoological Society of New South Wales, Mosman, NSW, Australia. p. 163-196. *See also* Marion S, Davies A, Demsar U, Irvine JR, Stephens PA, Long J. 2020. A systematic review of methods for studying the impacts of outdoor recreation on terrestrial wildlife. *Global Ecology and Conservation* 22:1-15. *See also* Lucas E. 2020. Recreation-related disturbance to wildlife in California – better planning for and management of recreation are vital to conserve wildlife in protected areas where recreation occurs. *California Fish and Wildlife, Recreation Special Issue*. p. 29-51.

²⁷ *Ibid.* *See also* Reed SE, Larson CL, Crooks KR. 2019. Effects of Human Use of NCCP Reserves on Reptile and Mammal Species in San Diego. *Wildlife Conservation Society Agreement No/LAG #*: P1582100.

²⁸ IS/MND, Table 2.

²⁹ U.S. Fish and Wildlife Service. 2002. Recovery Plan for the California Red-Legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp. [accessed 2024 Aug 21]. https://ecos.fws.gov/docs/recovery_plan/020528.pdf. *See also* Thomson RC, Wright AN, Shaffer HB. 2016. *California Amphibian and Reptile Species of Special Concern*. California Department of Fish and Wildlife. Oakland (CA): University of California Press. [accessed 2024 Aug 21]. <https://wildlife.ca.gov/Conservation/SSC/Amphibians-Reptiles>. *See also* H.T. Harvey & Associates. 2021. *Alma Bridge Road-Related Newt Mortality Study*. Project #4301-02 for Midpeninsula Open Space District, Los Altos (CA).

runoff would be minimal. Stormwater would continue to surface flow to existing drainage facilities and infiltrate to surrounding unpaved areas and would not degrade surface water or groundwater quality.”³⁰

The IS/MND’s analysis does not account for unpermitted activities that recently occurred at the site, including new paving, grading on slopes, installation of retaining walls,³¹ and removal of vegetation in the proposed Expansion Vendor Area (Figure 3). Indeed, if these unpermitted activities are considered, there would be virtually no unpaved areas surrounding the northern branch of Carneros Creek at the Project site.³²

As impervious surfaces around Carneros Creek increase, there will be concomitant increase in sedimentation, including sediments containing pesticides, fertilizers, heavy metals (e.g., hydrocarbons from vehicles), and other toxic effluents into the creek.³³ The resulting effects to water quality can have profound impacts on special-status amphibians and other wetland vertebrates.³⁴

The increase in impervious surfaces (and landscape irrigation)³⁵ at the Project site would negatively affect special-status species that inhabit Carneros Creek by altering the creek’s physical, chemical, and biological conditions.³⁶ For example, impervious surfaces lead to higher peak flows and volumes, which can alter channel morphology and otherwise remove habitat elements (e.g., woody debris) necessary for survival and reproduction. Similarly, irrigation alters the natural hydroperiod and can convert an intermittent or ephemeral stream (e.g., the reaches of Carneros Creek at the Project site) to perennial aquatic habitat, which in turn negatively affects native species by allowing exotic competitors and predators (e.g., bullfrogs and nonnative warm water fish species) to invade the habitat.³⁷

Project-induced changes to water quality and hydrology of Carneros Creek would not only impact special-status species at the Project site, but they would also impact aquatic and semi-aquatic organisms in downstream areas, including Elkhorn Slough. Carneros Creek is the most consistent freshwater source of water for Elkhorn Slough, and thus, it is an ecologically

³⁰ IS/MND, p. 47.

³¹ IS/MND, p. 3.

³² See IS/MND, Figure 3. Note that the Vendor Area shaded green in Figure 3 has already been paved.

³³ The IS/MND at page 44 states: “[o]peration of the expanded uses may involve use of potentially hazardous materials typical of commercial and retail uses, including cleaning fluids, detergents, solvents, adhesives, sealers, paints, fuels/lubricants, and fertilizers and/or pesticides for landscaping.”

³⁴ U.S. Fish and Wildlife Service. 2002. Recovery Plan for the California Red-Legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp. [accessed 2024 Aug 21]. https://ecos.fws.gov/docs/recovery_plan/020528.pdf.

³⁵ The IS/MND at page 11 states: “[t]he project would include the installation of exterior lighting and updated landscaping per the adopted Conditions of Approval.”

³⁶ See California Environmental Protection Agency. 2009. The Impacts of Imperviousness on Aquatic Ecosystems: An annotated bibliography on the effects of a key stressor of urbanization on the aquatic ecosystem. [accessed 2024 Aug 22]. <https://oehha.ca.gov/media/downloads/ecotoxicology/report/icbiblio0309.pdf>

³⁷ U.S. Fish and Wildlife Service. 2002. Recovery Plan for the California Red-Legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp. [accessed 2024 Aug 21]. https://ecos.fws.gov/docs/recovery_plan/020528.pdf.

important component of the estuarine system.³⁸ As a result, the Project's impacts on Carneros Creek would contribute to significant indirect impacts on Elkhorn Slough.

For the reasons discussed above, it is my professional opinion that the Project could have significant, unmitigated impacts on special-status species, and it would contribute to significant cumulative impacts on Carneros Creek and Elkhorn Slough.



Figure 3. Proposed Expansion Vendor Area in November 2019 (left image) and June 2023 (right image). Red arrow in right image points to anthropogenic feature constructed sometime between September 2021 and June 2022.

Night Lighting

The Project includes installation of exterior lighting³⁹ to facilitate the new nighttime activities proposed at the site. According to the IS/MND, the Project would be required to comply with the County's "standard condition," which requires all lighting to be downlight and project no off-site glare.⁴⁰ Whereas compliance with the County's standard condition would reduce impacts from "astronomical light pollution" (whereby stars and other celestial bodies are washed out by light that is either directed), it would not reduce impacts from "ecological light pollution" (artificial light that alters the natural patterns of light and dark in ecosystems).⁴¹ Ecological light pollution has negative effects on the behavioral and population ecology of organisms, with serious implications on community ecology.⁴² For example, studies have demonstrated that artificial night lighting has the potential to affect foraging and breeding as well as growth and development of frogs and salamanders.⁴³

The Monterey dusky-footed woodrat, an animal that likely occurs at the site, is primarily a nocturnal species that depends on concealment to avoid predation. Although nocturnal animals

³⁸ Lasky E, Won O. 2024. Current site conditions and vulnerabilities to sea-level rise and saltwater intrusion: Lower Carneros Creek, Elkhorn Slough. Elkhorn Slough Technical Report Series 2024:1.

³⁹ IS/MND, p. 11.

⁴⁰ IS/MND, p. 25.

⁴¹ Longcore T, Rich C. 2004. Ecological Light Pollution. *Frontiers in Ecology and the Environment* 2:191-198.

⁴² *Ibid.*

⁴³ Wise S. 2007. Studying the ecological impacts of light pollution on wildlife: amphibians as models. In: Cipriano M, Jafar J, editors. *Starlight: A Common Heritage*. pp. 209-218.

such as the woodrat can respond to bright moonlight by shifting foraging and other movement activities to darker conditions, this option is not available to animals experiencing artificially increased illumination throughout the night. Under these circumstances, unless they abandon the lighted area, nocturnal animals have only two choices. One is to accept the risk of predation by foraging under bright light. The other option is to continue to minimize predation risk even at the cost of loss of body mass.⁴⁴

A second source of new light pollution at the Project site will be generated by vehicles. The IS/MND estimates the proposed social and corporate events would occur 84 times per year and would involve up to 1,000 guests and 75 service staff members.⁴⁵ Many of these events would be conducted at night, especially weddings and quinceañeras. Vehicle headlights, flashlights, and other types of lights that cause dynamic light changes in nearby habitats can adversely affect animal behavior and population dynamics.⁴⁶ For example, Baker and Richardson (2006) found that dynamic light changes such as those generated by flashlights, car headlights, or motion detector lights caused green frogs (*Rana clamitans*) to produce fewer advertisement calls and move more frequently.⁴⁷ In dark-adapted nocturnal frogs, returning the eyes to a dark-adapted state after photopigment bleaching caused by a brief, bright flash of light can take hours.⁴⁸

In conclusion, the IS/MND's determination that the Project will have no significant unmitigated impacts on biological resources is not supportable. In my opinion, based on the facts and sources of information cited above, the Project may, and likely will, have a significant impact on special-status species in the manners described.

Sincerely,



Scott Cashen, M.S.
Senior Biologist

⁴⁴ Beier P. 2006. Effects of Artificial Night Lighting on Terrestrial Mammals. Chapter 2 in: Ecological Consequences of Artificial Night Lighting, Rich C and Longcore T, editors. Island Press, Washington, DC.

⁴⁵ IS/MND, Table 2.

⁴⁶ Longcore T, Rich C. 2016. Artificial night lighting and protected lands: Ecological effects and management approaches. Natural Resource Report NPS/NRSS/NSNS/NRR—2016/1213. National Park Service, Fort Collins, Colorado.

⁴⁷ Baker BJ, Richardson JM. 2006. The effect of artificial light on male breeding-season behaviour in green frogs, *Rana clamitans melanota*. Canadian Journal of Zoology 84(10):1528-1532.

⁴⁸ Buchanan BW. 2006. Observed and potential effects of artificial night lighting on anuran amphibians. Pages 192–220 in C. Rich and T. Longcore, editors. Ecological consequences of artificial night lighting. Island Press, Washington, D.C.

Scott Cashen, M.S.
Senior Wildlife Biologist

Scott Cashen has 28 years of professional experience in natural resources management. During that time he has worked as a field biologist, forester, environmental consultant, and instructor of Wildlife Management. Mr. Cashen focuses on CEQA/NEPA compliance issues, endangered species, scientific field studies, and other topics that require a high level of scientific expertise.

Mr. Cashen has knowledge and experience with numerous taxa, ecoregions, biological resource issues, and environmental regulations. As a biological resources expert, Mr. Cashen is knowledgeable of the various agency-promulgated guidelines for field surveys, impact assessments, and mitigation. Mr. Cashen has led field investigations on several special-status species, including ones focusing on the yellow-legged frog, red-legged frog, desert tortoise, steelhead, burrowing owl, California spotted owl, northern goshawk, willow flycatcher, Peninsular bighorn sheep, red panda, and various forest carnivores.

Mr. Cashen is a recognized expert on the environmental impacts of renewable energy development. He has been involved in the environmental review process of over 100 solar, wind, biomass, and geothermal energy projects. Mr. Cashen's role in this capacity has encompassed all stages of the environmental review process, from initial document review through litigation support. Mr. Cashen provided expert witness testimony on several of the Department of the Interior's "fast-tracked" renewable energy projects. His testimony on those projects helped lead agencies develop project alternatives and mitigation measures to reduce environmental impacts associated with the projects.

Mr. Cashen was a member of the independent scientific review panel for the Quincy Library Group project, the largest community forestry project in the United States. As a member of the panel, Mr. Cashen was responsible for advising the U.S. Forest Service on its scientific monitoring program, and for preparing a final report to Congress describing the effectiveness of the Herger-Feinstein Forest Recovery Act of 1998.

AREAS OF EXPERTISE

- CEQA, NEPA, and Endangered Species Act compliance issues
- Comprehensive biological resource assessments
- Endangered species management
- Renewable energy development
- Scientific field studies, grant writing and technical editing

EDUCATION

M.S. Wildlife and Fisheries Science - The Pennsylvania State University (1998)

Thesis: Avian Use of Restored Wetlands in Pennsylvania

B.S. Resource Management - The University of California, Berkeley (1992)

PROFESSIONAL EXPERIENCE

Litigation Support / Expert Witness

Mr. Cashen has served as a biological resources expert for over 125 projects subject to environmental review under the California Environmental Quality Act (CEQA) and/or the National Environmental Policy Act (NEPA). As a biological resources expert, Mr. Cashen reviews CEQA/NEPA documents and provides his clients with an assessment of biological resource issues. He then submits formal comments on the scientific and legal adequacy of the project's environmental documents (e.g., Environmental Impact Report). If needed, Mr. Cashen conducts field studies to generate evidence for legal testimony, or he can obtain supplemental testimony from his deep network of species-specific experts. Mr. Cashen has provided written and oral testimony to the California Energy Commission, California Public Utilities Commission, and U.S. district courts. His clients have included law firms, non-profit organizations, and citizen groups.

REPRESENTATIVE EXPERIENCE

Solar Energy

- Abengoa Mojave Solar Project
- Avenal Energy Power Plant
- Beacon Solar Energy Project
- Blythe Solar Power Project
- Calico Solar Project
- California Flats Solar Project
- Calipatria Solar Farm II
- Carrizo Energy Solar Farm
- Catalina Renewable Energy
- Fink Road Solar Farm
- Genesis Solar Energy Project
- Heber Solar Energy Facility
- Imperial Valley Solar Project
- Ivanpah Solar Electric Generating
- Maricopa Sun Solar Complex
- McCoy Solar Project
- Mt. Signal and Calexico Solar
- Panoche Valley Solar
- San Joaquin Solar I & II
- San Luis Solar Project
- Stateline Solar Project
- Solar Gen II Projects
- SR Solis Oro Loma
- Vestal Solar Facilities
- Victorville 2 Power Project
- Willow Springs Solar

Geothermal Energy

- Casa Diablo IV Geothermal
- East Brawley Geothermal
- Mammoth Pacific 1 Replacement
- Orni 21 Geothermal Project
- Western GeoPower Plant

Wind Energy

- Catalina Renewable Energy
- Ocotillo Wind Energy Project
- SD County Wind Energy
- Searchlight Wind Project
- Shu'luuk Wind Project
- Tres Vaqueros Repowering Project
- Tule Wind Project
- Vasco Winds Relicensing Project

Biomass Facilities

- CA Ethanol Project
- Colusa Biomass Project
- Tracy Green Energy Project

Other Development Projects

- Cal-Am Desalination Project
- Carnegie SVRA Expansion Project
- Lakeview Substation Project
- Monterey Bay Shores Ecoresort
- Phillips 66 Rail Spur
- Valero Benecia Crude By Rail
- World Logistics Center

Project Management

Mr. Cashen has managed several large-scale wildlife, forestry, and natural resource management projects. Many of the projects have required hiring and training field crews, coordinating with other professionals, and communicating with project stakeholders. Mr. Cashen's experience in study design, data collection, and scientific writing make him an effective project manager, and his background in several different natural resource disciplines enable him to address the many facets of contemporary land management in a cost-effective manner.

REPRESENTATIVE EXPERIENCE

Wildlife Studies

- Peninsular Bighorn Sheep Resource Use and Behavior Study: (CA State Parks)
- "KV" Spotted Owl and Northern Goshawk Inventory: (USFS, Plumas NF)
- Amphibian Inventory Project: (USFS, Plumas NF)
- San Mateo Creek Steelhead Restoration Project: (Trout Unlimited and CA Coastal Conservancy, Orange County)
- Delta Meadows State Park Special-Status Species Inventory: (CA State Parks, Locke)

Natural Resources Management

- Mather Lake Resource Management Study and Plan – (Sacramento County)
- Placer County Vernal Pool Study – (Placer County)
- Weidemann Ranch Mitigation Project – (Toll Brothers, Inc., San Ramon)
- Ion Communities Biological Resource Assessments – (Ion Communities, Riverside and San Bernardino Counties)
- Del Rio Hills Biological Resource Assessment – (The Wyro Company, Rio Vista)

Forestry

- Forest Health Improvement Projects – (CalFire, SD and Riverside Counties)
- San Diego Bark Beetle Tree Removal Project – (SDG&E, San Diego Co.)
- San Diego Bark Beetle Tree Removal Project – (San Diego County/NRCS)
- Hillslope Monitoring Project – (CalFire, throughout California)

Biological Resources

Mr. Cashen has a diverse background with biological resources. He has conducted comprehensive biological resource assessments, habitat evaluations, species inventories, and scientific peer review. Mr. Cashen has led investigations on several special-status species, including ones focusing on the foothill yellow-legged frog, mountain yellow-legged frog, desert tortoise, steelhead, burrowing owl, California spotted owl, northern goshawk, willow flycatcher, Peninsular bighorn sheep, red panda, and forest carnivores.

REPRESENTATIVE EXPERIENCE

Biological Assessments/Biological Evaluations ("BA/BE")

- Aquatic Species BA/BE – Reliable Power Project (*SFPUC*)
- Terrestrial Species BA/BE – Reliable Power Project (*SFPUC*)
- Management Indicator Species Report – Reliable Power Project (*SFPUC*)
- Migratory Bird Report – Reliable Power Project (*SFPUC*)
- Terrestrial and Aquatic Species BA – Lower Cherry Aqueduct (*SFPUC*)
- Terrestrial and Aquatic Species BE – Lower Cherry Aqueduct (*SFPUC*)
- Terrestrial and Aquatic Species BA/BE – Public Lands Lease Application (*Society for the Conservation of Bighorn Sheep*)
- Terrestrial and Aquatic Species BA/BE – Simon Newman Ranch (*The Nature Conservancy*)
- Draft EIR (Vegetation and Special-Status Plants) - Wildland Fire Resiliency Program (*Midpeninsula Regional Open Space District*)

Avian

- Study design and Lead Investigator - Delta Meadows State Park Special-Status Species Inventory (*CA State Parks: Locke*)
- Study design and lead bird surveyor - Placer County Vernal Pool Study (*Placer County: throughout Placer County*)
- Surveyor - Willow flycatcher habitat mapping (*USFS: Plumas NF*)
- Surveyor - Tolay Creek, Cullinan Ranch, and Guadacanal Village restoration projects (*Ducks Unlimited/USGS: San Pablo Bay*)
- Study design and Lead Investigator - Bird use of restored wetlands research (*Pennsylvania Game Commission: throughout Pennsylvania*)
- Study design and surveyor - Baseline inventory of bird species at a 400-acre site in Napa County (*HCV Associates: Napa*)
- Surveyor - Baseline inventory of bird abundance following diesel spill (*LFR Levine-Fricke: Suisun Bay*)

- Study design and lead bird surveyor - Green Valley Creek Riparian Restoration Site (*City of Fairfield: Fairfield, CA*)
- Surveyor - Burrowing owl relocation and monitoring (*US Navy: Dixon, CA*)
- Surveyor - Pre-construction burrowing owl surveys (*various clients: Livermore, San Ramon, Rio Vista, Napa, Victorville, Imperial County, San Diego County*)
- Surveyor - Backcountry bird inventory (*National Park Service: Eagle, Alaska*)
- Lead surveyor - Tidal salt marsh bird surveys (*Point Reyes Bird Observatory: throughout Bay Area*)
- Surveyor - Pre-construction surveys for nesting birds (*various clients and locations*)

Amphibian

- Crew Leader - Red-legged frog, foothill yellow-legged frog, and mountain yellow-legged frog surveys (*USFS: Plumas NF*)
- Surveyor - Foothill yellow-legged frog surveys (*PG&E: North Fork Feather River*)
- Surveyor - Mountain yellow-legged frog surveys (*El Dorado Irrigation District: Desolation Wilderness*)
- Crew Leader - Bullfrog eradication (*Trout Unlimited: Cleveland NF*)

Fish and Aquatic Resources

- Surveyor - Hardhead minnow and other fish surveys (*USFS: Plumas NF*)
- Surveyor - Weber Creek aquatic habitat mapping (*El Dorado Irrigation District: Placerville, CA*)
- Surveyor - Green Valley Creek aquatic habitat mapping (*City of Fairfield: Fairfield, CA*)
- GPS Specialist - Salmonid spawning habitat mapping (*CDFG: Sacramento River*)
- Surveyor - Fish composition and abundance study (*PG&E: Upper North Fork Feather River and Lake Almanor*)
- Crew Leader - Surveys of steelhead abundance and habitat use (*CA Coastal Conservancy: Gualala River estuary*)
- Crew Leader - Exotic species identification and eradication (*Trout Unlimited: Cleveland NF*)

Mammals

- Principal Investigator - Peninsular bighorn sheep resource use and behavior study (*California State Parks: Freeman Properties*)

- Scientific Advisor – Study on red panda occupancy and abundance in eastern Nepal (*The Red Panda Network: CA and Nepal*)
- Surveyor - Forest carnivore surveys (*University of CA: Tahoe NF*)
- Surveyor - Relocation and monitoring of salt marsh harvest mice and other small mammals (*US Navy: Skagg's Island, CA*)
- Surveyor – Surveys for Monterey dusky-footed woodrat. Relocation of woodrat houses (*Touré Associates: Prunedale*)

Natural Resource Investigations / Multiple Species Studies

- Scientific Review Team Member – Member of the scientific review team assessing the effectiveness of the US Forest Service's implementation of the Herger-Feinstein Quincy Library Group Act.
- Lead Consultant - Baseline biological resource assessments and habitat mapping for CDF management units (*CDF: San Diego, San Bernardino, and Riverside Counties*)
- Biological Resources Expert – Peer review of CEQA/NEPA documents (*various law firms, non-profit organizations, and citizen groups*)
- Lead Consultant - Pre- and post-harvest biological resource assessments of tree removal sites (*SDG&E: San Diego County*)
- Crew Leader - T&E species habitat evaluations for Biological Assessment in support of a steelhead restoration plan (*Trout Unlimited: Cleveland NF*)
- Lead Investigator - Resource Management Study and Plan for Mather Lake Regional Park (*County of Sacramento: Sacramento, CA*)
- Lead Investigator - Biological Resources Assessment for 1,070-acre Alfaro Ranch property (*Yuba County, CA*)
- Lead Investigator - Wildlife Strike Hazard Management Plan (*HCV Associates: Napa*)
- Lead Investigator - Del Rio Hills Biological Resource Assessment (*The Wyro Company: Rio Vista, CA*)
- Lead Investigator – Ion Communities project sites (*Ion Communities: Riverside and San Bernardino Counties*)
- Surveyor – Tahoe Pilot Project: Validation of California's Wildlife Habitat Relationships (CWHR) Model (*University of California: Tahoe NF*)

Forestry

Mr. Cashen has five years of experience working as a consulting forester on projects throughout California. Mr. Cashen has consulted with landowners and timber operators on forest management practices; and he has worked on a variety of forestry tasks including selective tree marking, forest inventory, harvest layout, erosion control, and supervision of logging operations. Mr. Cashen's experience with many different natural resources enable him to provide a holistic approach to forest management, rather than just management of timber resources.

REPRESENTATIVE EXPERIENCE

- Lead Consultant - CalFire fuels treatment projects (*SD and Riverside Counties*)
- Lead Consultant and supervisor of harvest activities – San Diego Gas and Electric Bark Beetle Tree Removal Project (*San Diego*)
- Crew Leader - Hillslope Monitoring Program (*CalFire: throughout California*)
- Consulting Forester – Forest inventories and timber harvest projects (*various clients throughout California*)

Grant Writing and Technical Editing

Mr. Cashen has prepared and submitted over 50 proposals and grant applications. Many of the projects listed herein were acquired through proposals he wrote. Mr. Cashen's clients and colleagues have recognized his strong scientific writing skills and ability to generate technically superior proposal packages. Consequently, he routinely prepares funding applications and conducts technical editing for various clients.

PERMITS

U.S. Fish and Wildlife Service Section 10(a)(1)(A) Recovery Permit for the Peninsular bighorn sheep

PROFESSIONAL ORGANIZATIONS / ASSOCIATIONS

The Wildlife Society

Cal Alumni Foresters

Mt. Diablo Audubon Society

OTHER AFFILIATIONS

Scientific Advisor and Grant Writer – *The Red Panda Network*

Scientific Advisor – *Mt. Diablo Audubon Society*

Grant Writer – *American Conservation Experience*

TEACHING EXPERIENCE

Instructor: Wildlife Management - The Pennsylvania State University, 1998

Teaching Assistant: Ornithology - The Pennsylvania State University, 1996-1997

PUBLICATIONS

Gutiérrez RJ, AS Cheng, DR Becker, S Cashen, et al. 2015. Legislated collaboration in a conservation conflict: a case study of the Quincy Library group in California, USA. Chapter 19 *in*: Redpath SR, et al. (eds). *Conflicts in Conservation: Navigating Towards Solutions*. Cambridge Univ. Press, Cambridge, UK.

Cheng AS, RJ Gutiérrez RJ, S Cashen, et al. 2016. Is There a Place for Legislating Place-Based Collaborative Forestry Proposals?: Examining the Herger-Feinstein Quincy Library Group Forest Recovery Act Pilot Project. *Journal of Forestry*.

COUNTY OF MONTEREY

168 W. Alisal St, 1st Floor, Salinas, CA 93902



RECEIVED FROM

., *Jimenez salvador jr trust*

(415) 369-9400

UNIT: 8020 - Clerk of the Board

Date: 12/20/2024

Receipt Number: COB-000536

RECEIPT OF PAYMENT

DESCRIPTION	UNIT PRICE	QTY.	TOTAL
Zoning Appeal	\$3,716.10	1	\$3,716.10

Cash Amount	\$0.00
Check Amount	\$3,716.10
Check/Mo Number	1027

Amount Due	\$3,716.10
Amount Paid	\$3,716.10
Change	\$0.00
Balance	\$0.00

NOTES: