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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

Jul 7 2022

July 7, 2022

STATE CLEARINGHOUSE

Kylie Hensley
County of San Luis Obispo Department of Planning & Building
976 Osos Street, Room 200
San Luis Obispo, California 93408-2040
khensley@co.slo.ca.us

**Subject: Paso Basin Land Use Planting Ordinance (Project)
Draft Program Environmental Impact Report
State Clearinghouse No. 2021080222**

Dear Ms. Hensley:

The California Department of Fish and Wildlife (CDFW) received a draft Program Environmental Impact Report (DPEIR) from the County of San Luis Obispo Department of Planning and Building (County) for the above-referenced Project pursuant to 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 Fish and Game Code. We appreciate the County granting an extension of the comment period to CDFW, and allowing for CDFW to submit its comments on July 7, 2022.

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

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.

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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 & 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.

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: The County

Description: The County is proposing a new ordinance framework that would allow the County to continue exercising its land use authority to regulate planting of production agriculture irrigated from groundwater wells within the Paso Basin Land Use Management Area (PBLUMA) (consisting of 313,661 acres in northeastern San Luis Obispo County) after the termination date of the existing agricultural offset requirements. The new ordinance would allow an exemption for farms to plant irrigated crops that were not able to be planted under the existing agricultural offset requirements. The proposed ordinance would require a planting permit or exemption verification for new or expanded planting of crops irrigated from groundwater wells within the PBLUMA. Issuance of planting permits allowed under the proposed ordinance would be considered ministerial and would not require discretionary actions or further CEQA review. The proposed ordinance would be in effect from January 31, 2023, to January 31, 2045, for a total of 22 years.

Under the planting ordinance new crop plantings replacing previous crops that do not result in an overall increase in estimated groundwater demand would be eligible for a ministerial planting permit. The ordinance would exempt new or expanded crop plantings with an estimated total water demand of 25 acre-feet per year (AFY) or less per site. The County estimates that approximately 240 acres of previously uncultivated land would be affected by the ordinance per year, for a total of 5,280 acres affected by

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January 31, 2045. This would equate to an annual increase in groundwater use of approximately 450 AFY, for a total increase of 9,900 AFY by January 31, 2045.

Objectives: The proposed Project would take effect when the County's existing agricultural offset requirements expire and would remain in effect until January 31, 2045. Objectives include:

- Continue to exercise the County's land use authority to regulate the planting of production agriculture irrigated from groundwater wells within the PBLUMA with ministerial permits not subject to the CEQA review.
- Require new crop plantings that are to be irrigated from groundwater wells within the PBLUMA to be "water neutral" meaning new crops replace crops that are estimated to have had the same water demand and have been fallowed/removed within a certain time frame.
- Allowance of an exemption for farms to plant irrigated crops that were not able to under the existing agricultural offset requirements.
- Conserve groundwater resources in the PBLUMA for use by production agriculture in a manner that is equitable and consistent with groundwater rights.
- Encourage and facilitate smaller production agriculture operations.

Location: The PBLUMA includes 313,661 acres located within the Shandon-Carrizo (North), El Pomar-Estrella, Salinas River, Las Pilitas, Los Padres (North), Adelaida, and Nacimiento Sub Areas of the North County Planning Area and includes the communities of Shandon, San Miguel, Creston, and Whitley Gardens.

Timeframe: The PBLUMA Planting Ordinance would expire in 2045.

COMMENTS AND RECOMMENDATIONS

CDFW previously commented on the Notice of Preparation for the Project in a letter ("NOP letter") dated September 17, 2021 (enclosed) that provided recommendations for many listed plant and wildlife species and concerns for Project impacts to waterways/waterbodies, groundwater, and the ecosystems supported by these features. The DPEIR does not include an analysis of impacts to each biological resource and therefore does not include or address the prior CDFW recommendations; CDFW maintains the same recommendations for advised survey methods and mitigation measures. In addition, CDFW has the following recommendations regarding the analysis of Project impacts and specific mitigation measures for inclusion in the DPEIR.

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I. DPEIR Impacts and Mitigation Measures

Impact BIO-1 and Mitigation Measures UTIL-1 and UTIL-2

The DPEIR concludes (Table ES-1, page ES-11) that impacts to special status species would be significant and unavoidable, and the discussion for Impact BIO-1 summarizes that with protections for species by County, State, and federal policies and regulations as outlined in the DPEIR, and implementation of Mitigation Measures UTIL-1 and UTIL-2, impacts would be reduced to the greatest extent feasible, and no additional feasible mitigation measures are available to reduce impacts to special status species. The DPEIR states that it would not be possible to perform site-specific analyses of impacts, based on the individual sites that could participate in the ordinance, but the DPEIR does not include an analysis for each special status species that could be significantly affected by implementing the Project (i.e., the ordinance).

Impact BIO-1 (Section 4.3.3, page 4.3-14) states that implementation of the planting ordinance could potentially result in substantial adverse impacts on special status plant and animal species, either directly or through habitat modifications, and such biological impacts would be significant and unavoidable requiring a statement of overriding consideration. The DPEIR (Section 4.3.3, page 4.3-15) states that direct impacts to special status species could include injury or mortality during plowing/discing to convert natural areas to agriculture fields and for construction of accessory infrastructure. Potential impacts from habitat modification and loss could result in direct mortality or indirect impacts through substantially altering foraging and breeding behaviors, resulting in injury to individual special status plants and animals.

The DPEIR (page 4.3-15) states that converting current natural areas to irrigated crop fields, construction of accessory infrastructure, and associated projected groundwater extraction within the PBLUMA could result in substantial adverse impacts to special status species and their habitats. Mitigation Measures UTIL-1 and UTIL-2 address amendments to the proposed ordinance to include well metering and reporting, and hydrology reporting, respectively; the DPEIR does not specify how well metering and hydrology reporting would reduce impacts to special status species. CDFW recommends that an analysis of Project-wide impacts to the special status species with potential to be significantly affected by the Project be included in the DPEIR, to clearly describe how well meter installation and monitoring in addition to a hydrology report intended to reduce impacts from Project development to offsite wells would avoid, minimize, or mitigate impacts to the special status species addressed in the NOP letter or herein. The Initial Study described that potentially significant impacts including the loss of species habitats caused by pumping would be assessed further in the DEIR. The description of a significant impact in this context is not clearly provided, and the levels of pumping likely to result in significant impacts over the Project-wide area or any part is not discussed in the DPEIR, including how well monitoring and hydrology

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monitoring would identify those impacts and potentially be used to inform decisions targeted at reducing impacts to special status species.

As described in the NOP letter, any activity undertaken as a result of the Project that cannot avoid the take of a State listed species would require take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081, subdivision (b). CDFW strongly recommends that the DPEIR include requirements for acquiring an ITP from CDFW for any unavoidable take of CESA-listed species.

Impact BIO-2 and Mitigation Measure BIO-1

Impact BIO-2 states that the Project may result in substantial adverse impacts on sensitive habitats including riparian and wetland habitats. Mitigation Measure BIO-1 Riparian and Wetland Habitat Setback would require a setback of at least 50 feet from the proposed planting areas to the edge of riparian vegetation and wetland areas. The DPEIR concludes that impacts would still be significant and unavoidable, requiring a statement of overriding considerations. Because Project activities have the potential to result in significant impacts to riparian, wetland features (which may include groundwater dependent ecosystems), CDFW is concerned that Mitigation Measure BIO-1 is not sufficient to prevent impacts to these habitats.

It is not clear how riparian or wetland habitat areas (not limited to specific vegetation) would be identified and mapped in order to be avoided. CDFW continues to recommend implementation of the NOP letter Recommended Mitigation Measure 53: Stream and Wetland Mapping, Mitigation Measure 54: Stream and Wetland Habitat Mitigation, and Recommended Mitigation Measure 55: Groundwater Dependent Ecosystem Monitoring and Mitigation.

Impact BIO-4

Impact BIO-4 states that the proposed planting ordinance may substantially interfere with wildlife movement, including fish migration and/or impede the use of a native wildlife nursery. Project implementation may impact wildlife movement of special-status species, including CESA-listed species. The DPEIR states (page 4.3-18) that, "...within the PBLUMA, the State Route 46 corridor is a part of the San Joaquin kit fox range that connects core and satellite populations specifically between the Central Valley and Camp Roberts/Salinas Valley. Increase in land conversion to agricultural use would further fragment linkages between core and satellite populations within the range of the San Joaquin kit fox due to lack of suitable habitat, presence of predators (red fox [*Vulpes vulpes*] and domestic dogs [*Canis familiaris*]), and inundation of dens during irrigation".

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The DPEIR concludes that following compliance with the General Plan and other local, State, and federal regulatory frameworks, there are no other feasible mitigation measures for this biological impact, and this potential impact is significant and unavoidable, requiring a Statement of Overriding Consideration. It is not clear what other potential avoidance, minimization, or mitigation options may have been considered to reduce these impacts. It is also not clear the extent to which the Project could result in the reduction or functional elimination of a corridor or linkage used by a species such as San Joaquin kit fox (*Vulpes macrotis mutica*). The DPEIR also does not elaborate on the implications of the Project reducing or eliminating animal movements between subpopulations, including but not limited to the effects of limited dispersal, genetic exchange, and the potential for cut-off or isolated areas to persist with viable population numbers over time. CDFW recommends that the DPEIR include more detail regarding the extent of Project changes to habitats, either directly or through increased well use, to describe impacts in terms of any significance thresholds and to describe how avoidance or minimization measures, such as through protecting specific corridor areas, were analyzed. CDFW also recommends that the DPEIR address the implications for listed species.

General Plan Conservation and Open Space Element

The DPEIR states that the County's General Plan Conservation and Open Space Element (COSE) outlines goals and policies that include protecting special status species, protecting and enhancing native habitat, and preserving wetland and aquatic habitats (including fisheries). The DPEIR states that biological impacts (BIO-1, BIO-2, BIO-4) to special status species, wetland and riparian habitat, and fisheries would be significant and unavoidable. CDFW recommends that the DPEIR evaluate and describe how the Project complies or conflicts with the goals and policies of the COSE. For example, DPEIR page 4.3-18 states that fragmentation of habitats and isolation of regional wildlife populations could occur due to the ordinance. This appears to conflict with Policy BR 1.1 *Development Impacts to Corridors*, which requires restoration of important wildlife corridors if avoidance is not feasible for discretionary permits. If future Project-related activities will not be subject to discretionary actions and further CEQA review, then it appears necessary for the DPEIR to explain how it complies or conflicts with the COSE, because environmental impacts of exempt Project activities are expected to be accounted for in the PEIR (Executive Summary, page ES-2, paragraph 4). CDFW recommends that additional explanation be included in the DPEIR regarding the potential for minimization of impacts to biological resources according to the goals and requirements of COSE policy.

II. Impacts to Steelhead and Aquatic Ecosystems

In addition to the NOP letter comments regarding special status species, CDFW has the following specific comments and recommendations regarding the federal listed as

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threatened and State species of special concern South-Central California Coast Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss*).

Issues and Impacts

DPEIR Section 4.3.4, Cumulative Impacts, states that implementation of the proposed ordinance would result in significant regional impacts to aquatic species, riparian, and wetland habitat through facilitating further groundwater depletion and the conversion of habitat loss and decreased migration corridors as a result of conversion of natural habitat to agricultural use. The DPEIR also concludes significant impacts from Project activities would occur for special status aquatic species including steelhead trout. However, the biological and cumulative impact analysis section does not include an analysis of the potential impacts specific to aquatic species and habitats, including steelhead.

The National Marine Fisheries Service recovery plan for South-Central California Coast DPS identifies the Salinas River, including Nacimiento and San Antonio Rivers, as a Core 1 recovery stream. This designation identifies the Salinas River as one of the highest priority watersheds for recovery of steelhead within this DPS, and that critical recovery actions include alleviating threats to instream flows and impediments to fish passage.

The South-Central California Coast DPS includes steelhead populations in streams from the Pajaro River (inclusive) to (but not including) the Santa Maria River. In the mid-1960s, CDFW estimated that the DPS included 27,750 spawning steelhead, of which an estimated 500 spawned in the Salinas Basin. Five major streams (Pajaro River, Salinas River, Carmel River, Little Sur River, and Big Sur River) supported 4,750 spawners in the mid-1960s but support fewer than 500 in recent years with recent surveys in the Salinas River, primarily in the Arroyo Seco tributary, indicating that run averages may be much smaller. South-Central California Coast steelhead is regarded by the State as imperiled as it is vulnerable to extirpation and recovery of these populations is a high priority for steelhead management.

Habitat conditions for steelhead in the Salinas Basin are distinct from most other streams in the South-Central California Coast DPS of winter steelhead. The Salinas River drains an inland valley separated from the ocean by the coastal mountains. The Salinas tributaries that support steelhead drain the eastern side of the coast range, whereas most of the other streams are on the west side of the coast range and drain directly to the ocean. The geographic orientation of the Salinas Valley experiences a different micro-climate than other watersheds in the DPS and influences steelhead habitat conditions, including stream temperature during the summer rearing periods and the duration and frequency of streamflow conditions suitable for migration. Steelhead in the Salinas River may experience a greater number of years when access to the ocean

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is not possible due to low streamflow in comparison to other coastal streams in the region. Migration of adults from the ocean may begin later in the season, and seaward migration of juveniles may be truncated in the spring as compared to the other coastal drainages. Any changes to the flow volume of the Salinas River and its tributaries associated with the proposed Project could worsen conditions for steelhead and other fisheries.

Analysis Recommendations

CDFW recommends that the DPEIR include an analysis of impacts to anadromous fisheries, specifically South-Central California Coast DPS steelhead, based on the Project-related depletion of surface flows to the Salinas River and its tributaries. CDFW recommends that the DPEIR include requirements to identify, evaluate, and monitor all aquatic ecosystems and fish and wildlife resources therein that would be affected by Project activities and develop a plan to offset losses caused by changes in hydrology associated with the Project. CDFW recommends that any DPEIR determination that impacts will be significant and unavoidable include an explanation of both the avoidance and minimization contemplated but not incorporated, and the implications of significant impacts to steelhead and related to river and stream habitats for steelhead and associated aquatic resources.

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 CNDDDB. The CNDDDB field survey form can be found 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>.

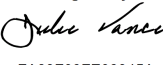
FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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 & G. Code, § 711.4; Pub. Resources Code, § 21089).

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CDFW appreciates the opportunity to comment on the Project to assist the County in identifying and mitigating the Project's impacts on biological resources. If you have questions regarding this letter, please contact Annette Tenneboe, Senior Environmental Scientist (Specialist), at (559) 580-3202 or by email at Annette.Tenneboe@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Enclosure: NOP letter

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

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September 17, 2021

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**Subject: Paso Basin Land Use Planting Ordinance (Project)
Notice of Preparation (NOP)
State Clearinghouse No. 2021080222**

Dear Mr. Hensley:

The California Department of Fish and Wildlife (CDFW) received a NOP for an Environmental Impact Report (EIR) from the County of San Luis Obispo (County) 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.

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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.

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. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take.

PROJECT DESCRIPTION SUMMARY

Proponent: County of San Luis Obispo

Description: The County proposes to adopt the Paso Basin Land Use Management Area Planting Ordinance consisting of amendments to the County Land Use Ordinance (Title 22) and Agriculture and Conservation and Open Space Elements of the County General Plan (LRP2021-00001) to require ministerial land use approval ("a planting permit") until 2045 for new or expanded planting of irrigated crops irrigated with water from groundwater wells located within the Paso Basin Land Use Management Area with a two-tier framework. Tier 1 would authorize plantings estimated to allow up to 25 acre-feet per year (AFY) of total groundwater use for crop irrigation per site, including existing crop plantings. Tier 2 would authorize plantings estimated to maintain neutral groundwater use on site based on a 6-year rolling lookback period from the application date. New or expanded plantings not falling within Tier 1 or Tier 2 would not be allowed. The estimated water use for crop irrigation is to be based on crop-specific water duty factors (AFY/acre) and crop acreage. The ordinance would only regulate new or expanded planting of irrigated crops using groundwater from the Paso Basin Land Use Management Area. Existing uses of groundwater from this area for irrigated crop plantings would be allowed to continue their existing water uses.

Project Goal: The goals of the Project are to 1) allow farms to plant irrigated crops that they have not been able to under the Agricultural Offset Requirements and 2) to continue to exercise the County's land use authority to regulate planting of irrigated crops utilizing groundwater from within the Paso Basin Land Use Management Area.

Location: The Paso Basin Land Use Management Area includes 313,661 acres located within the Shandon-Carrizo (North), El Pomar-Estrella, Salinas River, Las

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Pilitas, Los Padres (North), Adelaida, and Nacimiento Sub Areas of the North County Planning Area and includes the communities of Shandon, San Miguel, Creston, and Whitley Gardens.

Timeframe: Paso Basin Land Use Management Area Planting Ordinance would expire in 2045.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County 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 boundary and surrounding habitat, several special-status species could potentially be impacted by Project activities. The Salinas River watershed and associated riparian and oak woodland habitats are present within the Project boundary.

In particular, CDFW is concerned regarding potential impacts for special status species and habitats known to occupy the Project area, including the State threatened and federal endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State and federal endangered giant kangaroo rat (*Dipodomys ingens*) and least Bell's vireo (*Vireo bellii pusillus*); the State threatened Nelson's antelope squirrel (*Ammospermophilus nelsoni*), Swainson's hawk (*Buteo swainsoni*), bank swallow (*Riparia riparia*), and tricolored blackbird (*Agelaius tricolor*); the State and federal endangered and State fully-protected blunt-nosed leopard lizard (*Gambelia sila*); the State and federal threatened California tiger salamander (*Ambystoma californiense* pop.1); the federal threatened and State species of special concern California red-legged frog (*Rana draytonii*); the State rare and federal threatened Camatta Canyon amole (*Chlorogalum purpureum* var. *reductum*); the federal threatened and California Rare Plant Rank (CRPR) 1B.1 Santa Lucia purple amole (*Chlorogalum purpureum* var. *purpureum*); the CRPR 1B.1 Kellogg's horkelia (*Horkelia cuneata* var. *sericea*), dwarf calycadenia (*Calycadenia villosa*), and mesa horkelia (*Horkelia cuneata* var. *puberula*); the CRPR 1B.2 woodland woollythreads (*Monolopia gracilens*), yellow-flowered eriastrum (*Eriastrum luteum*), San Luis Obispo owl's clover (*Castilleja densiflora obispoensis*), Lemmon's jewelflower (*Caulanthus lemmonii*), shining navarretia (*Navarretia nigelliformis radians*), Eastwood's larkspur (*Delphinium parryi* ssp. *eastwoodiae*), and Indian Valley spineflower (*Aristocapsa insignis*); the CRPR 1B.3 Brewer's spineflower (*Chorizanthe breweri*) and La Panza mariposa-lily (*Calochortus simulans*); and the State species of special concern Monterey hitch (*Lavinia exilcauda harengus*), burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), Townsend's big-eared bat (*Corynorhinus townsendii*), pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops*

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perotis californicus), western red bat (*Lasiurus blossevillii*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), Salinas pocket mouse (*Perognathus inornatus psammophilus*), San Joaquin pocket mouse (*Perognathus inornatus*), western pond turtle (*Emys marmorata*), western spadefoot (*Spea hammondi*), California glossy snake (*Arizona elegans occidentalis*), and Northern California legless lizard (*Anniella pulchra*). Suitable habitat for the rare and endemic crotch bumble bee (*Bombus crotchii*), and obscure bumble bee (*Bombus caliginosus*) also occurs in the Project vicinity.

The Salinas River supports the federal threatened and State species of special concern South-Central California Coast Steelhead (*Oncorhynchus mykiss*) (SCCCS) Distinct Population Segment (DPS) and the Salinas River is designated by the Federal Endangered Species Act (ESA) as critical habitat for the SCCCS DPS. Surface and ground water dependent ecosystems, including riparian, wetland, and oak woodland habitats, are present within the Salinas River watershed and other areas within the Project boundary.

Page 14 of the NOP (Timberland (e)), states that the Paso Basin Land Use Management Area Planting Ordinance would allow planting of irrigated crops on fallowed lands and lands historically uncultivated. Page 18 of the NOP (Biological Resources) states the proposed Planting Ordinance would allow for more groundwater pumping than under the existing ordinance and may result in the loss of habitat for candidate, sensitive, or special status species. CDFW requests that the EIR fully identify potential impacts to biological resources, including but not limited to the above-mentioned species and habitats. In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species and/or suitable habitat features may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, and to identify any Project-related impacts subject to CESA. CDFW recommends that the following be incorporated into the EIR.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

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)?

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COMMENT 1: San Joaquin Kit Fox (SJKF)

Issues and Impacts: SJKF have been documented within the Project boundary (CDFW 2021). Based on the information provided in the NOP, the Project has the potential to temporarily disturb and permanently alter suitable habitat for SJKF and directly impact individuals if present during ground disturbing and other activities.

Habitat loss resulting from land conversion to agricultural, urban, and industrial development is the primary threat to SJKF, and the Project area in San Luis Obispo County supports areas of high and medium suitability SJKF habitat (Cypher et al. 2013). SJKF den in rights-of-way, 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; there is potential for SJKF to occupy all suitable habitat within the Project boundary and surrounding area. Without appropriate avoidance and minimization measures for SJKF, potential significant Project impacts include habitat loss, den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality.

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

Recommended Mitigation Measure 3: SJKF Take Authorization

SJKF activity or 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 any ground disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

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COMMENT 2: Giant Kangaroo Rat (GKR)

Issues and Impacts: GKR have been documented to occur in the eastern portion of the Project area (CDFW 2021). The NOP acknowledges the potential for the Project to disturb and permanently alter suitable habitat for special-status species, and to directly impact individuals and local populations if present. GKR inhabits sandy-loam soils located in grassland habitat with scattered shrubs and containing requisite habitat elements such as small mammal burrows. GKR could occupy or colonize undeveloped areas of suitable habitat within the Project boundary.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to GKR. Further, habitat fragmentation may accelerate the decline of this species. Little suitable intact habitat remains for these species (USFWS 1998, ESRP 2021a). Areas of suitable habitat within the Project vicinity represent some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. As a result, ground-disturbing activities and habitat conversion within the Project may have the potential to significantly impact local populations of GKR. Without appropriate avoidance and minimization measures for GKR, potential significant impacts from Project activities 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.

Recommended Mitigation Measure 4: GKR 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 GKR.

Recommended Mitigation Measure 5: GKR Surveys

In areas of suitable habitat, CDFW recommends that a qualified biologist conduct focused daytime visual surveys for GKR using line transects with 10- to 30-meter spacing of Project areas and a 50-foot buffer around those areas. Surveys should focus on the identification of their characteristic habitat types and burrow systems (burrow openings 50 to 55 mm in diameter) (CDFW 1990).

Recommended Mitigation Measure 6: GKR Avoidance

If suitable habitat is present and surveys are not feasible, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances until the completion of Project activities.

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Recommended Mitigation Measure 7: GKR Take Authorization

GKR detection or presence of characteristic habitat or burrow systems 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).

COMMENT 3: San Joaquin Antelope Squirrel (SJAS)

Issues and Impacts: SJAS have been documented in areas of suitable habitat within the Project vicinity (CDFW 2021). Suitable SJAS habitat includes areas of grassland, upland scrub, and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJAS (ESRP 2020b). Areas of suitable habitat within the Project represent some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Ground-disturbing activities within the Project area may significantly impact local populations of SJAS. Without appropriate avoidance and minimization measures for SJAS, 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.

Recommended Mitigation Measure 8: SJAS 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 SJAS.

Recommended Mitigation Measure 9: SJAS Surveys

In areas of suitable habitat, CDFW recommends that a qualified biologist conduct focused daytime visual surveys for SJAS using line transects with 10- to 30-meter spacing of Project areas and a 50-foot buffer. CDFW further advises that these surveys be conducted between April 1 and September 20, during daytime temperatures between 68° and 86° F (CDFG 1990), to maximize detectability.

Recommended Mitigation Measure 10: SJAS Avoidance

If suitable habitat is present and surveys are not feasible, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances until the completion of Project activities.

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Recommended Mitigation Measure 11: SJAS Take Authorization

SJAS detection or presence of characteristic habitat or burrow systems 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).

COMMENT 4: Least Bell's Vireo (LBV)

Issues and Impacts: LBV occurrences have been documented within the Project area, including the vicinity of the Salinas River near Paso Robles, and suitable riparian habitat for nesting occurs in the Project vicinity (CDFW 2021). Suitable LBV habitat includes rivers and streams with dense riparian vegetation. Review of aerial imagery indicates that suitable habitat for LBV occurs within the Project area.

LBV were abundant and widespread in the United States until the 1950s (Grinnell and Miller 1944). By the 1960s, they were considered scarce (Monson 1960), and by 1980, there were fewer than 50 pairs remaining (Edwards 1980), although this number had increased to 2,500 by 2004 (Kus and Whitfield 2005). Breeding habitat loss resulting from urban development, water diversion, and spread of agricultural is the primary threat to LBV. The primary cause of decline for this species has been the loss and alteration of riparian woodland habitats (USFWS 2006). Fragmentation of their preferred habitat has also increased their exposure to brown-headed cowbird (*Molothrus ater*) parasitism (Kus and Whitefield 2005). Current threats to their preferred habitat include colonization by non-native plants and altered hydrology (diversion, channelization, etc.) (USFWS 2006). Little suitable habitat for LBV remains in San Luis Obispo County. Suitable nesting habitat is present within or adjacent to the Project site. Without appropriate avoidance and minimization measures, potential significant impacts associated with subsequent activities may include nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Recommended Mitigation Measure 12: LBV Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its immediate vicinity contains suitable habitat for LBV. Although LBV inhabit riparian woodlands, the species has also been found to benefit from non-riparian systems including brushy fields, second-growth forest or woodland, scrub oak, coastal chaparral, and mesquite brushlands (Kus and Miner 1989, Poulin et al. 2011).

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Recommended Mitigation Measure 13: Focused LBV Surveys

To reduce potential Project-related impacts to LBV, CDFW recommends that a qualified wildlife biologist conduct surveys following the survey methodology developed by USFWS (2001) prior to Project initiation, within the Project area and a ½-mile buffer around the Project area. In addition, if Project activities will take place during the typical breeding season (February 1 through September 15), CDFW recommends that additional preconstruction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project activities such as construction or habitat removal.

Recommended Mitigation Measure 14: LBV Buffers

If an active LBV nest is found during protocol or preconstruction surveys, CDFW recommends implementing a maintaining a minimum 500-foot no-disturbance buffer 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 site or parental care.

Recommended Mitigation Measure 15: LBV Nest Avoidance and Habitat Mitigation

In addition to avoiding occupied nest trees, CDFW recommends that impacts to known nest trees be avoided at all times of year. Regardless of nesting status, if potential or known LBV nesting habitat is removed, CDFW recommends it be replaced with appropriate native tree species, planted at a ratio of 3:1 (replaced to removed), in an area that will be protected in perpetuity, to offset impacts of the loss of potential nesting habitat.

Recommended Mitigation Measure 16: LBV Take Authorization

If a 500-foot no-disturbance nest buffer is not feasible, consultation with CDFW is warranted and acquisition of an ITP for LBV may be necessary prior to project implementation, to avoid unauthorized take, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 5: Swainson's Hawk (SWHA)

Issues and Impacts: The Project area is within the historic range of SWHA, and SWHA have been documented in areas of suitable habitat within the Project vicinity (CDFW 2021). Undeveloped and agricultural land in the surrounding area provide suitable foraging habitat for SWHA. Any trees in or near the Project area may also provide suitable nesting habitat.

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SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat limits their local distribution and abundance (CDFW 2016). Approval of the Project may lead to subsequent ground-disturbing activities that involve noise, groundwork, construction of structures, and movement of workers that could affect nests and has the potential to result in nest abandonment and loss of foraging habitat, significantly impacting local nesting SWHA. In addition, conversion of undeveloped and agricultural land can directly influence distribution and abundance of SWHA, due to the reduction in foraging habitat. Groundwater pumping and habitat conversion may result in loss of riparian habitat and subsequent loss of potential nesting habitat. Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include: nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. All trees, including non-native or ornamental varieties, near the Project site may provide potential nesting sites.

Recommended Mitigation Measure 17: Focused SWHA Surveys

CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to Project implementation.

Recommended Mitigation Measure 18: SWHA Avoidance

CDFW recommends that if Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of when or how it was detected, 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.

Recommended Mitigation Measure 19: SWHA Take Authorization

CDFW recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Recommended Mitigation Measure 20: Loss of SWHA Foraging Habitat

CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's

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Hawks” (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report: for projects within one mile of an active nest tree, a minimum of one acre of habitat management (HM) land for each acre of development is advised; for projects within five miles of an active nest but greater than one mile, a minimum of $\frac{3}{4}$ acre of HM land for each acre of development is advised; and for projects within 10 miles of an active nest tree but greater than five miles from an active nest tree, a minimum of $\frac{1}{2}$ acre of HM land for each acre of development is advised.

Recommended Mitigation Measure 21: SWHA Tree Removal

CDFW recommends that the removal of known SWHA nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ration of 3:1 at or near the Project area or in another area that will be protected in perpetuity, to offset the local and temporal impacts of nesting habitat loss.

COMMENT 6: Bank Swallow (BASW)

Issues and Impacts: BASW occurrences have been documented in the Project vicinity (CDFW 2021). The NOP acknowledges the potential for the Project to disturb and permanently alter suitable habitat for special-status species and to directly impact individuals if present. In the summer, BASW are restricted to riparian, lacustrine, and coastal areas with vertical banks, bluffs, and cliffs with fine-textured or sandy soils, into which it digs nesting holes. The species’ range in California has been significantly reduced since 1900 (CDFG 1989) and only about 110 to 120 colonies remain. The majority of breeding population in California occurs along banks of the Sacramento and Feather rivers. Other colonies persist along the central coast from Monterey to San Mateo counties (Remsen 1978, CDFG 1999).

Channelization and stabilization of riverbanks, and other destruction and disturbance of nesting areas, are major factors causing the marked decline in numbers in recent decades. Project activities including noise, vibration, odors, visual disturbance, and movement of workers or equipment could affect nesting individuals. Without appropriate avoidance and minimization measures, potential significant impacts associated with subsequent activities may include nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Recommended Mitigation Measure 22: Focused BASW Surveys

To reduce potential Project-related impacts to BASW, CDFW recommends that a qualified wildlife biologist conduct focused surveys for BASW following standard

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survey methodology developed by the Bank Swallow Technical Advisory Committee (2017) prior to Project initiation, within the Project area and a 500-foot buffer around the Project area. In addition, if Project activities will take place during the typical avian breeding season (February 1 through September 15), CDFW recommends that additional preconstruction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction.

Recommended Mitigation Measure 23: BASW Buffers

If an active BASW nest or a nest colony is found during protocol or preconstruction surveys, CDFW recommends implementing and maintaining a minimum 500-foot no-disturbance buffer 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 site or parental care for survival.

Recommended Mitigation Measure 24: BASW Take Authorization

If a 500-foot no-disturbance nest buffer is not feasible, consultation with CDFW is warranted and acquisition of an ITP for BASW may be necessary prior to project implementation, to avoid unauthorized take, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 7: Tricolored Blackbird (TRBL)

Issues and Impacts: TRBL are known to occur in the Project area (CDFW 2021, UC Davis 2021). Review of aerial imagery indicates that the Project area includes suitable habitat types including wetlands, ponds, and flood-irrigated agricultural land, which is an increasingly important nesting habitat type for TRBL (Meese et al. 2017).

Potential nesting habitat for TRBL is present within the Project vicinity. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014), and approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). In addition, TRBL have been forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, 55% of the species' global population nested in only two colonies in silage fields (Kelsey 2008). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, disturbance to nesting colonies can cause entire nest colony site abandonment and loss of all unfledged nests, significantly impacting TRBL populations (Meese et al. 2014). Without appropriate avoidance and minimization measures for TRBL, potential significant impacts associated with subsequent development include nesting habitat loss, nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

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Recommended Mitigation Measure 25: TRBL Surveys

CDFW recommends that the Project activities be timed to avoid the typical bird-breeding season of February 1 through September 15. If Project activity that could disrupt nesting must take place during that time, CDFW recommends that a qualified biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence or absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 26: TRBL Colony Avoidance

If an active TRBL nesting colony is found during surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer, in accordance with CDFW's (2015a) "*Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015*", until the breeding season has ended or until a qualified biologist has determined that nesting has ceased and the young have fledged and are no longer reliant upon the colony or parental care for survival. TRBL colonies can expand over time and for this reason, CDFW recommends that an active colony be reassessed to determine its extent within 10 days prior to Project initiation.

Recommended Mitigation Measure 27: TRBL Take Authorization

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss whether the Project can avoid take and, if take avoidance is not feasible, to acquire an ITP pursuant to Fish and Game Code section 2081 subdivision (b), prior to any Project activities.

COMMENT 8: Blunt-nosed Leopard Lizard (BNLL)

Issues and Impacts: The NOP acknowledges the potential for the Project to disturb and permanently alter suitable habitat for special-status species, and to directly impact individuals and local populations if present. Portions of the Project area are within the western most boundary of BNLL distribution (USFWS 1998), and BNLL have been documented within the Project area (CDFW 2021). 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, unpaved access roadways, and canals. Review of aerial imagery indicates that undeveloped portions of the Project area and its vicinity are composed of these habitat features.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to BNLL (ESRP 2021c). The Project and surrounding area contain

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undeveloped land with suitable habitat features, and ground disturbing activities and conversion of habitat may occur. Without appropriate avoidance and minimization measures for BNLL, potentially significant impacts associated with ground-disturbing activities include habitat loss, burrow collapse, reduced reproductive success, reduced health and vigor of eggs and/or young, and direct mortality.

Recommended Mitigation Measure 28: BNLL Surveys

CDFW recommends conducting surveys in accordance with the “Approved Survey Methodology for the Blunt-nosed Leopard Lizard” (CDFW 2019) prior to initiating any vegetation- or ground-disturbing activities. This survey protocol is designed to optimize BNLL detectability. CDFW advises that BNLL surveys be completed 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 of the same calendar year, and that within these time periods, there are specific protocol-level date, temperature, and time parameters that must be adhered to. 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 29: BNLL Take Avoidance

BNLL detection during protocol-level surveys warrants consultation with CDFW to discuss how to implement vegetation- and ground-disturbing activities and avoid take. Because BNLL is a State Fully Protected species, no take incidental or otherwise, can be authorized by CDFW.

COMMENT 9: California Tiger Salamander (CTS)

Issues and Impacts: CTS are known to occur in the Project area and its vicinity (CDFW 2021). Review of aerial imagery indicates the presence of several wetland features in the Project’s vicinity that have the potential to support breeding CTS. In addition, the Project area or its immediate surroundings may support small mammal burrows, a requisite upland habitat feature for CTS.

Up to 75% of historic CTS habitat has been lost to development (Shaffer et al. 2013). Loss, degradation, and fragmentation of habitat are among the primary threats to CTS (CDFW 2015b, USFWS 2017a). The Project area is within the range of CTS and is both composed of and bordered by suitable upland habitat that could be occupied or colonized by CTS. Without appropriate avoidance and minimization measures for CTS, potential significant impacts associated with any construction or ground disturbing activity include burrow collapse; inadvertent entrapment; reduced reproductive success; reduction in health and vigor of eggs, larvae and/or young;

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and direct mortality of individuals. In addition, depending on the design of any activity, the Project has the potential to result in creation of barriers to dispersal.

Recommended Mitigation Measure 30: CTS Habitat Assessment

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

Recommended Mitigation Measure 31: Focused CTS Surveys

If the Project area does contain suitable habitat for CTS, CDFW recommends that a qualified biologist evaluate potential Project-related impacts to CTS prior to ground-disturbing activities using the USFWS's "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (2003). CDFW advises that the survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS.

Recommended Mitigation Measure 32: CTS Avoidance

CDFW advises that avoidance for CTS include a minimum 50-foot no disturbance buffer delineated around all small mammal burrows and a minimum 250-foot no disturbance buffer around potential breeding pools within and/or adjacent to the Project area. CDFW also recommends avoiding any impacts that could alter the hydrology or result in sedimentation of breeding pools. If avoidance is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take.

Recommended Mitigation Measure 33: CTS Take Authorization

If through surveys it is determined that CTS are occupying the Project area and take cannot be avoided, take authorization may be warranted prior to initiating ground-disturbing activities by securing the acquisition of an ITP pursuant to Fish and Game Code section 2081 subdivision (b), before Project ground or vegetation disturbing activities occur. Alternatively, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and obtain an ITP.

COMMENT 10: California Red-Legged Frog (CRLF)

Issues and Impacts: The NOP acknowledges the potential for the Project to temporarily disturb and permanently alter suitable habitat for special-status species, including riparian and wetland habitat, and to directly impact individuals if present. CRLF have been documented within the Project Area including the Salinas River

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(CDFW 2021). CRLF primarily inhabit ponds but can also be found in other waterways including marshes, streams, and lagoons. The species will also breed in ephemeral waters (Thomson et al. 2016).

CRLF populations throughout the state have experienced ongoing and drastic declines and many have been extirpated (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators such as bullfrogs are the primary threats to CRLF (Thomson et al. 2016, USFWS 2017b). All of these impacts have the potential to result from the Project. Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the Project's activities include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

Recommended Mitigation Measure 34: CRLF 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 contain suitable habitat for CRLF.

Recommended Mitigation Measure 35: CRLF Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct surveys for CRLF within 48 hours prior to commencing work (two night surveys immediately prior to construction or as otherwise required by the USFWS) in accordance with the USFWS *"Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog"* (USFWS 2005) to determine if CRLF are within or adjacent to the Project area.

Recommended Mitigation Measure 36: CRLF Avoidance

If any CRLF are found during preconstruction surveys or at any time during construction, CDFW recommends that construction cease and that CDFW be contacted to discuss a relocation plan for CRLF with relocation conducted by a qualified biologist holding a Scientific Collecting Permit from CDFW for the species. CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (e.g., November 1 and March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activity daily for CRLF.

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COMMENT 11: Special-Status Plants

Issues and Impacts: State- and federal listed, and other special-status plant species meeting the definition of rare or endangered under CEQA section 15380, are known to occur throughout the Project boundary and surrounding area, including the species listed above, and potentially other special-status plant species.

Many of the special-status plant species listed above are threatened by grazing and agricultural, urban, and energy development. Many historical occurrences of these species are presumed extirpated (CNPS 2021). Though new populations have recently been discovered, impacts to existing populations have the potential to significantly impact populations of plant species. Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts associated with subsequent Project-specific activities include loss of habitat, loss or reduction of productivity, and direct mortality.

Recommended Mitigation Measure 37: Special-Status Plant Surveys

CDFW recommends that individual Project sites be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities” (CDFG 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

Recommended Mitigation Measure 38: Special-Status Plant Avoidance

CDFW recommends that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW may be warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 39: Listed Plant Species Take Authorization

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization is warranted. Take authorization would occur through issuance of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b).

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COMMENT 12: Burrowing Owl (BUOW)

Issues and Impacts: BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used for nesting and cover. BUOW may also occur in some agricultural areas, ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat in the area (Gervais et al. 2008). BUOW occurrences have been documented in the Project vicinity, and habitat both within and bordering the Project site supports suitable habitat for BUOW (CDFW 2021).

BUOW rely on burrow habitat year-round for their survival and reproduction. The Project and surrounding area contain 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. In addition, and as described in CDFW's "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA. Potentially significant impacts to nesting and non-nesting BUOW can also occur as a result of ground-impacting activity, such as grading and flooding within active and fallow agricultural areas, and as a result of noise, vibration, and other disturbance caused by equipment and crews. Potential impacts associated with Project 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.

Recommended Mitigation Measure 40: BUOW Habitat Assessment

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

Recommended Mitigation Measure 41: BUOW Surveys

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

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Recommended Mitigation Measure 42: BUOW Avoidance

CDFW recommends that no-disturbance buffers, as outlined by 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 43: BUOW Eviction and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to CDFG (2012), evicting 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 minimum ratio of one burrow collapsed to one artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance at a rate that is sufficient to detect BUOW if they return.

COMMENT 13: Special-Status Bat Species

Issues and Impacts: Townsend's big-eared bat have been documented to occur in the vicinity of the Project area (CDFW 2021). In addition, habitat features are present that have the potential to support pallid bat, western mastiff bat, and western red bat.

Western mastiff bat, pallid bat, and Townsend's big-eared bat are known to roost in buildings, caves, tunnels, cliffs, crevices, and trees. (Lewis 1994 and Gruver 2006).

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Western red bat is highly associated with riparian habitat (Peirson et al. 2004). Project activities have the potential to affect habitat upon which special-status bat species depend for successful breeding and have the potential to impact individuals and local populations. Without appropriate avoidance and minimization measures for special-status bat species, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project activities include habitat loss, inadvertent entrapment, roost abandonment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Recommended Mitigation Measure 44: Bat Roost Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if the Project area or its immediate vicinity contains suitable roosting habitat for special-status bat species.

Recommended Mitigation Measure 45: Bat Surveys

If suitable habitat is present, CDFW recommends assessing presence/absence of special-status bat roosts by conducting surveys during the appropriate seasonal period of bat activity. CDFW recommends methods such as through evening emergence surveys or bat detectors to determine whether bats are present.

Recommended Mitigation Measure 46: Bat Roost Disturbance Minimization and Avoidance

If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and that a qualified biologist who is experienced with bats monitor the roost for signs of disturbance to bats from Project activity. If a bat roost is identified and work is planned to occur during the breeding season, CDFW recommends that no disturbance to maternity roosts occurs and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

COMMENT 14: Western Pond Turtle (WPT)

Issues and Impacts: WPT are documented in the Project area (CDFW 2021), and a review of aerial imagery shows requisite habitat features that WPT utilize for nesting, overwintering, dispersal, and basking occur in the Project area. These features include aquatic and terrestrial habitats such as rivers, lakes, reservoirs, ponded areas, irrigation canals, riparian and upland habitat. WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016). Noise, vegetation removal, movement of workers, construction and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations.

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Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

Recommended Mitigation Measure 47: WPT Surveys

CDFW recommends that a qualified biologist conduct focused surveys for WPT within 10 days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season (March through August).

Recommended Mitigation Measure 48: WPT Avoidance and Minimization

CDFW recommends that any WPT nests that are discovered remain undisturbed with a no-disturbance buffer maintained around the nest until the eggs have hatched and neonates are no longer in the nest or Project areas. If WPT individuals are discovered at the site during surveys or Project activities, CDFW recommends that they be allowed to move out of the area of their own volition without disturbance.

COMMENT 15: Crotch Bumble Bee (CBB) and Obscure Bumble Bee (OBB)

Issues and Impacts: CBB and OBB, rare and endemic bumble bee species, have been documented within the Project area (CDFW 2021). Suitable habitat includes areas of grasslands and upland scrub, open grassy coastal prairies, and Coast Range meadows that contain requisite habitat elements, such as small mammal burrows. These species of bumble bee 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, underneath 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 mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014).

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). OBB historically occurs along the Pacific Coast with scattered records from the east side of the Central Valley. Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance of CBB by 98% and persistence by 80% over the last ten years. Analysis suggests very high population decline range-wide for OBB, including declines in range size by 40%, persistence by 67%, and relative abundance declines by 85%. But the level of population decline is difficult to ascertain, with more surveys needed within this species' historic range

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(Hatfield et al. 2014). Without appropriate avoidance and minimization measures, 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.

Recommended Mitigation Measure 49: CBB and OBB Avoidance

CDFW recommends that all small mammal burrows and thatched/bunch grasses be surveyed for the species during the optimal flight period (April 1-July 31) during peak blooming period of preferred plant species prior to Project implementation. Avoidance of detected queens or workers is encouraged to allow CBB and OBB to leave the Project site on their own volition. Avoidance and protection of a detected nests prior to or during Project implementation is encouraged with delineation and observance of a 50-foot no-disturbance buffer.

COMMENT 16: Other State Species of Special Concern

Issues and Impacts: American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, Northern California legless lizard, and western spadefoot are known to inhabit grassland and upland shrub areas with friable soils (Williams 1986, Thomson et al. 2016). These species have been documented to occur in the vicinity of the Project, which supports requisite habitat elements for these species (CDFW 2021).

Habitat loss threatens all of the species mentioned above (Williams 1986, Thomson et al. 2016). Habitat within and adjacent to the Project represents some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Without appropriate avoidance and minimization measures for these species, potentially significant impacts associated with ground disturbance include habitat loss, nest/den/burrow abandonment, which may result in reduced health or vigor of eggs and/or young, and direct mortality.

Recommended Mitigation Measure 50: Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if Project areas or their immediate vicinity contain suitable habitat for the species mentioned above.

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Recommended Mitigation Measure 51: Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.

Recommended Mitigation Measure 52: Avoidance

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around dens of mammals like the American badger as well as the entrances of burrows that can provide refuge for small mammals, reptiles, and amphibians.

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT 17: Wetland and Riparian Habitats

Issues and Impacts: The Project area includes stream and wetland features within an agricultural landscape that also maintains undeveloped habitats. Project activities have the potential to result in temporary and permanent impacts to these features through groundwater pumping, habitat conversion, grading, fill, and related development. Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow. The Fish and Game Commission policy regarding wetland resources discourages development or conversion of wetlands that results in any net loss of wetland acreage or habitat value. Habitat conversion, construction, grading, and fill activities within these features also has the potential to impact downstream waters as a result of Project site impacts leading to erosion, scour, and changes in stream morphology.

Recommended Mitigation Measure 53: Stream and Wetland Mapping

CDFW recommends that formal stream mapping and wetland delineation be conducted by a qualified biologist or hydrologist, as warranted, to determine the baseline location, extent, and condition of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that while there is overlap, State and Federal definitions of wetlands differ, and complete stream

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mapping commonly differs from delineations used by the United States (U.S.) Army Corps of Engineers specifically to identify the extent of Waters of the U.S.

Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as the extent of all streams including floodplains, if present, within the Project area. CDFW advises that site map(s) depicting the extent of any activities that may affect wetlands, lakes, or streams be included with any Project site evaluations, to clearly identify areas where stream/riparian and wetland habitats could be impacted from Project activities.

Recommended Mitigation Measure 54: Stream and Wetland Habitat Mitigation

CDFW recommends that the potential direct and indirect impacts to stream/riparian and wetland habitat be analyzed according to each Project activity. Based on those potential impacts, CDFW recommends that the EIR include measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat (i.e., biotic and abiotic features) take into account the effects to stream function and hydrology from riparian habitat loss or damage, as well as potential effects from the loss of riparian habitat to special-status species already identified herein. CDFW recommends that losses to stream and wetland habitats be offset with corresponding riparian and wetland habitat restoration incorporating native vegetation to replace the value to fish and wildlife provided by the habitats lost from Project implementation. If on-site restoration to replace habitats is not feasible, CDFW recommends offsite mitigation by restoring or enhancing in-kind riparian or wetland habitat and providing for the long-term management and protection of the mitigation area, to ensure its persistence.

COMMENT 18: Sustainable Groundwater Management Act (SGMA) and Groundwater Dependent Ecosystems:

Issues and Impacts: Many sensitive ecosystems and public trust resources such as streams, springs, riparian areas, and wetlands are dependent on groundwater and interconnected surface waters. The Project boundary overlaps the majority of the boundary for the Paso Robles Area Subbasin (Subbasin No. 3-004.06). A Groundwater Sustainability Plan was prepared for the Paso Robles Subbasin jointly by four Groundwater Sustainability Agencies (GSAs): City of Paso Robles GSA, Paso Basin - County of San Luis Obispo GSA, San Miguel Community Services District GSA, and Shandon - San Juan GSA. The Paso Robles Subbasin is listed as critically overdrafted and designated a high priority Subbasin by the Department of Water Resources. SGMA defines sustainable groundwater management as “management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results (Water Code, § 10721 (v)).” Significant and undesirable results that may result from Project related activities and have adverse impacts to groundwater dependent ecosystems

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include chronic lowering of groundwater levels, reduction of groundwater storage, degraded water quality, land subsidence, and depletions of interconnected surface water that have an adverse impact on beneficial uses of surface water.

According to the NOP, the Groundwater Sustainability Plan prepared for the Paso Robles Subbasin assumes no net increase in pumping demand on the basin in future water budget analysis. The increased pumping that would be allowed by the Project is not accounted for in the Groundwater Sustainability Plan, which currently projects a groundwater storage deficit that would increase under the Project. The increased groundwater pumping due to the Project may result in significant and adverse impacts to groundwater dependent ecosystems including wetland and riparian habitats and the species dependent upon these habitats.

Analysis Recommendations:

- CDFW recommends that the EIR include an analysis of Project-related activities and groundwater pumping in relation to the Paso Robles Subbasin Groundwater Sustainability Plan, including analysis of potential undesirable results and adverse impacts to groundwater dependent ecosystems including the biological resources listed above.
- CDFW recommends that the EIR analyze how the drawdown of groundwater from the Project may affect surface and subsurface water levels, including drawdown from confined aquifers.
- CDFW recommends that the EIR include specific triggers for evaluating changes to surface and ground water levels and monitoring wetland and riparian habitats that would be affected by these changes.

Recommended Mitigation Measure 55: Groundwater Dependent Ecosystem Monitoring and Mitigation:

CDFW recommends that the EIR include requirements to identify, evaluate, and monitor all areas that would be affected by increased pumping, and develop a plan to offset losses of groundwater dependent ecosystems caused by changes in hydrology associated with Project pumping. The plan should address mitigation for impacted habitat value and function, to achieve a minimum no net loss of these habitats, consistent with California Fish and Game Commission policy on Wetlands Resources.

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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 to 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 Code sections as referenced above.

To evaluate Project-related impacts to nesting birds, CDFW recommends that a qualified biologist conduct preconstruction 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 baseline of all identified nests. Once construction begins, CDFW recommends that a qualified biologist continuously monitor nests to detect behavioral changes resulting

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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 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 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 ESA is more stringently defined than under CESA; take under ESA 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. Similarly, for potential effects to steelhead and its critical habitat, CDFW recommends consultation with the National Marine Fisheries Service (NMFS). Consultation with the USFWS and NMFS in order to comply with ESA 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 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

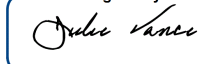
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CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the County 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 (559) 580-3202 or by email at Annette.Tenneboe@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

Attachment

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

ec: Annette Tenneboe, California Department of Fish and Wildlife

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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Paso Basin Land Use Planting Ordinance

STATE CLEARINGHOUSE No.: 2021080222

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>Before Project Activity</i>	
Recommended Mitigation Measure 1: SJKF Habitat Assessment	
Recommended Mitigation Measure 2: SJKF Surveys and Minimization	
Recommended Mitigation Measure 3: SJKF Take Authorization	
Recommended Mitigation Measure 4: GKR Habitat Assessment	
Recommended Mitigation Measure 5: GKR Surveys	
Recommended Mitigation Measure 7: GKR Take Authorization	
Recommended Mitigation Measure 8: SJAS Habitat Assessment	
Recommended Mitigation Measure 9: SJAS Surveys	
Recommended Mitigation Measure 11: SJAS Take Authorization	
Recommended Mitigation Measure 12: LBV Habitat Assessment	
Recommended Mitigation Measure 13: Focused LBV Surveys	
Recommended Mitigation Measure 14: LVB Buffers	
Recommended Mitigation Measure 15: LBV Nest Avoidance and Habitat Mitigation	
Recommended Mitigation Measure 16: LVBI Take Authorization	
Recommended Mitigation Measure 17: Focused SWHA Surveys	
Recommended Mitigation Measure 18: SWHA Avoidance	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>During Project Activity</i>	
Recommended Mitigation Measure 2: SJKF Surveys and Minimization	
Recommended Mitigation Measure 6: GKR Avoidance	
Recommended Mitigation Measure 10: SJAS Avoidance	
Recommended Mitigation Measure 14: LVB Buffers	
Recommended Mitigation Measure 15: LBV Nest Avoidance and Habitat Mitigation	
Recommended Mitigation Measure 18: SWHA Avoidance	
Recommended Mitigation Measure 23: BASW Buffers	
Recommended Mitigation Measure 26: TRBL Colony Avoidance	
Recommended Mitigation Measure 32: CTS Avoidance	
Recommended Mitigation Measure 38: Special-Status Plant Avoidance	
Recommended Mitigation Measure 42: BUOW Avoidance	
Recommended Mitigation Measure 46: Bat Roost disturbance Minimization and Avoidance	
Recommended Mitigation Measure 48: WPT Avoidance and Minimization	
Recommended Mitigation Measure 49: CBB and OBB Surveys and Avoidance	
Recommended Mitigation Measure 52: Avoidance – American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, California legless lizard, western spadefoot.	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 19: SWHA Take Authorization	
Recommended Mitigation Measure 20: Loss of SWHA Foraging Habitat	
Recommended Mitigation Measure 21: SWHA Tree Removal	
Recommended Mitigation Measure 22: Focused BASW Surveys	
Recommended Mitigation Measure 23: BASW Buffers	
Recommended Mitigation Measure 24: BASW Take Authorization	
Recommended Mitigation Measure 25: TRBL Surveys	
Recommended Mitigation Measure 26: TRBL Colony Avoidance	
Recommended Mitigation Measure 27: TRBL Take Authorization	
Recommended Mitigation Measure 28: BNLL Surveys	
Recommended Mitigation Measure 29: BNLL Take Avoidance	
Recommended Mitigation Measure 30: CTS Habitat Assessment	
Recommended Mitigation Measure 31: Focused CTS Surveys	
Recommended Mitigation Measure 32: CTS Avoidance	
Recommended Mitigation Measure 33: CTS Take Authorization	
Recommended Mitigation Measure 34: CRLF Habitat Assessment	
Recommended Mitigation Measure 35: CRLF Surveys	
Recommended Mitigation Measure 36: CRLF Avoidance	
Recommended Mitigation Measure 37: Special-Status Plant Surveys	
Recommended Mitigation Measure 38: Special-Status Plant Avoidance	
Recommended Mitigation Measure 39: Listed Plant Species Take Authorization	
Recommended Mitigation Measure 40: BUOW Habitat Assessment	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 41: BUOW Surveys	
Recommended Mitigation Measure 42: BUOW Avoidance	
Recommended Mitigation Measure 43: BUOW Eviction and Mitigation	
Recommended Mitigation Measure 44: Bat Roost Habitat Assessment	
Recommended Mitigation Measure 45: Bat Surveys	
Recommended Mitigation Measure 46: Bat Roost disturbance Minimization and Avoidance	
Recommended Mitigation Measure 47: WPT Surveys	
Recommended Mitigation Measure 48: WPT Avoidance and Minimization	
Recommended Mitigation Measure 49: CBB and OBB Surveys and Avoidance	
Recommended Mitigation Measure 50: Habitat Assessment – – American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, California legless lizard, western spadefoot.	
Recommended Mitigation Measure 51: Surveys – American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, California legless lizard, western spadefoot.	
Recommended Mitigation Measure 52: Avoidance – American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, California legless lizard, western spadefoot.	
Recommended Mitigation Measure 53: Stream and Wetland Mapping	
Recommended Mitigation Measure 54: Stream and Wetland Habitat Mitigation	
Recommended Mitigation Measure 55: Groundwater Dependent Ecosystem Monitoring and Mitigation	