



## TOWN OF MORAGA PLANNING DEPARTMENT

Staff Use

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### BIOLOGIST'S STATEMENT OF HABITAT

Senate Bill 9 (SB 9) of 2021 and SB 35 of 2017 both require that a development or subdivision proposed under the law satisfy the requirement of Government Code Section (GCS) 65913.4(a)(6)(J), that the site not be located on any parcel that is:

*"Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code)."*

The preceding text refers to "**Habitat**" as used herein. While this definition calls out three lists of species by name, those three do not constitute an exhaustive list of species for which Habitat is excluded under SB 9. The California Department of Fish and Wildlife (CDFW), United States Fish and Wildlife Service (USFWS), and other State or federal agencies also maintain lists of candidates, sensitive, or special status species whose habitat qualifies as Habitat under this definition. Habitat does not need the current presence of a protected species to qualify as Habitat for said species.

This form is intended to determine whether a development and/or subdivision being proposed under this law is located on a parcel containing any Habitat. If at any point, it is determined by a biologist that a parcel contains Habitat, it is not eligible for SB 9 or SB 35. If no Habitat exists on a parcel, then the parcel may be eligible for SB 9 or SB 35, assuming all other criteria are met. Failure by an applicant to disclose known Habitat may disqualify a project from SB 9 or SB 35 consideration.

Moraga Planning Staff will determine if the parcel(s) have potential for Habitat of sensitive species, generally this will be when a project is within 100 feet of a wetland, creek or riparian area, or if within a ½ mile of critical habitat. Establishing whether Habitat exists on the parcel(s) requires a determination by a qualified biologist. The qualified biologist shall conduct a site visit and provide a statement in accordance with the requirements herein for the applicant to submit this Biologist's Statement of Habitat to the Moraga Planning Department when trying to obtain the Planning clearance for a SB 9 Urban Housing Development, filing for an SB 9 Urban Lot Split, or SB 35 application.

\*\*\* CEQA thresholds of significance for a significant impact to biological resources do not apply to an SB 9 or SB 35 Habitat determination. SB 9 and SB 35 proceedings are ministerial and, thus, CEQA thresholds are not relevant to the process. The only question for SB 9 and SB 35 pertains to the presence of any habitat fitting the definition above, or the lack thereof.

Project Site Address: \_\_\_\_\_

Accessor Parcel Number(s): \_\_\_\_\_

Does the project site contain any wetland, creek, riparian, or any other potential Habitat(s)? YES   NO

If yes, check here to attest that a Habitat Integrity Analysis was performed on all potential Habitat in accordance with the guidance on Page 3 of this form. YES   NO

If any Habitat Integrity Analyses were performed, did any of the potential Habitat maintain integrity? YES   NO

Does the project site contain any Habitat(s) as defined in GCS 65913.4(a)(6)(J)? YES   NO

I attest that I am a Qualified Biologist who meets the following criteria:

**Qualified Biologist.** *A person with the appropriate education, training, and experience to conduct biological surveys, monitor Project activities that have the potential to affect biological resources, provide construction worker education programs related to the protection of biological resources, and supervise or perform other tasks related to biological resources; possesses a Bachelor of Science degree or Bachelor of Arts degree in biology, ecology, or a related environmental science; has at least five years of professional experience that requires knowledge of natural history, habitat affinities, and identification of flora and fauna species, and relevant local, state and federal laws and regulations governing the protection of biological resources; and meets the [CDFW qualifications](#)<sup>1</sup> for botanical field surveyors.*

I attest to the accuracy, to the best of my professional qualifications, of the habitat determination made above and the analysis supporting that determination.

Name of Qualified Biologist: \_\_\_\_\_

Signed Attestation of Qualifications: \_\_\_\_\_

Date Signed: \_\_\_\_\_

A Biologist's Statement with the following contents shall be attached:

- Date(s) of Site Visit(s)
- Existing Site Plan
- Literature Review, including California Natural Diversity Database (CNDDB) records of sensitive species within 500 feet of the project site.

Photos, Location, and Description of any on-site:

- Native vegetation
- Any of the trees listed in Appendix A
- Any species on CDFW's [Special Vascular Plants, Bryophytes, and Lichens list](#)<sup>2</sup> Natural water

<sup>1</sup> CDFW Qualifications for Qualified Biologist: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

<sup>2</sup> CDFW Special Vascular Plants, Bryophytes, and Lichens List, April 2023:  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>

resources (creeks, wetlands, etc.)

- Fauna specimens, or evidence of wildlife nesting, foraging, or passage
- Potential habitat areas such as rock outcroppings, caves, cliffs, thickets, etc.

2. Identification of the presence of any wetland, creek, riparian, or any other potential Habitat
3. Narrative and analysis of potential habitat observed and whether it qualifies as Habitat for any sensitive species as defined in Section 65913.4(a)(6)(J) of the Government Code, including, but not limited to those found on [CDFW's special and sensitive status species lists<sup>3</sup>](#).
4. A Habitat Integrity Analysis of any potential habitat occurring on the project site, including, but not limited to any wetland, creek, riparian or other vegetative associations; any species or communities identified by CDFW as having a Global or State rarity rank of 1 – 3; other State or federal-identified species found on site; or other habitat. The Habitat Integrity Analysis must determine whether the Habitat currently or periodically contains the resources and conditions necessary to functionally support one or more life processes of the identified species. Note that SB 9 and SB 35 only require a determination on the presence of any habitat fitting the definition above, or the lack thereof. Additionally, the presence of a CDFW California Natural Community or Habitat for a listed species, which is shown to maintain integrity in a Habitat Integrity Analysis, disqualifies a project site from SB 9 and SB 35 consideration under Section 65913.4(a)(6)(J) of the Government Code.
5. Biologist's Proof of Qualifications

The entire project site should be surveyed for flora, fauna, wildlife corridors, and water resources. The entire project site must be walked to the extent physically possible. Note if any surveying was conducted through binoculars or other methods due to terrain or trespassing issues.

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<sup>3</sup> Including but not limited to CDFW Special Animals List, April 2022:  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline>.

## Appendix A

### Required Trees

A Tree is a live woody plant having a single trunk diameter of five (5) inches or more, measured three (3) feet above the natural grade or, if having multiple trunks, a total perimeter of forty (40) inches or more measured three (3) feet above the natural grade per Moraga Municipal Code (MMC)§ 12.12.020. Any parcel being evaluated for a Biologist's Statement of Habitat for SB9 and SB35 shall document any Native Tree(s), Orchard Tree(s), and Tree(s) of Historic Significance species listed and evaluate as potential habitat for sensitive species.

### Tree Species

*Acer macrophyllum* – Big Leaf Maple

*Acer negundo* [*Acer negundo* var. *californicum*] – Box Elder

*Aesculus californica* - Buckeye

*Alnus rhombifolia* – White Alder

*Alnus rubra* – Red Alder

*Arbutus menziesii* – Madrone, Pacific Madrone

*Ceanothus oliganthus* var. *sorediatus* – Jim Bush

*Cercocarpus betuloides* var. *betuloides* – Mountain Mahogany

*Chrysolepis chrysophylla* var. *minor* – Golden Chinquapin

*Corylus cornuta* subsp. *Californica* [*Corylus cornuta* var. *californica*] – Filbert, Hazel

*Euonymus occidentalis* var. *occidentalis* – Burning Bush

*Forestiera pubescens* – Desert Olive

*Fraxinus dipetala* – Foothill Ash, California Ash

*Fraxinus latifolia* – Oregon Ash

*Hesperocyparis sargentii* [*Cupressus sargentii*] – Sargent Cypress

*Juglans hindsii* [*Juglans californica* var. *hindsii*] – Black Walnut

*Juniperus californica* – California Juniper

*Morella californica* [*Myrica californica*] – Wax Myrtle

*Pinus attenuata* – Knobcone Pine

*Pinus coulteri* – Coulter Pine, Big Cone Pine

*Pinus sabiniana* – Gray Pine, Foothill Pine

*Platanus racemosa* – Western Sycamore

*Populus fremontii* subsp. *fremontii* – Fremont Cottonwood

*Populus trichocarpa* [*Populus balsamifera* ssp. *trichocarpa*] – Black Cottonwood

*Prunus emarginata* – Bitter Cherry

*Prunus ilicifolia* subsp. *ilicifolia* – Holly Leaf Cherry

*Prunus virginiana* var. *demissa* – Western Choke-Cherry

*Quercus agrifolia* var. *agrifolia* – Coast Live Oak

*Quercus berberidifolia* – Scrub Oak

*Quercus chasei* – Gander Oak

*Quercus chrysolepis* – Canyon Live Oak, White Live Oak, Maul Oak

*Quercus douglasii* – Blue Oak, Iron Oak

*Quercus durata* var. *durata* – Leather Oak

*Quercus kelloggii* – California Black Oak

*Quercus lobata* – Valley Oak, Roble

*Quercus palmeri* – Palmer's Oak

*Quercus wislizeni* var. *frutescens* – Interior Live Oak

*Quercus wislizeni* var. *wislizeni* – Interior Live Oak

*Salix exigua* – Sandbar Willow, Narrow-Leaved Willow

*Salix gooddingii* – Gooding's Black Willow

*Salix laevigata* – Red Willow

*Salix lasiolepis* – Arroyo Willow

*Salix lasiandra* var. *caudata* [*Salix lucinda* ssp. *lasiandra*] – Shining Willow

*Salix scouleriana* – Scouler's Willow

*Sambucus nigra* subsp. *caerulea* [*Sambucus mexicana*] – Blue Elderberry

*Sambucus racemosa* var. *racemosa* – Red Elderberry

*Sequoia sempervirens* – Coast Redwood

*Umbellularia californica* – California Bay Laurel