State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

May 10, 2018

Ms. Alexis Morris, Planning Manager
City of Antioch Community Development Department
Post Office Box 5007
Antioch, CA 94531

Dear Ms. Morris:

Subject: The Ranch Project, Draft Environmental Impact Report, SCH #2017082033, Contra Costa County

The California Department of Fish and Wildlife (CDFW) has reviewed the draft Environmental Impact Report (draft EIR) for the proposed The Ranch Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines. In accordance with our mandates, CDFW is submitting comments on the draft EIR as a means to inform the City of Antioch (City), as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

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 and Game Code, §§ 711.7, subd. (a) and 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 regulatory authority. (Fish and Game 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 and Game Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

The proposed Project is located in the southeastern portion of the City of Antioch in eastern Contra Costa County, California. The Project site is located within the San Creek Focus Area of the General Plan, which contains lands designated by the Antioch General Plan for openspace, residential, commercial, and mixed-use development. The Project site is surrounded by a

single-family residential subdivision to the north, undeveloped land to the south (planned for future residential), Deer Valley Road, and Kaiser Permanente Antioch Medical center to the east, and undeveloped land and Empire Mine Road (planned for future residential) to the west.

The proposed Project consists of a residential development on 551.5 acres of primarily undeveloped land, including multiple single-family residential neighborhoods, various public facilities and amenities, and circulation and access improvement, as well as associated infrastructure improvement to serve the proposed planned community. The proposed Project includes two scenarios: a Multi-Generational Plan and a Traditional Plan. The Multi-Generational Plan would include a wide range of housing, including active adult housing, while the Traditional Plan would include only all-ages housing, and would not include active adult housing. Buildout of the Project would occur over the course of a number of years, as dictated by the economy and demand for new housing in the Project area. For the purposes of the CEQA analysis presented in this EIR, and base on the information regarding buildout of the Project provide by the Project applicant, build out of the Project is anticipated to occur over three phases, starting from east to west and from north to south, with the infrastructure and amenities corresponding to new unit demands. Although actual buildout of the Project may occur in more than three phases, analyzing potential environmental impacts under a three-phase development scenario provides an environmental worst-case analysis, thus should the Project be constructed over a longer phasing period, environmental impacts of the proposed Project would likely be less than the impacts analyzed in this draft EIR. Phasing would be similar for both proposed development scenarios.

Currently, the site is zoned Study Area (S) and has a cattle-grazing operation, a rural single-family residence, and various barns and outbuildings located on the eastern portion of the site. Historical uses of the site include grazing and limited natural gas exploration. The Project would require a rezone to change the zoning designation of the Project site from S to Planned Development (PD).

Sand Creek, a tributary of Marsh Creek, flows west to east through the proposed Project site. The topography of the site is varied, ranging from relatively level areas in the eastern and central portions of the site, gently-sloping hills immediately north and south of San Creek, and moderate to steep slopes in the western portion of the site. Elevations throughout the site range from approximately 200 feet to 500 feet above mean sea level.

The majority of the Project site consists of undeveloped grassland used primarily for livestock grazing. Sixteen (16) tree species and 255 individual trees were mapped within the Project site. The trees occur primarily within the southwestern portion of the Project site along Sand Creek. On-site native tree species include California buckeye, blue oak, valley oak, and interior live oak. Three vegetation communities and land cover types within the Project area include annual grassland, ruderal community vegetation, and developed land.

CDFW COMMENTS

General

Projects within the sphere of influence of the City of Antioch are not currently, or in the near future, eligible to obtain coverage under the East Contra Costa County Habitat Conservation

Plan/Natural Community Conservation Plan (ECCC HCP/NCCP). CDFW recommends that mitigation measures 4.4-1(c)1., 4.4-3(a)1., 4.4-4 1., 4.4-5 1., 4.4-6 1, 4.4-7(e)1., 4.4-8 1., 4.4-9 1., 4.4-10(b)1., 4.4-11(b)1., 4.4-12 1., 4.4-13 1., 4.4-14 1., 4.4-15 1., and 4.4-16 1 of the draft EIR be revised to remove language that rely on compensatory mitigation through the ECCC HCP/NCCP. CDFW recommends that these measures be revised to mitigate impacts to less-than-significant levels through either full avoidance or inclusion of compensatory mitigation at a minimum of a 3:1 mitigation ratio (conservation to loss) for permanent impacts, and a 1:1 ratio for temporary impacts if impacts cannot be fully avoided.

Special-Status Plants Impacts Analysis

The draft EIR impacts analysis on special-status plants is deficient or incomplete in multiple ways. The analysis is based on a revised 2018 Biological Resource Assessment by ECORP (ECORP BRA) that is included as Appendix D in the draft EIR. The ECORP BRA bases its conclusions of special-status plant species presence, absence and potential to occur on a 2015 Draft Biological Assessment (2015 Draft BA) authored by Monk and Associates. This assessment was never finalized nor was it included as part of the public record in the draft EIR. The 2015 Draft BA was restricted to analyzing impacts to plants listed under the federal Endangered Species Act. The 2015 Draft BA states that surveys were performed according to CDFW's *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (2009). However, critical information that are part of the reporting requirements in the 2009 CDFW protocols (CDFW protocols) was missing from the copy of the 2015 Draft BA that was provided to CDFW by the Lead Agency's representative. The CDFW protocols state the following regarding survey methodology:

"When special-status plants are known to occur in the type(s) of habitat present in the project area, observe reference sites (nearby accessible occurrences of the plants) to determine whether those species are identifiable at the time of the survey and to obtain a visual image of the target species, associated habitat, and associated natural community."

The CDFW protocols state the following regarding negative findings:

"Adverse conditions may prevent investigators from determining the presence of, or accurately identifying, some species in potential habitat of target species. Disease, drought, predation, or herbivory may preclude the presence or identification of target species in any given year. Discuss such conditions in the report. The failure to locate a known special-status plant occurrence during one field season does not constitute evidence that this plant occurrence no longer exists at this location, particularly if adverse conditions are present. For example, surveys over a number of years may be necessary if the species is an annual plant having a persistent, long-lived seed bank and is known not to germinate every year."

Despite the above statement in CDFW protocols, the Draft BA comes to the highly questionable conclusion that no federally-listed plants were on the Project site based on one field season of plant surveys during one of the worst droughts on record. Nor does the ECORP BRA, the Draft BA or the draft EIR discuss the adverse conditions of the drought in their findings or impact analyses for all special-status plants.

According to the referenced CDFW protocols, to meet adequate disclosure of potential impacts the following items should be included in the botanical survey reports prepared for the environmental review process:

1. A discussion of how the timing of the surveys affects the comprehensiveness of the survey;
2. A description of the area surveyed relative to the Project area;
3. References cited, persons contacted, and herbaria visited;
4. Description of reference site(s), if visited, and phenological development of special-status plant(s);
5. A list of all taxa occurring on the project site. Identify plants to the taxonomic level necessary to determine whether or not they are a special-status species;
6. Use of existing surveys and a discussion of applicability to this project;
7. A discussion of the potential for a false negative survey;
8. A discussion of the significance of special-status plant populations in the project area considering nearby populations and total species distribution;
9. A discussion of the significance of special status natural communities in the project area considering nearby occurrences and natural community distribution;
10. A discussion of direct, indirect, and cumulative impacts to the plants and natural communities;
11. A discussion of threats, including those from invasive species, to the plants and natural communities;
12. A discussion of the degree of impact, if any, of the proposed project on unoccupied, potential habitat of the species;

The 2015 Draft BA, the ECROP BRA and the draft EIR all failed to report or disclose reporting requirements 1-12 listed above which are necessary for CDFW to evaluate the Project's impacts on special-status plant species. In addition, despite reporting requirement six above and the recommendation to do so in the peer review process, the ECORP BRA failed to disclose detections of special-status plants either on or directly adjacent to the property that are available on the public record and the California Natural Diversity Database. Given the above discussion the ECORP BRA comes to questionable conclusions since they are based on a Draft BA that did fulfill all the requirements and disclosures required by the CDFW protocols.

CDFW recommends that the special-status plant species impacts analysis in the draft EIR be revised to include at least one to two additional years of focused special-status plant surveys using reference sites to verify the blooming period for species that have been known to historically occupy the Project sites and those that have the potential to occur. In addition, CDFW recommends that all of the reporting requirements in the CDFW protocols be disclosed in a revised draft EIR impacts analysis. If the draft EIR is not revised to include the above items, then the draft EIR should operate under the assumption that the entire Project site is occupied by all special-status plant species that both historically occurred on or adjacent to the site and with the potential to occur on site.

Special-Status Plants, Mitigation Measure 4.4-1

If the draft EIR does not revise the impacts analysis to special-status plant species as recommended above, then CDFW recommends that Mitigation Measure 4.4-1 be revised to require the Project to protect in perpetuity through a conservation easement an area equivalent to three times the size of the impact area of the Project prior to construction. However, if the impacts analysis is revised as recommended above, then Mitigation Measure 4.4-1 should be revised to require to protect and conserve through a conservation easement at a 3:1 mitigation ratio (conserved area to impact area) for permanent loss of special-status plant habitats that are identified.

Mitigation Measure 4.4-1 describes measures to avoid impacts to special-status plants by establishing "avoidance zones". Foreseeable long-term indirect impacts of the Project on special-status plants that avoided include: reduced connectivity and gene flow with nearby populations; infestation of invasive plants from construction disturbance and change in land use practices; impacts from maintenance of 100 feet of defensible space around structures (see California Public Resources Code section 4291). The avoidance measures as written in Mitigation Measure 4.4-1 are insufficient to ensure full avoidance from the Project's direct and indirect impacts. If the Project is to achieve full avoidance of indirect impacts to any individual special-status plants identified on site then Mitigation Measure 4.4-1 should be revised throughout to include establishment of a buffer area by a qualified botanist of an area in size as to ensure that viable populations will persist into the foreseeable future, any seedbank is protected, the buffer area will not be encroached upon by defensible space buffers, and that connectivity with nearby populations is maintained. Buffer areas should also be required to be protected and managed in perpetuity through a conservation easement held by a land trust or other entity with approval to hold conservation lands from CDFW prior to Project construction.

If the Project is unable to achieve full avoidance of impacts to special-status plants then Mitigation Measure 4.4-1 as currently written fails to reduce these impacts to a level of less-than-significant. First, Mitigation Measure 4.4-1 in the draft EIR does not provide a feasible compensatory mitigation measures as they refer to obtaining coverage under the ECCC HCP/NCCP. To reduce direct impacts to special-status plant species to a level of less-than-significant CDFW recommends that Measure 4.4-1 be revised to require protection and management in perpetuity through a conservation easement an area equivalent to a 3:1 mitigation ratio (conserved area to impact area) for permanent loss of special-status plant habitats that are identified. A qualified botanist should calculate the area of permanent loss and their contemplation of seedbank and seed/plant dispersal should be included in the calculations. If the Project collects seeds and replants off-site according to the recommendations by CDFW below then the mitigation ration may be reduced to 2:1.

Second, if the Project cannot avoid direct impacts to special-status plants then Mitigation Measure 4.4-1 proposes to collect seed and plant the seed off-site under the direction of the City of Antioch Planning Division. The failure rate for translocation of plant species is extremely high which makes effectiveness and success of this measure questionable as written in the draft EIR. CDFW recommends that the collection and replanting of seed mitigation have the following requirements prior to Project construction: replanting sites be identified by a qualified botanist in areas that historically supported the specific species; replanting areas are managed and

protected in perpetuity under a conservation easement; and specific replanting success criteria are developed for each species/area by a qualified botanist to ensure that any replanted populations are viable into the foreseeable future.

California Red-legged Frog, Mitigation Measure 4.4-4

The draft EIR concludes that the Project area is considered occupied habitat for California red-legged frog (*Rana draytonii*; CRLF) and that Project activities have the potential for significant impact to the species. To ensure impacts to CRLF are mitigated to less-than-significant, CDFW recommends Measure 4.4-4 be revised to incorporate specific and enforceable avoidance, minimization and compensatory mitigation measures. Revisions should include: a restricted work window; biological monitoring throughout the course of the Project; and inclusion of compensatory mitigation at a minimum of a 3:1 ratio (conserved habitat to impacted habitat) for permanent impacts, and a 1:1 ratio for temporary impacts to CRLF habitats.

California Tiger Salamander, Mitigation Measure 4.4-5

The draft EIR fails to reduce permanent loss of California tiger salamander (*Ambystoma californiense*; CTS) habitat to level of less-than-significant as it does not identify compensatory mitigation.

The draft EIR concludes that the Project area is occupied habitat for CTS and Project activities have the potential for significant impact to the species and habitat. To ensure impacts to CTS are mitigated to a level of less-than-significant, CDFW recommends Mitigation Measure 4.4-5 be revised to incorporate specific and enforceable avoidance, minimization and compensatory mitigation measures. These revisions should include: a restricted work window; biological monitoring throughout the course of the Project; and inclusion of compensatory mitigation at a minimum of a 3:1 ratio (conserved habitat to impacted habitat) for permanent impacts, and a 1:1 ratio for temporary impacts to CTS habitats. Calculation of the area of impact should include an area of 1.3 miles around any breeding ponds. If take of CTS cannot be fully avoided then CDFW recommends the Project obtain CTS take coverage through an Incidental Take Permit (ITP) issued by CDFW.

Foothill Yellow-legged Frog, Mitigation Measure 4.4-6

The draft EIR fails to reduce permanent loss of foothill yellow-legged frog (*Rana boylii*; FYLF) habitat to level of less-than-significant as it does not identify compensatory mitigation to offset this impact. The draft EIR concludes that the Project area is considered occupied habitat for FYLF and Project activities have the potential for significant impact to the species and habitat. To ensure impacts to FYLF are mitigated to a level of less-than-significant, CDFW recommends Mitigation Measure 4.4-6 be revised to incorporate specific and enforceable avoidance, minimization and compensatory mitigation measures. Revisions should include a restricted work window, biological monitoring throughout the course of the Project, and inclusion of compensatory mitigation at a minimum of a 3:1 ratio (conserved habitat to impacted habitat) for permanent impacts, and a 1:1 ratio for temporary impacts to FYLF habitats. If take of FYLF cannot be fully avoided then CDFW recommends the Project obtain FYLF take coverage through an ITP issued by CDFW.

Alameda Whipsnake, Impacts Analysis

The draft EIR does not identify all habitat types present in the Project area potentially occupied by Alameda whipsnake (*Masticophis lateralis euryxanthus*; AWS) and therefore does not address a significant portion of potential impacts. Publicly available, peer-reviewed literature, documents AWS use of the following habitats: annual grassland, oak savanna, oak-bay woodland, mixed evergreen forest, riparian, and areas with rock outcrop features. CDFW recommends revising the draft EIR to indicate that these habitat types as viable habitat for AWS. Project construction may result in direct adverse effects including mortality of individuals. CDFW recommends that Project impacts such as the permanent destruction of AWS habitat and direct impacts associated with roadway mortalities be identified in a revised draft EIR. The draft EIR should also analyze cumulative impacts to the AWS due to fragmentation of habitat, permanent loss of habitat, and impacts associated with vehicle traffic on roadways.

Alameda Whipsnake, Mitigation Measure 4.4-7

The draft EIR fails to reduce permanent loss of AWS habitat to level of less-than-significant as it does not identify compensatory mitigation to offset this impact. CDFW recommends Mitigation Measure 4.4-7 be revised to include additional minimization and compensatory mitigation for Project impacts to AWS and their habitats to a less-than-significant level. CDFW recommends compensatory mitigation for impacts at a 3:1 ratio for permanently impacted habitat, and a 1:1 ratio for temporary impacts. If take to AWS cannot be fully avoided then CDFW recommends the Project obtain AWS take coverage through an ITP issued by CDFW.

Burrowing Owls, Mitigation Measure 4.4-10

The draft EIR fails to reduce permanent loss of burrowing owl (*Athene cunicularia*; BUOW) habitat to a level of less-than-significant as it does not identify compensatory mitigation to offset this impact. The draft EIR concludes that the Project area is considered occupied habitat for BUOW and Project activities have the potential for significant impact to the species. To ensure impacts to BUOW are mitigated to less-than-significant, CDFW recommends Mitigation Measure 4.4-10 be revised to incorporate specific and enforceable avoidance, minimization and compensatory mitigation measures. These revisions should include compensatory mitigation at a minimum of a 3:1 mitigation ratio (conservation to loss) for permanent impacts, and a 1:1 ratio for temporary impacts to BUOW habitats.

Swainson's Hawk, Mitigation Measure 4.4-11

The draft EIR concludes that the Project area is considered occupied habitat for Swainson's hawk (*Buteo swainsoni*; SWHA) and Project activities have the potential for significant impact to the species. To ensure impacts to SWHA are mitigated to a level of less-than-significant, CDFW recommends Mitigation Measure 4.4-11 incorporate survey protocols using the methodology prescribed in the *Recommended Timing and Methodology for Swainson's Hawks Nesting Survey's in California's Central Valley* (2000) and compensatory mitigation guidelines as prescribed in the (mitigation measures 1 through 4) in the Management Conditions section of the *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* (1994). Both documents are available online at: https://www.wildlife.ca.gov/Conservation/Survey-Protocols. If impacts to SWHA cannot be fully

avoided then CDFW recommends the Project obtain SWHA take coverage through an ITP issued by CDFW.

CDFW also recommends that Mitigation Measure 4.4-11 be revised to include the following defined protection buffers as specific and enforceable avoidance and minimization measures in the event nesting SWHA are detected:

> *"If an active nest is identified, a 1/2-mile buffer in non-urban settings or a 1/4-mile buffer in urban settings shall be maintained around the nest until the young fledge. If any active Swainson's hawk nests are found within 1/2-mile of the Project site, CDFW shall immediately be contacted and additional measures may be required for Project activities."*

San Joaquin Kit Fox Impacts Analysis and Wildlife Corridors

As proposed, the Project will have a significant unavoidable impact to San Joaquin kit fox (*Vulpes macrotis mutica*; SJKF) movement corridors and species recovery. Lone Tree Valley where the Project area is located contains some of the northernmost remaining suitable habitat for SJKF. Conservation of this remaining habitat is critical to the recovery of the species and maintenance of connectivity to historically occupied habitats northeast of the Project area in the Black Diamond Mines Regional Park. As proposed, the Project constricts the large tract of open, low gradient, low elevation grasslands habitats in Lone Tree Valley. This habitat type is critical for SJKF for movement corridors, the ability to avoid predators while moving across the landscape as well as maintenance of ground squirrels and other rodent populations, which make up the majority of the species diet. SJKF are not expected to utilize the Sand Creek corridor due to the structure of the habitat and potential for the species to be predated upon by wildlife utilizing this corridor as well as predation pressure and disease from domesticated animals in the homes surrounding the corridor.

Specifically, the portion of the Project south of Sand Creek would obstruct or deter SJKF from being able to utilize Lone Tree Valley as a wildlife corridor. The ECCC HCP/NCCP analysis on viability of SJKF corridors concluded the following for eastern Contra Costa County:

> *"[M]ovement habitat through Horse and Lone Tree Valleys are the widest and shortest movement routes and the only routes within this area currently large enough to likely and consistently support a breeding pair of kit foxes (i.e., they provide a substantial habitat linkage)."*

CDFW recommends that the Lead Agency revise the draft EIR to avoid this significant impact and evaluate an alternative that omits the portions of the Project south of Sand Creek.

San Joaquin Kit Fox, Mitigation Measure 4.4-14

CDFW recommends Mitigation Measure 4.4-14 be revised to state that no activity is authorized that permits the take of SJKF unless take authorization is provided by CDFW and the U.S. Fish and Wildlife Service. Destruction of occupied dens and handling of SJKF constitutes take under section 86 of the Fish and Game Code and would require an ITP as per section 2081 of the Fish and Game Code. To ensure permanent and temporary habitat loss of SJKF habitat is mitigated to a level of less-than-significant, CDFW recommends Mitigation Measure 4.4-14 be revised to

incorporate specific and enforceable compensatory measures. The revisions should include compensatory mitigation at the following ratios: a minimum of 3:1 ratio (compensatory mitigation to impacted habitat) for permanent impacts, a 5:1 ratio for construction of new roadways, and a 1:1 ratio for temporary impacts.

Ring-tailed Cat, Mitigation Measure 4.4-15

The Ring-tailed cat (*Bassariscus astutus*) is a Fully Protected species under State law and may not be taken or possessed at any time. CDFW recommends the measure be revised to adhere to Fish and Game code to fully avoid impacts to the species and to require immediate notification to CDFW if the species is detected in the Project area. This includes removal of relocation activities currently written in the measure.

Pallid, Townsend's Big-eared, Greater Mastiff, and Western Red Bats, Mitigation Measure 4.4-16

The draft EIR concludes that the Project site has suitable roosting habitat for the pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), western red bat (*Lasirurs blossevillii*), and marginal habitat for the greater mastiff bat (*Eumops perotis*), and that Project activities have the potential for significant impact to the species. To ensure impacts to bat species are mitigated to a level of less-than-significant, CDFW recommends the draft EIR be revised to include the following specific and enforceable mitigation measure, as well as a restricted work window, and defined protection buffers in the event bats are detected:

> *"Bat Habitat Assessment and Avoidance: A Qualified Biologist shall conduct a habitat assessment for bat species within and adjacent to Project site where culverts, structures and/or trees would be removed or otherwise disturbed for a period of more than two (2) hours. The assessment shall occur no more than five (5) days prior to the initiation of construction and include a visual inspection of features within 50 feet of all Project sites for potential roosting features (bats need not be present). Habitat features found during the survey shall be flagged or marked. If bats (individuals or colonies, not just roosting habitat) are detected during the habitat assessment, no work shall proceed until CDFW has been consulted.*
>
> *If any habitat features identified in the habitat assessment will be altered or disturbed by Project activities, a Qualified Biologist shall conduct two visual surveys for bats (observation of presence of bats during foraging period) and use of ultrasonic detectors (Anabat, etc.) during all dusk emergence and pre-dawn re-entry. Each survey needs to be conducted within one 24-hour period. In addition, a phased disturbance strategy shall be employed. Non-habitat trees or structural features shall be removed one (1) day prior to removal of habitat features. Permittee shall not attempt to directly disturb (e.g. shake, prod etc.) roosting features. Phased disturbance strategies shall only be permitted to occur from March 1 to April 15 or September 1 to October 15. Alternative actions may be developed in consultation with CDFW."*

Fish and Game Code Section 1600, Mitigation Measure 4.4-18

CDFW recommends Mitigation Measure 4.4.18 be revised to include compensatory mitigation for impacts to riparian habitat and watercourses at a minimum of a 3:1 mitigation ratio (conservation to loss) for permanent impacts, and a 1:1 mitigation ratio for temporary impacts.

CDFW also recommends that the setback buffer for Sand Creek be increased to 200 feet to increase the viability of the Sand Creek corridor for wildlife movement through the area.

Additional Recommended Mitigation Measures
CDFW also recommends the following avoidance and minimization measures are included in the biological resources section of the draft EIR:

"Open Trenches: Any open trenches, pits, or holes with a depth larger than one-foot shall be covered at the conclusion of work each day with a hard, non-heat conductive material (i.e. plywood). No netting, canvas, or material capable of trapping or ensnaring wildlife shall be used to cover open trenches. If use of a hard cover is not feasible, multiple wildlife escape ramps shall be installed, constructed of wood or installed as an earthen slope in each open trench, hole, or pit that is capable of allowing large (i.e. deer) and small (i.e. snakes) from escaping on their own accord. Prior to the initiation of construction each day and prior to the covering of the trench at the conclusion of work each day, a Qualified Biologist or on-site personnel shall inspect the open trench, pit, or hole for wildlife. If wildlife is discovered, it shall be allowed to leave on its own accord.

Open Pipes Restriction: All pipes, culverts, or similar structures that are stored at the construction vertically or horizontally on-site for one or more overnight periods will be securely capped on both ends prior to storage and thoroughly inspected for wildlife prior to implementation at the Project site by a Qualified Biologist or Biological Monitor.

Fence and Sign Post Restriction: Any fencing posts or signs installed temporarily or permanently throughout the course of the Project shall have the top three post holes covered or filled with screws or bolts to prevent the entrapment of wildlife, specifically birds of prey. The Qualified Biologist or Biological Monitor shall be responsible for ensuring compliance with this measure throughout the course of the Project and shall inspect each post."

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 (CNDDB). The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data#44524420-pdf-field-survey-form. The completed form can be mailed electronically to CNDDB at the following email address: cnddb@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 fee

is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW recommends that compensatory mitigation for temporal and permanent loss of special-status plants and wildlife habitats be modified throughout the draft EIR to reduce significant mortality and displacement impacts resulting from Project construction and associated habitat loss to a level of less-than-significant. CDFW recommends compensatory mitigation ratios be included at the following ratios: 5:1 for newly created roadways to account for roadkill mortalities and fragmentation of wildlife movement corridors; 3:1 for impacts to special-status species habitats that are permanent in nature; and 1:1 for temporary impacts to special-status species habitats where remediation will take less than one year. Conserved habitats or lands should be protected in perpetuity under a conservation easement, and be managed in perpetuity through an endowment with an appointed land manager. To ensure significant impacts are adequately mitigated to a level less-than-significant, CDFW recommends that our revisions to mitigation measures, described above, be incorporated as enforceable conditions into the revised draft EIR.

The draft EIR fails to address the significant and unavoidable impacts from the Project to the species recovery and landscape level connectivity in the northern range of SJKF. CDFW has recommended that the Lead Agency include a Project alternatives analysis or revision of the Project description that does not include development south of Sand Creek to address this impact.

The impacts analysis addressing special-status plants has fatal errors and should to be revised using CDFW's recommendations above. Mitigation measures in the draft EIR should be revised to address impacts identified in a revised impacts analysis.

CDFW appreciates the opportunity to comment on the draft Environmental Impact Report to assist the City in identifying and mitigating Project impacts on biological resources. Questions or further coordination regarding this letter and impacts to plants and wildlife should be directed to Ms. Jeanette Griffin, Environmental Scientist, at (209) 234-3447 or Jeanette.Griffin@wildlife.ca.gov; or Ms. Melissa Farinha, Senior Environmental Scientist (Supervisory), at (707) 944-5579 or Melissa.Farinha@wildlife.ca.gov.

Sincerely,

Gregg Erickson
Regional Manager
Bay Delta Region

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