



DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

November 10, 2020

Nov 10 2020

STATE CLEARINGHOUSE

David Ansolabehere
Cawelo Water District
17207 Industrial Farm Road
Bakersfield, California 93308
dansolabehere@cawelowd.org

**Subject: Landowner Groundwater Recharge and Banking Project (Project)
NEGATIVE DECLARATION (ND)
State Clearinghouse No. 2020100205**

Dear Mr. Ansolabehere:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an ND from Cawelo Water District (Cawelo WD) for the above-referenced Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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, CDFW appreciates 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.

¹ 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.

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 2

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 & 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.), related authorization as provided by the Fish and Game Code will be required.

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515, respectively. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take for the Project.

Water Rights: The capture of unallocated stream flows to artificially recharge groundwater aquifers are subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code § 1200 et seq. CDFW, as Trustee Agency, is consulted by SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Certain fish and wildlife are reliant upon aquatic and riparian ecosystems, which in turn are reliant upon adequate flows of water. CDFW therefore has a material interest in assuring that adequate water flows within streams for the protection, maintenance, and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from Project activities.

PROJECT DESCRIPTION SUMMARY

Cawelo WD proposes development of a local Landowner recharge and banking project to provide landowners within Cawelo WD with a direct groundwater banking opportunity. Additionally, Cawelo WD may also bank its own water in landowner recharge facilities, within the Project area, to support increased flexibility in meeting water demands, while protecting groundwater levels and quality within the Cawelo WD. Landowners would be allowed to convey landowner-owned surface water, acquired outside of Cawelo WD, through existing Cawelo WD conveyance facilities, for groundwater recharge and later use. Water conveyed through Cawelo WD facilities would be of sufficient quality to meet existing standards for agricultural water use. Construction activities by Cawelo WD would not occur.

Only surface water would be conveyed through Cawelo WD facilities and used for recharge and banking purposes. This may include but is not limited to water obtained from the Kern River, Poso Creek, State Water Project (SWP) Article 21, and Friant 215 supplies.

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 3

Proponent: Cawelo WD

Objectives: Project objectives are to support increased flexibility in meeting water demands, and protect groundwater levels and quality within Cawelo WD. The specific terms of the Project may change over the duration of the project, at the discretion of Cawelo WD and enrolled landowners.

Location: The Project components will be implemented within the Cawelo WD service area in the southern San Joaquin Valley, in Kern County, approximately 20 miles northwest of Bakersfield.

Timeframe: Project implementation would begin after November 2020.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Cawelo WD in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife i.e., (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on a review of the Project description, a review of California Natural Diversity Database (CNDDDB) records, a review of aerial photographs of the Project and surrounding habitat, several special status species could potentially be impacted by Project activities.

In particular, CDFW is concerned regarding potential impacts for the following special status wildlife species and habitats known to occupy the Project area: the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State and federally endangered Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*), the State and federally endangered and State fully protected blunt-nosed leopard lizard (*Gambelia sila*), the State Candidate Endangered crotch bumble bee (*Bombus crotchii*), and the State species of special concern burrowing owl (*Athene cunicularia*).

Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project area.

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 4

CDFW recommends that the following modifications and/or edits be incorporated into the ND, including proposed avoidance, minimization, and compensatory measures, prior to its adoption by Cawelo WD.

COMMENT 1: Project Description and Related Biological Impact Analysis

Issue: The Project Description in the ND states that there will be no Project-related construction by Cawelo WD. Biological Resources Section 3.4.1 (a) and the Mandatory Findings of Significance Section 3.21.1 of the ND concludes that there will be no impact to biological resources because the Project does not include construction of new infrastructure. However, the Project Description in Section 2.5 of the ND states that landowners would be responsible for construction, operation, maintenance, and repair of their privately-owned recharge facilities for the storage of surface water from Cawelo WD. Construction and maintenance of recharge facilities, whether private or publicly owned, may substantially impact the biological resources listed above.

Analysis Recommendations: CDFW recommends that the biological analysis include the effects to special status species, including those listed above, from this Project and other current and foreseeable projects including land conversion and construction of private landowner recharge basins and related infrastructure and maintenance, if those activities would proceed without subsequent approval and CEQA analysis.

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 United States Fish and Wildlife Service (USFWS)?

COMMENT 2: San Joaquin kit fox (SJKF)

Issue: SJKF occurrences have been documented within the Cawelo WD boundary (CDFW 2020). The ND acknowledges the potential for the Project to temporarily disturb and permanently alter suitable habitat for special status species including SJKF, and to directly impact individuals if present during construction activities.

Specific impact: SJKF den in right-of-ways, agricultural and fallow/ruderal habitat, dry stream channels, and canal levees, etc., and populations can fluctuate over time. SJKF are also capable of occupying urban environments (Cypher and Frost 1999). SJKF may be attracted to project areas due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. SJKF will forage in fallow and agricultural fields and utilize streams and canals as dispersal corridors. As a result, there is potential for SJKF to occupy all suitable habitat within the Project boundary and surrounding area.

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 5

Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with construction include habitat loss, den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss resulting from land conversion to agricultural, urban, and industrial development is the primary threat to SJKF (Cypher et al. 2013). Kern County supports relatively large areas of high and medium suitability SJKF habitat (Cypher et al. 2013). The Project area is bordered by highly suitable habitat in an area that is otherwise under intensive agriculture.

Recommended Mitigation Measure 1: SJKF Habitat Assessment

For all Project-specific components including construction and land conversion, CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for SJKF.

Recommended Mitigation Measure 2: SJKF Surveys and Minimization

CDFW recommends assessing presence/absence of SJKF by having qualified biologists conducting surveys of Project areas and a 500-foot buffer of Project areas to detect SJKF and their sign. CDFW also recommends following the USFWS (2011) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" during Project implementation.

Recommended Mitigation Measure 3: SJKF Take Authorization

SJKF detection warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 3: Blunt-nosed leopard lizard (BNLL)

Issue: BNLL have been documented in suitable habitat within and adjacent to the Cawelo WD boundary (CDFW 2020). Suitable BNLL habitat includes areas of grassland and upland scrub that contain requisite habitat elements, such as small mammal burrows. BNLL also use open space patches between suitable habitats, including disturbed sites and unpaved access roadways.

Specific impact: Without appropriate avoidance and minimization measures for BNLL, potentially significant impacts associated with ground-disturbing activities

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 6

include habitat loss, burrow collapse, reduced reproductive success, reduced health and vigor of eggs and/or young, and direct mortality.

Evidence impact is potentially significant: Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to BNLL (ESRP 2019a). The range for BNLL now consists of scattered parcels of undeveloped land within the valley floor and the foothills of the Coast Range (USFWS 1998). Some undeveloped areas with suitable BNLL habitat occur within the Cawelo WD boundary.

Recommended Mitigation Measure 4: BNLL Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for BNLL.

Recommended Mitigation Measure 5: BNLL Surveys

If suitable habitat is present, prior to initiating any vegetation- or ground-disturbance activities, CDFW recommends conducting surveys in accordance with the “Approved Survey Methodology for the Blunt-nosed Leopard Lizard” (CDFW 2019). This recommended survey protocol, designed to optimize BNLL detectability, reasonably assures CDFW that ground disturbance will not result in take of this fully protected species.

CDFW advises completion of BNLL surveys no more than one year prior to initiation of ground disturbance. Please note that protocol-level surveys must be conducted on multiple dates during late spring, summer, and fall, and that within these time periods, there are specific protocol-level date, temperature, and time parameters, which must be adhered to. As a result, protocol-level surveys for BNLL are not synonymous with 30-day “preconstruction surveys” often recommended for other wildlife species. In addition, the BNLL protocol specifies different survey effort requirements based on whether the disturbance results from maintenance activities or if the disturbance results in habitat removal (CDFW 2019).

Recommended Mitigation Measure 6: BNLL Take Avoidance

BNLL detection during protocol level surveys warrants consultation with CDFW to discuss whether take of BNLL can be avoided during Project activities.

COMMENT 4: Tipton Kangaroo Rat (TKR)

Issue: TKR have been documented to occur within areas of suitable habitat within and adjacent to Cawelo WD (CDFW 2020). Suitable TKR habitat includes areas of

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 7

grassland, upland scrub, and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows.

Specific impact: Without appropriate avoidance and minimization measures for TKR, potential significant impacts include loss of habitat, burrow collapse, inadvertent entrapment of individuals, reduced reproductive success such as reduced health or vigor of young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to TKR. Very little suitable habitat for this species remains along the western floor of the San Joaquin Valley (ESRP 2019b). Areas of suitable habitat within Cawelo WD represents some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture.

Recommended Mitigation Measure 7: TKR Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for TKR.

Recommended Mitigation Measure 8: TKR Avoidance

If suitable habitat is present, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances of suitable size for TKR use.

Recommended Mitigation Measure 9: TKR Surveys

If burrow avoidance is not feasible, CDFW recommends that focused protocol-level trapping surveys be conducted by a qualified wildlife biologist holding permits to do so by both CDFW and USFWS, to determine if TKR occurs in the Project area. CDFW advises that these surveys be conducted in accordance with the USFWS (2013) "*Survey Protocol for Determining Presence of San Joaquin Kangaroo Rats*," well in advance of ground-disturbing activities in order to determine whether impacts to TKR could occur.

Recommended Mitigation Measure 10: TKR Take Authorization

TKR detection warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 8

COMMENT 5: Crotch Bumble Bee (*Bombus crotchii*; CBB)

Issue: On June 28, 2019, the Fish and Game Commission published findings of its decision to advance CBB to candidacy as endangered. Pursuant to Fish and Game Code section 2074.6, CDFW has initiated a status review report to inform the Commission's decision on whether listing of CBB, pursuant to CESA, is warranted. During the candidacy period, consistent with CEQA Guidelines, section 15380, the status of the CBB as an endangered candidate species under CESA (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. It is unlawful to import into California, export out of California or take, possess, purchase, or sell within California, CBB and any part or product thereof, or attempt any of those acts, except as authorized pursuant to CESA. Under Fish and Game Code section 86, take means to hunt, pursue, catch, capture, or kill, or to attempt to hunt pursue, catch, capture, or kill. Consequently, take of CBB during the status review period is prohibited unless authorization pursuant to CESA is obtained.

CBB have been documented to occur within the vicinity of the Project area (CDFW 2019). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows, but may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local CBB populations.

Specific impact: Without appropriate avoidance and minimization measures for CBB, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with construction of the Project include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality in violation of Fish and Game Code.

Evidence impact is potentially significant: CBB was once common throughout most of the central and southern California, however, it now appears to be absent from most of it, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 9

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to CBB associated with the Project, CDFW recommends implementing the following mitigation measure as a condition of approval for the Project.

Recommended Mitigation Measure 11: CBB Take Avoidance

CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

COMMENT 6: Burrowing Owl (BUOW)

Issue: BUOW occur within and in the vicinity of the Cawelo WD (CDFW 2020). BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Habitat both within and bordering the Cawelo WD, supports grassland habitat.

Specific impact: Potentially significant direct impacts associated with subsequent activities and land conversion include habitat loss, burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Cawelo WD boundary contains remnant undeveloped land but is otherwise intensively managed for agriculture; therefore, subsequent ground-disturbing activities associated with subsequent constructions have the potential to significantly impact local BUOW populations.

Recommended Mitigation Measure 12: BUOW Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of implementation of Project-specific activities, to determine if the Project area or its vicinity contains suitable habitat for BUOW.

David Ansolabehere
 Cawelo Water District
 November 10, 2020
 Page 10

Recommended Mitigation Measure 13: BUOW Surveys

If suitable habitat is present on or in the vicinity of the Project area, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "*Burrowing Owl Survey Protocol and Mitigation Guidelines*" (CBOC 1993) and CDFW's *Staff Report on Burrowing Owl Mitigation*" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable. In addition, CDFW advises that surveys include a minimum 500-foot buffer around the Project area.

Recommended Mitigation Measure 14: BUOW Avoidance

CDFW recommends that no-disturbance buffers, as outlined in the "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012), be implemented prior to and during any ground-disturbing activities, and specifically that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

| Location | Time of Year | Level of Disturbance | | |
|---------------|----------------|----------------------|-------|-------|
| | | Low | Med | High |
| Nesting sites | April 1-Aug 15 | 200 m* | 500 m | 500 m |
| Nesting sites | Aug 16-Oct 15 | 200 m | 200 m | 500 m |
| Nesting sites | Oct 16-Mar 31 | 50 m | 100 m | 500 m |

* meters (m)

Recommended Mitigation Measure 15: BUOW Passive Relocation and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), excluding birds from burrows is not a take avoidance, minimization, or mitigation method and is instead considered a potentially significant impact under CEQA. If it is necessary for Project implementation, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW then recommends mitigation in the form of replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. BUOW may attempt to colonize or re-

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 11

colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance at a rate that is sufficient to detect BUOW if they return.

Editorial Comments and/or Suggestions

Lake and Streambed Alteration: Project activities that have the potential to substantially change the bed, bank, and channel of streams and associated wetlands may be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration (LSA) Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. Additional information on notification requirements is available through the Central Region LSA Program at (559) 243-4593 or R4LSA@wildlife.ca.gov, and the CDFW website: <https://wildlife.ca.gov/Conservation/LSA>.

Nesting birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest 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).

CDFW encourages that Project implementation occur during the bird non-nesting season; however, if Project activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted by the Project are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 12

baseline of all identified nests. Once construction begins, CDFW recommends that a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends that the work causing that change cease and that CDFW be consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers.

Endangered Species Act Consultation: CDFW recommends consultation with the USFWS prior to Project ground disturbance, due to potential impacts to Federal listed species. Take under the Federal Endangered Species Act (FESA) is more stringently defined than under CESA; take under FESA may also include significant habitat modification or degradation that could result in death or injury to a listed species, by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of Project implementation.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that 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 obtained at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/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

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 13

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 & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the ND to assist Cawelo WD in identifying and mitigating Project impacts on biological resources. If you have questions regarding this letter, please contact Annette Tenneboe, Senior Environmental Scientist (Specialist), at the address on this letterhead, by phone at (559) 243-4014 extension 231, or by email at Annette.Tenneboe@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Bob Stafford
5343A684FF02469...
Julie A. Vance
Regional Manager

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

ec: Annette Tenneboe, California Department of Fish and Wildlife

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 14

REFERENCES

- California Burrowing Owl Consortium (CBOC). 1993. Burrowing Owl Survey Protocol and Mitigation Guidelines. Pages 171-177 in Lincer, J. L. and K. Steenhof (editors). 1993. The Burrowing Owl, Its Biology and Management. Raptor Research Report Number 9.
- California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game. March 7, 2012.
- California Department of Fish and Wildlife (CDFW). Approved Survey Methodology for the Blunt-nosed Leopard Lizard. California Department of Fish and Wildlife, October 2019 (revised).
- CDFW. 2020. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 30 October 2020.
- Cypher, B. and N. Frost. 1999. Condition of San Joaquin kit foxes in urban and exurban habitats. *Journal of Wildlife Management* 63: 930–938.
- Cypher, B.L., S.E. Phillips, and P.A. Kelly. 2013. Quantity and distribution of suitable habitat for endangered San Joaquin kit foxes: conservation implications. *Canid Biology & Conservation* 16(7): 25-31.
http://www.canids.org/CBC/16/San_Joaquin_kit_fox_habitat_suitability.pdf
- Endangered Species Recovery Program (ESRP). 2019a. Blunt-nosed leopard lizard. <http://esrp.csustan.edu/speciesprofiles/profile.php?sp=gasi>. Accessed 20 September 2019.
- ESRP. 2019b. Tipton kangaroo rat. <http://esrp.csustan.edu/speciesprofiles/profile.php?sp=amne>. Accessed 20 September 2019.
- Gervais, J. A., D. K. Rosenberg, and L. A. Comrack. 2008. Burrowing Owl (*Athene cunicularia*) In California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California (W. D. Shuford and T. Gardali, editors). *Studies of Western Birds* 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.
- United States Fish and Wildlife Service (USFWS). 1998. Blunt-nosed leopard lizard *In* Recovery Plan for Upland Species of the San Joaquin Valley, California. Region 1, Portland, OR. 319 pp.

David Ansolabehere
Cawelo Water District
November 10, 2020
Page 15

USFWS. 2011. Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. United States Fish and Wildlife Service. January 2011.

USFWS. 2013. Survey Protocol for Determining Presence of San Joaquin Kangaroo Rats. United States Fish and Wildlife Service. March 2013.
<https://www.fws.gov/sacramento/es/Survey-Protocols-Guidelines/Documents/SFWO%20Final%20San%20Joaquin%20K-Rat%20Trapping%20Protocol-2013.pdf>