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DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

February 8, 2021

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STATE CLEARINGHOUSE

Mr. Brent Cooper
City of American Canyon
4381 Broadway Street, Suite 201
American Canyon, CA 94503
bcooper@cityofamericancanyon.org

Subject: Giovannoni Logistics Center Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2021010104, City of American Canyon, Napa County

Dear Mr. Cooper:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) for the Giovannoni Logistics Center Project (Project).

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Incidental Take Permit (ITP), a Native Plant Protection Act Permit, a Lake and Streambed Alteration (LSA) Agreement, or approval under other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT LOCATION AND DESCRIPTION

The Project site is in the City of American Canyon, approximately one mile southeast of the Napa County Airport and directly west of State Route 29, in southern Napa County. The Project site is bounded by the Napa Logistics Park and Devlin Road to the north and Green Island Business Park (i.e., industrial development) to the southwest. No Name Creek flows from east to west across the northern portion of the Project site.

As indicated in the NOP, the Project is the development of a 2.4 million square-foot logistics center on an approximately 208-acre site; 161 acres would be developed, and 47 acres would be preserved as open space. In conjunction with the Project, the City of American Canyon would extend Devlin Road through the Project site. The Project is proposed to occur in two phases. During Phase 1, the 94.7-acre area east of the Devlin Road extension would be developed. During Phase 2, the 113.1-acre area west of Devlin Road would be developed.

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The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the draft EIR incorporate a full project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 and 15378). Please include a complete description of the following Project components in the Project description:

- Clarify the Project development footprint. The NOP indicates development would encompass 161 acres; however, it also states that Phase 1 would develop 94.7 acres and Phase 2, 113.1 acres, which would encompass 207.8 acres.
- Clarify if the proposed extension of Devlin Road and improvements to Green Island Road will be analyzed in the draft EIR, and if so, provide colored aerial maps depicting the project boundaries and provide the details specified below.
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.
- Include the above information for any Project activities proposed on the 47 acres to be designated as open space.
- Clarify if the open space designation would change the types of future activities allowed on the land compared to its existing designation.

The NOP states that the draft EIR will serve as a project-level document for Phase 1 and program-level for Phase 2. CDFW recommends providing as much information related to anticipated future activities as possible. CDFW recognizes that, pursuant to CEQA Guidelines section 15152, subdivision (c), if a Lead Agency is using the tiering process in connection with an EIR or large-scale planning approval, the development of detailed, site-specific information may not be feasible and can be deferred, in many instances, until such time as the Lead Agency prepares a future environmental document. This future environmental document would cover a project of a more limited geographical scale and is appropriate if 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*, and consistent with other program EIRs, CDFW recommends creating a procedure or checklist for evaluating subsequent project impacts on biological resources to determine if they are within the scope of the program EIR or if an additional environmental document is warranted. This checklist should be included as an attachment to the draft EIR. Future analysis should

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include all special-status species including but not limited to species considered rare, threatened, or endangered species pursuant to CEQA Guidelines, section 15380. The checklist should cite the specific portions of the draft EIR, including page and section references, include an analysis of the subsequent Project activities' potentially significant effects, and incorporate all applicable mitigation measures from the draft EIR.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA ITP must be obtained if the Project has the potential to result in take¹ of plants or animals listed under CESA, either during construction or over the life of the Project. The Project site is near nesting habitat for the Swainson's hawk (*Buteo swainsoni*), a CESA listed as threatened species. Additionally, tricolored blackbird (*Agelaius tricolor*), a CESA listed threatened species, may nest on or near the Project site. The Project's noise-generating or vegetation-disturbing activities could result in take of Swainson's hawk and/or tricolored blackbird. If the Project will impact CESA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program.

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially restrict the range or reduce the population of a threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, and 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 Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements.

¹ Take is defined in Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt any of those activities.

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CDFW appreciates being identified as a Responsible Agency in the NOP pursuant to our 1600 authority. As a Responsible Agency, CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. We recommend that the draft EIR identify the amount, both linear feet and square feet, of streams and associated vegetation that will be impacted by the Project and propose clear compensatory mitigation for those impacts. Mitigation may include removing culverts, concrete rubble, trash, debris, and non-native invasive species and/or planting native species at local streams. The farther away from the Project site the mitigation occurs, the more mitigation will be required. CDFW may not execute a final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Migratory Birds and Raptors

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds without authorization. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests. Fully protected species may not be taken or possessed at any time (Fish and Game Code, § 3511). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

ENVIRONMENTAL SETTING

The draft EIR should provide sufficient information regarding the environmental setting (“baseline”) to understand the Project’s, and its alternative’s (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 and 15360).

CDFW recommends that the draft EIR provide baseline habitat assessments for special-status plant, fish, and wildlife species located and potentially located within the Project area and surrounding lands, including but not limited to all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The draft EIR should describe aquatic habitats, such as wetlands and/or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site. Fully protected, threatened or endangered, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

- tricolored blackbird, CESA listed as threatened
- Swainson’s hawk, CESA listed as threatened
- white-tailed kite (*Elanus leucurus*), Fully Protected Species (FP)
- golden eagle (*Aquila chrysaetos*), FP
- burrowing owl (*Athene cunicularia*), California Species of Special Concern (SSC)
- northern harrier (*Circus hudsonius*), SSC

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- San Pablo song sparrow (*Melospiza melodia samuelis*), SSC
- ferruginous hawk (*Buteo regalis*)
- American badger (*Taxidea taxus*), SSC
- pallid bat (*Antrozous pallidus*), SSC
- western pond turtle (*Emys marmorata*), SSC
- Contra Costa goldfields (*Lasthenia conjugens*), ESA listed as endangered, California Rare, California Rare Plant Rank (CRPR) 1B.1
- two-fork clover (*Trifolium amoenum*), ESA listed as endangered, CRPR 1B.1
- alkali milk-vetch (*Astragalus tener* var. *tener*), CRPR 1B.2
- saline clover (*Trifolium hydrophilum*), CRPR 1B.2
- big-scale balsamroot (*Balsamorhiza macrolepis*), CRPR 1B.2
- Delta tule pea (*Lathyrus jepsonii* var. *jepsonii*), CRPR 1B.2
- oval-leaved viburnum (*Viburnum ellipticum*), CRPR 2B.3
- Greene's narrow-leaved daisy (*Erigeron greenei*), CRPR 1B.2
- narrow-antered brodiaea (*Brodiaea leptandra*), CRPR 1B.2
- San Joaquin spearscale (*Extriplex joaquinana*), CRPR 1B.2
- dwarf downingia (*Downingia pusilla*), CRPR 2B.2
- vernal pool fairy shrimp (*Branchinecta lynchi*), ESA listed as threatened, California Terrestrial and Vernal Pool Invertebrate of Conservation Priority (ICP)
- western bumble bee (*Bombus occidentalis*), ICP
- monarch butterfly (*Danaus plexippus*), ICP

Habitat descriptions and species profiles should include information from multiple sources, such as aerial imagery; historical and recent survey data; field reconnaissance; scientific literature and reports, the U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System; and findings from positive occurrence databases such as the California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the draft EIR should adequately assess which special-status species are likely to occur on or near the Project site, and whether they will be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols

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if available. Survey and monitoring protocols and guidelines are available at:
<https://wildlife.ca.gov/Conservation/Survey-Protocols>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period for all species potentially impacted by the Project within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrology, and require the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants, and survey report requirements (<https://wildlife.ca.gov/Conservation/Plants>).

IMPACT ANALYSIS AND MITIGATION MEASURES

The draft EIR should discuss all direct and indirect impacts (i.e., temporary and permanent), including reasonably foreseeable impacts, that may occur with implementation of the Project (CEQA Guidelines, §§ 15126, 15126.2, and 15358). This includes evaluating and describing impacts such as:

- Encroachments into riparian habitats, drainage ditches, wetlands, or other sensitive areas.
- Potential for impacts to special-status species.
- Loss or modification of breeding, nesting, dispersal, and foraging habitat, including vegetation removal, alteration of soils and hydrology, and removal of habitat structural features (e.g., snags, rock outcrops, overhanging banks).
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic, or human presence.
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The draft EIR should also identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, § 15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact, e.g., reduction of available habitat for a special-status species, should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the Lead Agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and/or mitigate significant impacts of the Project on the environment (CEQA Guidelines,

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§§ 15021, 15063, 15071, 15126.2, 15126.4 and 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. You should also review the draft Solano Habitat Conservation Plan avoidance, minimization, and mitigation measures to inform and guide the Project impacts and measures. Project-specific measures should be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

Fully protected species such as white-tailed kite may not be taken or possessed at any time (Fish and Game Code, § 3511, 4700, 5050, and 5515). Therefore, the draft EIR should include measures to ensure complete avoidance of these species.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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.

If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at Garrett.Allen@wildlife.ca.gov; or Ms. Melanie Day, Acting Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH No. 2021010104)