



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670-4599
916-358-2900
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 14, 2022

Lea Simvoulakis
Planning Manager
City of Manteca, Community Development Department
1001 West Center Street, Suite 201
Manteca, CA 95337
LSimvoulakis@ci.manteca.ca.us



Dear Ms. Simvoulakis:

**Subject: North Manteca Annexation #1
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH# 2021100441**

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a DEIR from the City of Manteca, Community Development Department (City of Manteca) for the North Manteca Annexation #1 (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise 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. (Fish & G. Code., § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for

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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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 should be obtained. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The project site is located at the intersection of SR 99 and Union Road, in the City of Manteca, San Joaquin County, California, at approximately Latitude: 37.838111, Longitude: -121.230833.

The proposed project consists of the annexation of 202.81 acres, including approximately 175.67 acres for development and 27.14 acres with no development proposed. The proposed project includes a General Plan Amendment for the 175.67-acre development area to low-density residential and high-density residential uses.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Manteca in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

CDFW is primarily concerned with the project impacts to existing fish and wildlife resources including Swainson's Hawk (*Buteo swainsoni*), Burrowing Owl (*Athene cunicularia*), Loggerhead Shrike (*Lanius ludovicianus*), Tricolored Blackbird (*Agelaius tricolor*), Giant garter snake (*Thamnophis gigas*), western pond turtle (*Actinemys marmorata*), and other aquatic and terrestrial plant and wildlife species. CDFW provides the following comments for the City of Manteca's consideration:

- 1. Lake and Streambed Alteration.** The DEIR states that there are no rivers, streams, or other aquatic habitats on the project site. Based on satellite imagery, it appears there may be episodic or anthropogenically controlled drainages hydrologically connected to other aquatic features that pass-through annexation zones #1 and #2. The DEIR did not analyze any potential temporary, permanent, direct, indirect and/or cumulative impacts to aquatic features as none were identified. If these potential features are determined to be hydrologically connected, the DEIR should propose appropriate avoidance, minimization, and/or mitigation measures to reduce impacts to a less-than-significant level including but not limited to Project impacts to water temperature, water nutrient concentrations, and turbidity.

On page 3.4-15, the DEIR states, "Private landowners or project proponents must obtain a 'Streambed Alteration Agreement' from CDFW prior to any alteration of a lakebed, stream channel, or their banks." However, Section 1602 of the Fish and Game Code regulates activities that may alter the bed, bank, or channel of a river,

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stream, or lake. Therefore, please note that notification is required for any activity that may do one or more of the following:

- Substantially divert or obstruct the natural flow of any river, stream, or lake;
- Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
- Deposit debris, waste, or other materials where it may pass into any river, stream, or lake.

Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW will determine if the project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required.

CDFW's issuance of a LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of a LSA Agreement, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, minimization, mitigation, and monitoring and reporting commitments.

- 2. Rare Plants.** The DEIR states that rare plant surveys were not conducted during the appropriate blooming periods because the project site is highly disturbed by the active agricultural and urban operations. CDFW still recommends that rare plant surveys be conducted during the appropriate blooming periods to ensure occurrence data is accurate prior to project initiation. Helpful survey protocols can be found on CDFW's website: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (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 submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

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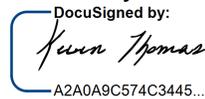
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the DEIR to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Zach Kearns, Environmental Scientist at (916) 358-1134 or zachary.kearns@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Kevin Thomas
Regional Manager

ec: Tanya Sheya, Environmental Program Manager
Billie Wilson, Senior Environmental Scientist (Supervisor)
Zach Kearns, Environmental Scientist
Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse, Sacramento