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GAVIN NEWSOM, Governor
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August 6, 2020

Governor's Office of Planning & Research

Aug 07 2020

Mr. George Osner
City of Dixon, Department of Community Development **STATE CLEARINGHOUSE**
600 East A Street
Dixon, CA 95620
gosner@cityofdixon.us

Subject: Dixon General Plan 2040, Draft Environmental Impact Report, SCH No. 2018112035, Solano County

Dear Mr. Osner:

The California Department of Fish and Wildlife (CDFW) reviewed the draft Environmental Impact Report (EIR) provided for the Dixon General Plan 2040 (Project) located within the City of Dixon, Solano County.

CDFW previously submitted comments on the Notice of Preparation for the Project on December 14, 2018, included in the draft EIR in Appendix A, pages 41 to 44. Thank you for reviewing and including our comments.

CDFW is a trustee agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and has authority to comment on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a responsible agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

PROJECT DESCRIPTION AND LOCATION

Proponent: City of Dixon

Objective and Location: The Project is an update to the City of Dixon 1993 General Plan, including previous updates to specific sections of the General Plan from 2005 and 2010, through the year 2040. The Project location covers the entirety of the City of Dixon as well as surrounding unincorporated Solano County which could be incorporated into Dixon within the life of the Project. Specific changes to the General Plan include updates to policies, diagrams, and programs, and identification of maximum thresholds for land use categories and planned buildout within the Project area by the year 2040. The draft EIR notes the total amount of potential development within the Project area in Table 2-2 which includes an approximately 118% increase in residential land use, 933% increase in mixed use and commercial land use, and a 99%

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decrease in agricultural land use from present conditions; however, the draft EIR “assumes that only a portion of the total potential development will occur by 2040” (page 2-25).

ENVIRONMENTAL SETTING

Located in the City of Dixon and surrounding areas, the Project area encompasses approximately 5,522 acres. The Project area is approximately 3 miles south of Putah Creek, approximately 11 miles northeast of the City of Vacaville, and approximately 15 miles west of the Sacramento River. Approximately 39% of the Project area is agriculture, which includes orchards, vineyards, and row and field crops. The rest of the Project area is a mix of mostly developed land use types including residential, mixed use, commercial, and industrial. Habitat types include annual grassland, fresh emergent wetland, valley foothill riparian, and open water. Special-status species with the potential to occur in the Project area include, but are not limited to, Swainson’s hawk (*Buteo swainsoni*), giant garter snake (*Thamnophis gigas*), burrowing owl (*Athene cunicularia*), adobe lily (*Fritillaria pluriflora*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), vernal pool fairy shrimp (*Branchinecta lynchi*), and white-tailed kite (*Elanus leucurus*).

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist City of Dixon 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.

Tiering and Subsequent Project Checklist

The draft EIR is identified as a Program EIR that “can be used as the basic, general environmental assessment for an overall program of future projects” (page 1-3). CDFW strongly supports the draft EIR’s clear documentation that future “individual projects are required to prepare a more precise, project-level analysis to fulfill CEQA and/or NEPA requirements” (page 1-3). This ensures a site-specific environmental assessment of future projects, including biological resources that may be significantly impacted. However, the draft EIR still anticipates tiering and describes that “subsequent projects will be reviewed by the City for consistency with the proposed General Plan and this EIR” (page 2-29). CDFW recognizes that, pursuant to CEQA Guidelines section 15152 subdivision (c), where a lead agency is using the tiering process referenced above in connection with an EIR or a large-scale planning approval, the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document. This

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future environmental document would cover a project of a more limited geographical scale and is appropriate as long as the deferred information does not prevent adequate identification of significant effects of the planning approval at hand. Based on CEQA Guidelines section 15183.3 and associated *Appendix N Checklist*, CDFW recommends creating a procedure or checklist for evaluating subsequent projects based on biological resources. This checklist should be included as an attachment to the draft EIR. Future analysis should include all rare, threatened and endangered species and should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). The draft EIR should include the reasonably foreseeable direct and indirect changes (temporary and permanent) that may occur with implementation of the Project (pursuant to CEQA, § 15355). The checklist should cite the specific portions of the draft EIR, including page and section references, containing the analysis of the subsequent Project activities' significant effects and indicate whether it incorporates all applicable mitigation measures from the draft EIR.

Recommended Mitigation Measures

The draft EIR does not identify any specific biological resource Mitigation Measures that would reduce or minimize the potentially significant effects of subsequent activities under the Program EIR (pages 3.4-20 to 3.4-31). Rather, it identifies and references "relevant policies and implementing actions" in the General Plan which are intended to address potential impacts to biological resources. As these are only referenced, CDFW is concerned that future projects may not adhere to these standards which could lead to potentially significant impacts to the environment. The draft EIR should provide broad Mitigation Measures appropriate for a Program EIR that can be implemented and expanded upon by future projects.

To reduce impacts to less-than-significant, CDFW recommends that the City of Dixon include the below Mitigation Measures in this draft EIR, which would apply broadly throughout the Project area.

Mitigation Measure BIO-1: Biological Studies for New Development

Project applicants shall be required to provide a biological assessment for projects on parcels with indicators of sensitive biological features, such as waterways or vegetation. A biological assessment will be conducted by a qualified biologist and will include a data review and habitat assessment prior to project activities to identify whether any special-status plant or animal species' habitat or sensitive natural communities occur on-site. The data reviewed will include the biological resources setting and special-status species lists in the draft EIR (Chapter 3.4), and best available, current data for the area, including a current review of the California Natural Diversity Database. Habitat assessments will be completed at an appropriate time of year for identifying potential habitat and no more than one year prior to Project activity commencement. The purpose

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of these assessments is to identify appropriate measures to avoid or minimize harm to sensitive biological resources and to incorporate the recommended measures as conditions of approval of the project. Based on the results of the biological assessment, the qualified biologist will identify the locations of any potential biological resources on-site and will provide site-specific measures to completely avoid those areas. If avoidance is infeasible, Mitigation Measure BIO-2, will be implemented. Detailed assessments may not be necessary in locations where past and existing development have eliminated natural habitat and the potential for the presence of sensitive biological resources.

Mitigation Measure BIO-2: Biological Resources Inventory for New Development

A detailed inventory of biological resources conducted by an independent, professionally qualified biologist, plant ecologist, arborist, or appropriately qualified specialist shall be required for projects in sensitive and vulnerable habitats, as identified in BIO-1. A biological resources inventory will include seasonally appropriate, protocol-level surveys for all sensitive species or natural communities potentially in the area. If sensitive resources are identified on the project site, recommendations to protect the sensitive resources shall conform with applicable State and federal regulations regarding their protection, including obtaining all relevant regulatory permits (see Chapter 3.4, Regulatory Setting, pages 3.4-16 to 3.4-20) and may include avoidance of the resource, providing setbacks, clustering development onto less sensitive areas, preparing restoration plans, off-site mitigation, and/or other similar measures as determined on a project-specific basis.

Mitigation Measure BIO-3: Nesting Bird Protection

All discretionary projects shall retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) at most 7 days prior to activities that may remove or disturb trees or vegetation. If nests are observed, the qualified biologist(s) shall identify and the project sponsor shall implement appropriate avoidance measures, such as fenced buffer areas or staged tree removal periods, based on the natural history of the nesting species. The Lead Agency shall consult with CDFW if nesting birds listed pursuant to CESA are discovered on-site.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Permit is warranted if the Project has the potential to result in "take" 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

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monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA §§ 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.

Lake and Streambed Alteration Agreement

CDFW will require an LSA Agreement, pursuant to Fish and Game Code §§ 1600 et. seq. for Project-related activities within any waters within the proposed Project area that fall under LSA authority. Notification is required for any activity that will 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, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. Work within irrigation drainages and ditches may also be subject to notification requirements. CDFW, as a responsible agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code § 21000 et seq.) as the responsible agency.

Migratory Birds and Raptors

CDFW also has jurisdiction 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). Fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511). Migratory raptors are also protected under the federal Migratory Bird Treaty Act.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.

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CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist City of Dixon in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Amanda Culpepper, Environmental Scientist, at amanda.culpepper@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at karen.weiss@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH #2018112035)