



September 29, 2025

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 San Mateo County Planning and Building Department  
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Subject: Smilin Dogs, Mitigation Negative Declaration, SCH No. 2025090853,  
 San Mateo County

Dear Summer Burlison:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from San Mateo County Planning and Building Department (County) for the Smilin Dogs Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

#### **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

#### **California Endangered Species Act and Native Plant Protection Act**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA or Native Plant Protection Act (NPPA), either during construction or over the life of the Project. Under CESA, take is defined as "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." Issuance of an ITP is subject to CEQA documentation. If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to

<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.

Summer Burlison, Senior Planner  
 San Mateo County Planning and Building Department  
 September 29, 2025  
 Page 2

CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. Fully protected species may not be taken or possessed at any time (Fish and Game Code, §§ 3511, 4700, 5050, and 5515).

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080 et. seq.

### **Lake and Streambed Alteration**

CDFW requires a Lake and Streambed Alteration (LSA) Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Any impacts to the mainstems, tributaries and floodplains or associated riparian habitat would likely require an LSA Notification. CDFW, as a responsible agency under CEQA, will consider the MND for the Project. CDFW may not execute a final LSA Agreement until it has complied with CEQA as the responsible agency.

### **Raptors and Other Nesting Birds**

CDFW has authority over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

### **Fully Protected Species**

Fully protected species, such as San Francisco garter snake (*Thamnophis sirtalis tetrataenia*, SFGS) may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process.

Summer Burlison, Senior Planner  
San Mateo County Planning and Building Department  
September 29, 2025  
Page 3

## PROJECT DESCRIPTION SUMMARY

**Proponent:** San Mateo County Planning and Building Department

**Objective:** The Project is seeking an After-the-Fact Coastal Development Permit (CDP), Planned Agricultural District Permit, Architectural Review Permit, and Kennel Permit to allow for a dog walking operation for a maximum of 75 dogs per day (Monday – Friday, 10:00 a.m. to 3:00 p.m., no weekends) within a fenced 23-acre portion of a 150-acre parcel located in San Gregorio. The dog walking operation supports a doggy daycare business, Smilin Dogs, located in the City of San Carlos, California. The subject San Gregorio project site is a day-use exercise/walking venue for the business. The project also proposes to legalize a five-stall carport structure and three cargo storage containers that support the dog walking activity. A regularly serviced portable toilet is onsite for staff use.

**Location:** Unincorporated San Gregorio, San Mateo County, La Honda Road and Seaside-School Road, and Latitude 37.322987, Longitude -122.376645.

**Timeframe:** To be determined

## COMMENTS AND RECOMMENDATIONS

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

### I. Project Description and Related Impact Shortcoming

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife (USFWS)?**

**COMMENT 1:** California Red-Legged Frog and San Francisco Garter Snake

**Issue:** The Project site is located in uplands adjacent to riparian and pond areas that may provide habitat for California red-legged frog (*Rana draytonii*, CRLF) and San Francisco garter snake. The Biological Impact Form prepared by Coast Ridge Ecology for the Project acknowledges the project site has potentially suitable habitat for these species but precludes or minimizes potential species presence due to project activities maintaining unfavorable upland habitat conditions ("due to the consistent usage of these fields by the dogs, and occasional seasonal mowing," page 15). The MND also appears to use a narrowly focused interpretation of species life-history requirements reliant on lack of cover without consideration to all aspects of species habitat usage (e.g., use of burrows, migration corridors, etc). Additionally, the project references limited survey efforts, relying on one 3-hour field survey in late December 2023. Without additional mitigation measures in place, the Project and its ongoing mowing and dog-walking activities would have potentially significant impacts on biological resources.

Ongoing dog-walking operations, field mowing and construction in and adjacent to suitable habitat could potentially result in direct and indirect take of CRLF or SFGS. Mowing in upland areas could injure or kill CRLF or SFGS if they are basking or moving between burrows and aquatic foraging habitat, which could potentially result in a substantial reduction of their populations. Indirect take may occur due to upland habitat loss and degraded site suitability due to the presence of dogs, people, and fencing, which could restrict CRLF and SFGS movement between upland and

Summer Burlison, Senior Planner  
San Mateo County Planning and Building Department  
September 29, 2025  
Page 4

aquatic habitats and thus prevent these species from completing all stages of their life cycles.

The MND includes two mitigation measures intended to avoid Project impacts to CRLF and SFGS: Mitigation Measure 1 requires removal of straw bales and objects that could provide upland habitat refugia, and Mitigation Measure 2 establishes a worker education program to train each staff person working on the Project site in identifying CRLF and SFGS and the protocols to follow should these species be encountered. Information presented in the Biological Impact Form indicates there is potentially suitable CRLF and SFGS upland and aquatic habitat within and adjacent to the Project site that would remain even if straw bales and anthropogenic materials in uplands are removed from the site per Mitigation Measure 1. Mitigation Measure 2 does not describe the protocol that would be followed if CRLF or SFGS are encountered, and it is unclear who would be included as a "staff person" required to receive a worker education training. Further, there are no mitigation measures proposed to avoid potential impacts to CRLF and SFGS due to biannual mowing in uplands and the presence of dogs and humans in potentially suitable CRLF and SFGS habitat. For these reasons, Mitigation Measures 1 and 2 are not sufficient to mitigate potential project impacts to CRLF or SFGS to a less-than-significant level.

**Specific impact, why impact would occur, and evidence impact would be significant:** CRLF is a species listed as threatened under the Federal Endangered Species Act (ESA) and is a California Species of Special Concern (SSC), and SFGS is a State Fully Protected species and listed as endangered under CESA and federal ESA. CRLF and SFGS require a variety of habitats, including aquatic breeding habitat and upland dispersal habitat.

CRLF breeding sites occur in aquatic habitats including pools and backwaters within streams and creeks, ponds, marshes, springs, sag ponds, dune ponds and lagoons. (USFWS 2002). Upland dispersal habitat includes nearly any area within one to two miles of a breeding site that stays moist and cool through the summer, such as aquatic habitat in pools of slow-moving streams, perennial or ephemeral ponds, and sheltering habitat in and amongst rocks, small mammal burrows, logs, densely vegetated areas, and even man-made structures (i.e., culverts, livestock troughs, spring-boxes, and abandoned sheds) (USFWS 2017). CRLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, mining, overgrazing by cattle, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators such as bullfrogs are the primary threats to the species (Thomson et al. 2016, USFWS 2017).

SFGS are endemic snakes with a highly limited range in the San Francisco Peninsula. They utilize a variety of habitats including upland sites for basking, rodent burrows for shelter and low-lying marsh for feeding and reproduction (USFWS 1985). In coastal areas, SFGS may hibernate during the winter in small mammal burrows (USFWS, 2007). SFGS are threatened by loss of habitat from agricultural, commercial, and urban development, illegal collection by reptile breeders, and decline of their prey species, California red-legged frog. Coastridge Ecology biologists documented the presence of fossorial and semi-fossorial mammals including California meadow vole and Botta's pocket gopher, which dig burrows in uplands, creating potential habitat for CRLF and SFGS. Further, Sierran treefrogs (*Pseudacris sierra*), a common prey species of SFGS, were observed in/adjacent to the Project site.

Though no CRLF or SFGS were documented within the Project site or adjacent aquatic habitat, the presence of burrowing mammals indicates the upland areas may provide suitable habitat for SFGS and CRLF, the presence of Sierran treefrogs in nearby aquatic habitat may provide SFGS forage, and the cattail-ringed irrigation

Summer Burlison, Senior Planner  
 San Mateo County Planning and Building Department  
 September 29, 2025  
 Page 5

pond could provide suitable CRLF breeding habitat. Sufficiently rigorous survey efforts at appropriate times of the year are essential to conclusively determine whether CRLF and/or SFGS utilize the habitat that exists within and adjacent to the Project site, particularly given the many factors indicating the potential suitability of the area to support CRLF and SFGS. CRLF and SFGS are known to migrate through and between suitable habitats and periodic surveys are necessary to accurately assess species presence on the landscape.

CRLF and SFGS are federally listed as threatened and CESA-listed as endangered species, respectively, and therefore are threatened or endangered species pursuant to CEQA Guidelines section 15380. Therefore, if CRLF or SFGS are injured or killed, or their habitat is removed as a result of the Project, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species or endangered species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommendation 1:** CDFW recommends that the MND include the following mitigation measure to ensure that impacts to CRLF and SFGS are fully avoided:

**Recommended CRLF and SFGS Mitigation Measure:** Prior to commencement of Project activities, focused surveys for CRLF and SFGS shall be conducted by a CDFW-approved qualified biologist experienced with CRLF and SFGS identification and life histories. Surveys shall follow protocols approved by CDFW.

If the results of focused surveys indicate CRLF and/or SFGS are present within or adjacent to the Project area, the Project proponent, in coordination with CDFW, shall create and implement additional measures to avoid all impacts to state and federally listed and fully protected species and their habitat.

**Recommended SFGS Mitigation Measure:** Prior to project mowing activities, a SFGS avoidance plan shall be prepared for implementation in coordination with CDFW. The SFGS avoidance plan shall be prepared by a qualified biologist experienced in the natural life history requirements of SFGS. At a minimum the SFGS avoidance plan shall include the following elements:

- Depict locations of mowing with respect to grasslands, wetlands, riparian vegetation and dense vegetation surrounding any ponds on a map. Create habitat buffers and avoid mowing areas that are sensitive or have increased potential for SFGS presence such as dense wetland vegetation areas;
- Require a biological monitor on-site proficient in SFGS identification to walk ahead of the mower if mowing occurs during the months February-November;
- Avoid mowing during peak active SFGS periods to the greatest extent feasible. SFGS are less active and often underground during late fall to early spring months;
- Increase mowing blade heights to cut grass as high as possible, i.e., eight inches;
- Limit mowing speed to a sufficiently slow rate to allow any undetected SFGS to leave on its own volition unharmed; and
- Implement sensitive species worker education for project staff and workers.

Summer Burlison, Senior Planner  
 San Mateo County Planning and Building Department  
 September 29, 2025  
 Page 6

If any CRLF or SFGS take occurs or if either of these species are detected, CDFW shall be contacted immediately, and location information and photo documentation of the individual(s) shall be provided.

**COMMENT 2: Northwestern Pond Turtle**

**Issue:** The Project site is located in uplands adjacent to riparian and pond areas that may provide habitat for Northwestern Pond turtle (*Actinemys marmorata*, NWPT). Ongoing dog-walking operations, field mowing, and construction in and adjacent to suitable NWPT habitat could potentially result in direct and indirect take of NWPT. Mowing in upland areas could injure or kill NWPT if they are basking or moving between upland and aquatic habitat. Indirect take may occur due to upland habitat loss and degraded site suitability due to mowing and the presence of dogs and people. Resultant noise could disrupt NWPT basking, nesting, and foraging in aquatic or terrestrial habitat and prevent NWPT from completing all stages of their life cycle.

Mitigation Measures 1 and 2 in the Project MND are intended to reduce potential impacts to NWPT to less-than-significant levels. However, neither of these measures adequately describe how ongoing Project operations could disrupt NWPT basking and movement between aquatic and upland areas, nor how those potential impacts from ongoing operations would be avoided, minimized, and mitigated. Further, Mitigation Measure 2 does not describe the protocol that would be followed if NWPT are encountered, and it is unclear who would be included as a “staff person” required to receive worker education training. The Project mitigation measures, as proposed, would not reduce potential impacts to NWPT or their habitat to less-than-significant levels.

**Specific impact, why impact would occur, and evidence impact would be significant:** NWPT is a State SSC and a candidate for listing under the federal ESA. NWPT are semi-aquatic and occupy a variety of aquatic and terrestrial habitats (USFWS 2023). Terrestrial environments are required for nesting, overwintering and aestivation, basking, and overland dispersal. Aquatic environments are required for breeding, feeding, overwintering and sheltering, basking, and dispersal. NWPT basking is essential to their ability to thermoregulate and, in turn, perform physiological functions such as metabolism, digestion, reproduction, growth, and immune response. Local movements between aquatic and terrestrial habitats are typically less than 500 meters (Reese and Welsh Jr 1997), and thus contiguous, adjacent habitat types are highly important for NWPT to complete all stages of their life cycle. NWPT populations are experiencing a decline in resiliency due to impacts from land conversion, bullfrog predation, increasing drought, and anthropogenic environmental change (USFWS 2023).

The Biological Impact Form prepared by Coastridge Ecology for the Project states that the “irrigation pond and San Gregorio Creek just north of the project site could provide suitable habitat” for NWPT, and that there is “moderate potential” for this species to utilize uplands within the Project site (Local Coastal Program Biological Impact Form For 123 Seaside-School Road, page 18). Though the field survey performed by Coastridge Ecology did not result in any NWPT detections, this may be because the survey was performed on a drizzly, cool day in late December 2023, during a time of year unlikely to see NWPT basking or moving between aquatic and terrestrial habitats. Sufficiently rigorous survey efforts at appropriate times of the year are essential to conclusively determine whether NWPT occupy the habitat that exists within and adjacent to the Project site.

NWPT is a candidate for federal listing under the Federal ESA and therefore is considered to be a threatened or endangered species pursuant to CEQA Guidelines section 15380. Therefore, if NWPT are injured or killed, or their habitat is removed as a result of the Project, the Project may result in a substantial reduction in the

Summer Burlison, Senior Planner  
San Mateo County Planning and Building Department  
September 29, 2025  
Page 7

number or restriction in the range of a threatened species or endangered species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommendation 2:** CDFW recommends that the MND include the following mitigation measure to ensure that impacts to NWPT are fully avoided:

**Recommended NWPT Mitigation Measure:** Prior to Project construction or continuation of ongoing Project activities including dog walking and mowing in uplands adjacent to riparian areas and the irrigation pond, focused surveys for NWPT shall be conducted by a CDFW-approved qualified biologist experienced with NWPT identification and life histories. Surveys shall follow protocols approved by CDFW.

If the results of focused surveys indicate NWPT are present within or adjacent to the Project area, the Project proponent, in coordination with CDFW, shall create and implement additional measures to avoid, minimize, and mitigate all impacts to NWPT and their habitat. These measures could include, at a minimum, establishing best management practices for ongoing Project operations, creating buffers of sufficient size to protect habitat resources, and implementing worker education programming for construction workers, dog walkers, and all individuals who would be accessing and working in the Project site.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Shannon Husband, Environmental Scientist, at (707) 337-1364 or [Shannon.Husband@wildlife.ca.gov](mailto:Shannon.Husband@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Erin Chappell*  
B77E9A6211EF486  
Erin Chappell  
Regional Manager  
Bay Delta Region

Summer Burlison, Senior Planner  
San Mateo County Planning and Building Department  
September 29, 2025  
Page 8

ec: Office of Planning and Research, State Clearinghouse, Sacramento

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