



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 North Central Region
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February 21, 2025

Wes Ervin
 City of Oroville
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Subject: Ophir Road Warehouse Project (Project)
 DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
 SCH No. 2022090522

Dear Wes Ervin:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of Oroville (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response to the Notice of Preparation of the DEIR.

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.

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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project site is located southwest of the intersection of Ophir Road and Baggett Palermo Road in the City of Oroville, California. The approximately 170.21-acre project site consists of two parcels (Assessor's Parcel Number [APNs] 078-010-047 and 078-020-035) and is undeveloped grassland.

The Project consists of the development of four warehouse buildings on-site totaling approximately 3.2 million square feet (sf) and 2,152 vehicle parking spaces. Each of the buildings would consist of a five-story concrete tilt-up warehouse with depressed dock areas and will range from 774,000 sf to 869,200 sf. The buildings would each have

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.

Wes Ervin
 City of Oroville
 February 21, 2025
 Page 2

between 76 and 86 dock doors. Each building would also provide approximately 20,000-sf of office space. A total of 2,152 vehicle parking spaces would be provided on-site. Site access would be provided by a new driveway off Ophir Road to the north and a new driveway off Baggett Palermo Road to the east. The southern portion of the project site would remain undeveloped. Primary Project activities include construction of the concrete tilt up warehouse, development of a new driveway, the creation of vehicle parking spaces, off-site roadway improvements, landscaping, and water, sanitary and stormwater improvements.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the potential for the Project to have a significant impact on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

Comment 1: Crotch's bumble bee and short eared owl

Issue: On October 22, 2022, CDFW responded to the City's Notice of Preparation of the DEIR for the Ophir Road Warehouse Project with a letter offering comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, impacts on biological resources. The NOP letter recommended the DEIR provide a thorough discussion of the Project's potential direct, indirect, and cumulative impacts on biological resources and specifically called attention to the Project's potential impacts to Crotch's bumble bee (*Bombus crotchii*) and short eared owl (*Asio flammeus*), among others. Crotch's bumblebee is a candidate for listing pursuant to CESA. As a candidate species Crotch's bumblebee is afforded CESA protections (including prohibitions against "take" without permit authorization). Short eared owl is a California Species of Special Concern. The Project area contains suitable habitat for both of these species. The DEIR, as written, does not appropriately analyze the Project's impacts to or provide adequate avoidance, minimization, and/or mitigation measures to reduce impacts to Crotch's bumblebee and short eared owl to a less than significant level.

Recommendation: The DEIR should appropriately analyze all direct, indirect, and cumulative impacts that are expected to occur to these species as a result of the construction and long-term operation and maintenance of the Project. The Biological Resources section of the DEIR should be amended to provide adequate avoidance, minimization, and/or mitigation measures to address the Project's significant impacts to Crotch's bumblebee and short eared owl. At a minimum, protocol level surveys should be conducted at the Project site to inform the development of appropriate and enforceable mitigation measures. Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an Incidental Take Permit (ITP). To facilitate the issuance of an ITP, if applicable, CDFW recommends the DEIR include measures to minimize and fully mitigate the impacts to any State-listed species the Project has potential to take.

Comment 2: Special-status Plants – Mitigation Measure 4.3-1

Issue: The Project site has suitable habitat and potential to support the following California Native Plant Society (CNPS) ranked as rare species: Ahart's paronychia (*Paronychia ahartii*), Butte County golden clover (*Trifolium jokerstii*), and Red bluff dwarf rush (*Juncus leiospermus* var. *leiospermus*), and Ahart's dwarf rush (*Juncus leiospermus* var. *ahartii*). The Project site has suitable habitat and potential to support the following CESA-listed species: slender Orcutt grass (*Orcuttia tenuis*) and Greene's tuctoria (*Tuctoria greenei*). These species are vernal pool endemics adapted to periodic or continuous inundation during the winter and spring and desiccation during the summer and fall. In addition, these species are known to occur at the elevation of the Project site. The DEIR relies heavily upon California Natural Diversity Database (CNDDDB) as a key indicator of species potential to occur. CDFW's CNDDDB is not an exhaustive or comprehensive inventory of all rare species and natural communities. The likelihood of species presence on the Project

Wes Ervin
City of Oroville
February 21, 2025
Page 3

site cannot be inferred solely from the absence of CNDDDB occurrences. CNDDDB should be used as a starting point in gathering information about the potential presence of species within the general area of the Project site.

According to the DEIR, surveys for special-status plants were conducted in early May of 2023, however, this time period may have missed the blooming period for slender Orcutt grass and Greene's tuctoria which *begins* in May, nor were the surveys conducted at a reference site to verify the correct timing. Within the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018 Protocols) specify the need for multiple field visits throughout the growing season when plants will be both evident and identifiable. Therefore, the May 12, 2023, survey may have been insufficient to determine that the special status plants do not exist at this location.

Finally, Mitigation Measure 4.3-1 fails to comply with CEQA Guidelines § 15126.4 by deferring mitigation to a future time by not including fully enforceable compensatory mitigation to offset potentially significant impacts to special-status plants. The measure mentions a "mitigation plan" but does not identify when the plant mitigation plan would be prepared, or who would be responsible for preparing, reviewing, or implementing it. The measure also does not define the plan area or establish criteria for plan success. Without goals, content, and enforceability in the plant management plan, this measure does not mitigate project impacts to a less than significant level.

Recommendation: CDFW concurs with Mitigation Measure 4.3-1 in that additional protocol-level plant surveys are needed to determine the presence or absence of special status species on the site. The survey should be conducted in accordance with the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018). Several surveys shall be conducted by a qualified botanist throughout the blooming period for each of the special-status species. Prior to conducting surveys onsite, the qualified botanist shall visit a local reference population visit and confirm that the species to be surveyed for are present and identifiable.

CDFW recommends the final paragraph in 4.3-1 be reworded to require that the plant mitigation plan will be developed by a qualified botanist and submitted to the City for review and approval in consultation with CDFW, no later than 120 days prior to the start of construction activities. The plan shall include but not be limited to a description of the plan area, survey methods, surveyor qualifications, occurrence and species details, proposed relocation methods and locations, long-term monitoring, success criteria, and a contingency plan. If the occurrences can be avoided, the plan should include recommended protective buffers, construction monitoring, and post-construction monitoring.

Comment 3: Western Spadefoot

Issue: The Project site contains suitable upland aestivation and aquatic breeding habitat for western spadefoot (*Spea hammondi*), a California Species of Special Concern and candidate for listing under the federal Endangered Species Act. Impacts to western spadefoot from ground disturbing activities onsite may be considered potentially significant unless adequate mitigation is incorporated. Western spadefoot is a primarily terrestrial fossorial species. They spend most of the year in underground burrows and are rarely found on the surface (Stebbins 1972; Dimmitt and Ruibal 1980a). Spadefoots emerge from their underground burrows to breed and forage during and following relatively warm rains during late winter-spring (Morey 2000). Aquatic habitat is used for breeding and developing larvae and typically includes temporary vernal pools, sand or gravel washes, and small streams that are often seasonal (Stebbins and McGinnis 2012). However, eggs and larvae of western spadefoot have been observed in a variety of permanent and temporary wetlands, both natural and altered, including rivers, creeks, artificial ponds, livestock ponds, sedimentation and flood control ponds, irrigation and roadside ditches, roadside puddles, tire ruts, and borrow pits (CNDDDB 2025).

For mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will reduce the environmental impacts from the project to a less than

Wes Ervin
 City of Oroville
 February 21, 2025
 Page 4

significant level. The DEIR does not currently include any mitigation measures for western spadefoot. To determine whether the Project may have a significant impact on this species, the Project proponent must first determine whether they occur on the site. Western spadefoot can only be detected while they are above ground during their breeding season (late winter-early spring). Performing preconstruction surveys outside the breeding season when spadefoots are aestivating underground will result in potentially false negative findings. False negative survey results could result in unidentified and unmitigated significant impacts on this biological resource.

Recommendation: To mitigate potential impacts to western spadefoot to a less-than-significant level, CDFW recommends the following language be incorporated into the DEIR:

“Prior to the City’s issuance of a grading permit or other authorization for ground disturbance, a qualified biologist shall conduct a minimum of three nighttime visual encounter and acoustic detection (i.e., listening for male breeding call) surveys and one day time egg mass survey. Surveys shall be timed during late winter and early spring, generally February 15-April 1, but shall not begin until the site has received adequate rainfall to form breeding ponds and daytime temperatures are consistently greater than 60 degrees. Surveys shall be conducted no more than 24 hours following a rain event with at least 7 calendar days between each survey. Survey methods and results shall be provided to CDFW upon request. If any life stage of western spadefoot is encountered, CDFW shall be consulted to determine appropriate avoidance, minimization, and compensatory mitigation measures. Compensatory mitigation in the form of habitat preservation on or off-site may be required. Ground disturbing activities shall not commence until written approval is received from the City in consultation with CDFW.”

For all future projects within the City of Oroville or its sphere of influence, CDFW recommends a qualified biologist be retained to perform western spadefoot surveys, over multiple years if feasible, prior to the public comment period. This will allow the City of Oroville time to consult with CDFW if spadefoot are present, develop effective feasible mitigation, and incorporate the survey methods, results, and proposed mitigation into the environmental document for public review and comment.

Comment 4: Swainson’s hawks - Mitigation Measure 4.3-2 (a)

Issue: The DEIR does not contain adequate measures to mitigate Project impacts to Swainson’s hawk to a less-than-significant level. The DEIR states in table 4.3-2 that, “The project site contains suitable foraging habitat” for Swainson’s hawk; however, compensatory mitigation for the permanent loss of foraging habitat is not included. With the proposed alternative, approximately 135 acres of suitable Swainson’s hawk foraging habitat will be permanently impacted. The primary threat to the Swainson’s Hawk population in California continues to be habitat loss, especially the loss of suitable foraging habitat (California Department of Fish and Game 2016). Unmitigated loss of foraging habitat for a CESA listed threatened species is a significant impact. As discussed above, a lack of CNDDDB occurrences cannot be used to infer absence of any species, including Swainson’s hawks using the site as foraging habitat.

Additionally, the DEIR states that “If active Swainson’s hawk nests are not identified on or within 500 feet of the project site within the recommended survey periods, a letter report summarizing the survey results shall be *submitted* to the City of Oroville within 30 days following the final survey, and further avoidance and minimization measures for nesting habitat are not required.” However, this distance may not be enough to avoid impacts to Swainson’s hawk.

Recommendation: CDFW recommends that the loss of approximately 135 acres of Swainson’s hawk foraging habitat is mitigated through permanent protection and management of equal habitat in order to reduce Project impacts to a less than significant level.

Additionally, CDFW recommends following the Swainson’s Hawk Technical Advisory Committee’s (TAC) *Recommended Timing and Methodology for Swainson’s Hawk Nesting*

Wes Ervin
 City of Oroville
 February 21, 2025
 Page 5

Surveys in California's Central Valley (2000) which states that surveys be conducted for a 0.5-mile radius of all project activities. Measure 4.3-2(a) should clarify that a pre-construction survey for nesting Swainson's hawks is required in addition to protocol level surveys annually for the Project and could be reworded as such:

"Prior to the initiation of construction activities, a qualified biologist shall conduct surveys for Swainson's hawk in accordance with the Swainson's Hawk Technical Advisory Committee's (TAC) *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (2000), available on CDFW's webpage at <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>. Survey methods shall be closely followed by starting early in the nesting season to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted within a minimum 0.50-mile radius of the Project area or a larger area, if necessary, to identify potentially impacted active nests. Surveys shall occur annually for the duration of the Project. The qualified biologist must have a minimum of two years of experience implementing the TAC survey methodology. If an active nest is identified, a minimum 0.25-mile protective buffer shall be maintained around the nest until the young fledge. The protective buffer shall be clearly marked and be an area where no project-related activities or personnel are allowed while in place. If the minimum 0.25-mile buffer must be reduced or take of Swainson's hawk cannot be avoided, an Incidental Take Permit (ITP) shall be obtained. An additional pre-construction survey shall be conducted no more than seven (7) days prior to the start of construction to confirm the absence of nesting Swainson's hawks within 0.5 miles of the Project."

Comment 5: Mitigation measures 4.3-3 (b) and 4.3-2 (B)

Issue: The Project as proposed will result in permanent impacts to federally listed vernal pool crustaceans, vernal pools and swales, and ephemeral drainages. The permanent loss of these species and habitats resulting from the Project is a significant impact. The DEIR proposes a conservation easement be placed on the southern portion of the project site to mitigate these impacts to a less-than-significant level; however, the DEIR does not provide substantial evidence to demonstrate that on-site preservation will be sufficient to offset impacts proposed by the Project. The proposed mitigation of the conservation easement is insufficient to mitigate impacts to the habitat and species to less-than-significant for the following reasons:

- A) *Clear delineation of the conservation easement:* The DEIR does not clearly define the locations of the on-site preserves graphically in Figure 4.3-3 to illustrate the habitats that would be included in the parcel. Without a static legal description and an accurate visual representation of the proposed conservation easement area it is impossible to determine whether its establishment is sufficient to avoid impacts to the preserved resources.
- B) *Too small for meaningful protection:* The DEIR provides no scientific evidence or assessment of whether a 35-acre preserve is sufficiently sized to successfully avoid all potential long-term impacts to a less-than-significant level within the Project area. Constructed warehouses and parking will abut the property with no assessment provided of potential adverse impacts from project-related construction and maintenance activities. Adverse impacts that could occur include but are not limited to edge effects such as exposure to herbicides and introduction of invasive species onto the habitats. Without science-based evidence that a preserve of this size is sufficient to prevent long-term impacts, impacts from adjacent development will continue to be significant. In addition to this, the small size of the preserves may make adaptive management difficult and could result in the extirpation of species and habitats at this location.
- C) *Changed hydrology:* The DEIR provides no scientific evidence that permanently filling the upper watershed would not provide a permanent change in year-round

Wes Ervin
 City of Oroville
 February 21, 2025
 Page 6

hydrology of the downstream aquatic features in the conservation easement. A full build-out of the upper watershed may change the current ponding duration of wetland features in the easement area through a reduction or increase of stormwater, or by permanently altering the hard pan layer.

- D) *Permanent protection*: The DEIR states the “establishment of a 35-acre conservation easement” will be part of the Project but fails to include additional features that would be required for the permanent protection of these lands. For effective permanent protection, an endowment, long-term management plan, and performance standards for habitat management are needed.

Recommendation: CDFW recommends the DEIR includes the following:

- A) *Clear delineation of the conservation easement*: A clear map of the proposed conservation easement including the boundaries, buffers, and the biological resources on site.
- B) *Increase size of easement area*. The conservation easement area size should be significantly increased to minimize edge effects and ensure ecological functions of the preserved resources. This recommendation could be achieved through Project Alternative C. Reduced Footprint Alternative.
- C) *Changed hydrology*. The appropriate hydrologic and hydraulic studies should be prepared to demonstrate that the ecological functions of the proposed conservation easement area will be maintained in perpetuity. These studies and a written explanation of how the easement area is expected to fare given the build out of the upper watershed of the site should be incorporated into the DEIR for public review and comment.
- D) *Permanent protection*. The name of the organization who will hold the conservation easement, the amount of endowment funds, the timing of easement recordation, and a long-term management plan.

Comment 6: Mitigation measure 4.3-3 (c) Impacts to waters of the US

Issue: The DEIR states that “Mitigation for direct impacts to waters of the U.S. associated with the proposed project would occur at a minimum of 1:1 ratio...”; however, a 1:1 ratio is insufficient to mitigate project impacts to a less than significant level. Estimates suggest that close to 90 percent or more of the vernal pool habitat in the Central Valley and in other parts of the state has been lost. Recent studies have documented continuing vernal pool habitat loss in recent decades, with over 13 percent of the remaining Central Valley vernal pool habitat (137,100 acres) being lost from baseline conditions in 1976-1995 to the conditions in 2005. Agriculture and development have also altered the hydrology of land surrounding vernal pools, increasing erosion and runoff and contributing harmful pesticides and fertilizers. (CDFW 2022). The disappearance of the remaining vernal habitat marks the loss of rare and important habitat and some of the associated plant and animal species as well. On a local spatial scale, the vernal pool ecosystem, or “complex” includes vernal pools and associated uplands. In addition, adjacent drainages may also act as a hydrologic input to the vernal complex. Mitigating at a 1:1 ratio for the Project would generate a loss of these declining aquatic resources and is not sufficient to mitigate Project impacts to a less-than-significant level.

Recommendation: CDFW recommends the minimum mitigation ratio is increased to 5:1 and both the preservation and creation of in-kind aquatic resources off-site, based on the quality of the habitat on site, to ensure the Project impacts are mitigated to a less-than significant level for waters of the State.

Wes Ervin
 City of Oroville
 February 21, 2025
 Page 7

Comment 7: 4.3-5 Oak tree mitigation

Issue: Oak woodlands are extremely valuable wildlife habitat, and oak trees typically have a very slow growth rate. In California, oak woodlands have the greatest wildlife species richness of any other habitat in the state with over 330 species of amphibians, birds, and mammals relying upon these habitats at some point during their lives (CalPIF 2002). Oak woodlands have experienced ongoing declines due to conversion for agricultural uses, and oak woodlands are also impacted by low recruitment, novel pathogens, competition from invasive species, and fire suppression (Whipple et al. 2011). California has lost approximately 1/3 of its historic oak woodland habitat statewide (CalPIF 2002). Because oaks are slow-growing trees, the substantial habitat and ecosystem value that mature trees provide is difficult to replace. Oak woodlands provide vertical and horizontal structural habitat complexity, food sources for a wide variety of wildlife, and nesting, denning, burrowing, hibernating, and roosting structures.

The DEIR mitigation measure 4.3-5 is not enforceable mitigation for the loss of five (5) mature oak trees on-site. The DEIR mitigation measure relies on a "site-specific tree management and preservation report" with recommendations but fails to include enforceable mitigation actions or a management plan for the oak trees. Because there is no guarantee of action from the submittal of a report, the mitigation measures are unenforceable and may not reduce the Project's impact on oak woodland to a less-than-significant level. The mitigation proposed by the DEIR would not adequately replace the habitat value that would be lost as a result of the removal of these five (5) mature oak trees. In addition, the Project will result in the temporal loss of oak woodland habitat, due to the fact that replacement oak trees would not attain comparable size and structure until many decades or more.

Recommendation: CDFW recommends the DEIR include measures that are enforceable and do not defer the details of the mitigation to the future. This can be achieved by 1) avoiding the oak trees with appropriate set-back buffers thus negating the need to mitigate, or 2) providing sufficient details on how the loss of oak woodland will be mitigated to a less-than-significant level.

If complete avoidance of the blue oak trees is infeasible, then CDFW recommends that impacts are mitigated through the creation and permanent protection of off-site oak woodland. Oak woodland mitigation should occur on lands protected through fee title, transfer or conservation easement to an appropriate conservation entity to ensure long term preservation and successful implementation of the mitigation. Planting oak trees in the proposed on-site conservation easement area would not be appropriate as it may constitute habitat conversion from vernal pool grassland to oak woodland. The City of Oroville's Ordinance on Oak Tree loss mitigation states that for off-site replacement, "Each inch in diameter at breast height (dbh) of oak removed shall be replaced by 2 inches of native oaks, using trees planted at a minimum size of one gallon. For example, a 6-inch dbh tree may be replaced by four 3-inch trees or 12 one-inch trees." To reduce Project impacts on oak woodland to less-than-significant, CDFW recommends that each inch in dbh of oak removed shall be replaced by 10 inches of native oaks. CDFW recommends oak plantings be monitored and maintained for a minimum of 10 years.

The DEIR should include the location details of the proposed mitigation site, the total number of oaks to be planted, establish performance standards to evaluate the success of the plantings, provide a range of options to achieve the performance standards, and commit the City and/or Project proponent to successful completion of the mitigation. Mitigation measures should also describe when the mitigation measure will be implemented and who is ultimately responsible for its success.

Comment 8: Mitigation measure 4.1-3 Lighting

Issue: The proposed Project includes the addition of new lighting; however, Mitigation measure 4.1-3 is not sufficient to reduce Project impacts to a less than significant level.

New lighting, especially in areas where no lighting or low levels of lighting currently exist, has potential for significant impacts to occur that could result in a finding of significance.

Wes Ervin
 City of Oroville
 February 21, 2025
 Page 8

Artificial light spillage beyond the prism of the roadway into natural areas may result in a potentially significant impact through substantial degradation of the quality of the environment. Artificial light pollution also has the potential to significantly and adversely affect biological resources and the habitat that supports them. Unlike the natural brightness created by the monthly cycle of the moon, the permanent and continuously powered lighting fixtures create an unnatural light regime that produces a constant light output. Continuous light output for 365 days a year can also have cumulatively significant impacts on fish and wildlife populations.

Artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., bird song), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). For nocturnally migrating birds, direct mortality resulting from collisions with anthropogenic structures due to attraction to light (Gauthreux, 2006) is another direct effect of artificial light pollution. There are also more subtle effects, such as disrupted orientation (Poot et al. 2008) and changes in habitat selection (McLaren et al. 2018). While artificial light pollution can act as an attractant at local (Van Doren et al. 2017) scales.

Recommendation: CDFW recommends the following mitigation measures are incorporated into the DEIR:

- A) *Light Output Limits:* “All LED’s or bulbs installed as a result of the Project shall be rated to emit or produce light at or under 2700 kelvin that results in the output of a warm white color spectrum.”
- B) *Light Pole Modifications and Shielding:* “All new or replacement light poles or sources of illumination shall be installed with the appropriate shielding to avoid excessive light pollution into natural landscapes or aquatic habitat within the Project area in coordination with the City and CDFW. In addition, the light pole arm length and mast heights should be modified to site specific conditions to reduce excessive light spillage into natural landscapes or aquatic habitat within the Project corridor.”

In areas with sensitive natural landscapes, like aquatic habitat, the City should also analyze and determine if placing the light poles at non-standard intervals has the potential to further reduce the potential for excessive light pollution caused by decreasing the number of light output sources in sensitive areas.

Comment 9: Bird enhancement and mortality reduction strategies in Project design and implementation.

Issue: The proposed Project footprint will ultimately border existing open space areas including grasslands. These open space areas provide suitable habitat for nesting birds. Placement of buildings adjacent to suitable nesting bird habitat may adversely affect bird populations by introducing sources of common bird mortalities such as reflective windows that birds may collide with. Collisions with clear and reflective sheet glass and plastic is a leading cause in human-related bird mortalities. These types of mortalities contribute to declines in segments of the overall bird population and ecological benefits of healthy bird activity. Many types of windows, sheet glass, and clear plastics are invisible to birds resulting in casualties or injuries from head trauma after an unexpected collision. Birds may collide with windows as little as one meter away in an attempt to reach habitat seen through, or reflected in, clear and tinted panes, so even taking small measures to increase visibility of windows to birds can make a substantial difference in minimizing long-term impacts of urban development near natural environments.

Recommendation: CDFW recommends consideration of bird enhancement and mortality reduction strategies in Project design and implementation. Incorporation of these strategies can reduce anthropogenic effects on birds and promote sustainable development in California. CDFW recommends the applicant incorporate bird and wildlife friendly strategies such as installing screens, window patterns, or new types of glass such

Wes Ervin
City of Oroville
February 21, 2025
Page 9

as acid-etched, fritted, frosted, ultraviolet patterned, or channel. Additional information can be found at <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php>.

Incorporation of bird and wildlife strategies not only promotes environmental stewardship but also facilitates compliance with State and federal protections aimed at preserving bird populations. In addition, bird mortalities from collisions could be greatly reduced if Alternative C. Reduced Footprint Alternative were implemented instead of the proposed Project.

V. Editorial Comments and/or Suggestions

For ease of access and review, future DEIRs can be made more accessible to the public and Trustee agencies by incorporating section bookmarks and providing appendices as separate documents.

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 filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing 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 DEIR to assist the City of Oroville in identifying and mitigating Project impacts on biological resources. Due to the issues presented in this letter, CDFW concludes that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts on biological resources. Deficiencies in the Lead Agency CEQA document can affect later project approvals by CDFW in its role as a Responsible Agency. In addition, because of these issues, CDFW has concerns that City may not have the basis to approve the project or make "findings" as required by CEQA unless the environmental document is modified to eliminate and/or mitigate significant impacts, as reasonably feasible (CEQA Guidelines, § 15074, 15091 & 15092).

Questions regarding this letter or further coordination should be directed to Melissa Stanfield, Senior Environmental Scientist (Supervisor) at melissa.stanfield@wildlife.ca.gov or (916) 597-6417.

Sincerely,

DocuSigned by:

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Regional Manager

Wes Ervin
City of Oroville
February 21, 2025
Page 10

ec: Tanya Sheya, Environmental Program Manager
Melissa Stanfield, Senior Environmental Scientist (Supervisory)
Laurel Low, Senior Environmental Scientist (Specialist)
Department of Fish and Wildlife

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

Wes Ervin
City of Oroville
February 21, 2025
Page 11

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Wes Ervin
City of Oroville
February 21, 2025
Page 12

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