



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
North Central Region  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



April 12, 2024

Lea C. Simvoulakis  
Senior Planner  
City of Manteca  
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Manteca, CA 95336  
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Governor's Office of Planning & Research

**Apr 12 2024**

**STATE CLEARINGHOUSE**

Subject: Union Ranch North  
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)  
SCH No. 2023110668

Dear Lea C. Simvoulakis:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a DEIR from the City of Manteca (City) for the Union Ranch North (Project) pursuant to the California Environmental Quality Act (CEQA) statute and guidelines.<sup>1</sup>

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.

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<sup>1</sup> 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 may also act 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 in the city of Manteca at approximately Latitude: 37.845167 and Longitude: -121.235301.

The Project consists of the development of 465 single family residential units. The quantifiable objectives include the development of park, open space, and trail totaling approximately 9.44 acres. The development of the neighborhood park, upland open space, and trail will total approximately 6.23 acres. The continuation of the Tide Water Bike Trail will be approximately 2.21 acres. The Project objectives also include the installation of new public roadways that will provide pedestrian and vehicular access to the Project site and surrounding community areas, and other improvements, including water supply, storm drainage, sewer facilities, and landscaping.

The Project description should include the whole action as defined in the CEQA Guidelines section 15070 and should include appropriate detailed exhibits disclosing the Project area including temporary impacted areas such as equipment staging areas, spoils areas, adjacent infrastructure development, and access and haul roads if applicable.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

**COMMENT 1:** Nesting Bird Surveys. Impact 3.4-3: The proposed Project has the potential to have direct or indirect effects on special-status bird species. (Less than Significant with Mitigation), 3.4-27.

**Issue:** The Nesting Raptors (Birds of Prey) section prescribes preconstruction surveys during the nesting season of March 1 through August 31 to avoid impacts to nesting birds. However, CDFW typically recommends preconstruction surveys to take place between February 1 and August 31, to capture nesting activity early in the season and ensure compliance with Fish and Game Code section 3503. Preconstruction surveys starting on February 15 may not capture early nesting species such as Burrowing Owl (*Athene cunicularia*), which have been shown to nest as early as February 1. Additionally, early

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seasonal warming, exacerbated by climate change, may further expedite nesting prior to February 15.

**Recommendation or Recommended Mitigation Measure:** CDFW recommends the start of the preconstruction survey window be extended to February 1.

**COMMENT 2:** Fish and Game Code §1601-1603 – Streambed Alteration. 3.4-15.

**Issue:** The DEIR references that a Streambed Alteration Agreement may be needed. However, there is no mention of what Project activities (e.g., grading) would impact resources under Fish and Game Codes Section 1602 and require a Streambed Alteration Agreement. Additionally, the DEIR also incorrectly states that “These agreements are usually initiated through the local CDFW warden...” Information on CDFW’s Notification and the online permitting portal can be found at:  
<https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

**Recommendation or Recommended Mitigation Measure:** CDFW recommends the DEIR is updated with the following text:

"Section 1602 of the Fish and Game Code requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following activities:

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

If CDFW determines that the Project activities may substantially adversely affect an existing fish or wildlife resource based on a Project notification under Fish and Game Codes Section 1602, a Lake and Streambed Alteration (LSA) Agreement will be issued which will include reasonable measures necessary to protect the resource.”

CDFW recommends the draft DEIR clearly state which Project activities may impact resources under Fish and Game Codes Section 1602 and require notification submission to CDFW for those activities subject to Fish and Game Codes Section 1602. Furthermore, CDFW recommends early consultation, since modification of the Project may avoid or reduce impacts to fish and wildlife resources.

**COMMENT 3:** Manteca General Plan Update (Proposed), Policies: Resource Conservation Element, 3.4-20.

**Issue:** The Policies: Resource Conservation Element section includes recommendations for updates to the Manteca General Plan. The proposed changes may not be sufficient to address concerns related to Project impacts.

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**Recommendation or Recommended Mitigation Measure:** CDFW recommends that the proposed changes incorporate the following principles to promote the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species within the Plan:

1. The City shall promote the preservation and restoration of contiguous areas of natural habitat throughout the city and support their integration with existing and future preserves;
2. The City shall retain plant and wildlife habitat areas where there are known sensitive resources (e.g., sensitive habitats, special-status, threatened, endangered, candidate species, and species of concern). Particular attention shall be focused on retaining habitat areas that are contiguous with other existing natural areas and/or wildlife movement corridors;
3. The City shall preserve the ecological integrity of creek corridors, canals, and drainage ditches that support riparian resources by preserving native plants and, to the extent feasible, removing invasive nonnative plants. If not feasible, adverse impacts on riparian habitat shall be mitigated by the preservation and/or restoration of this habitat in compliance with State and federal regulations in perpetuity;
4. The City shall preserve and protect wetland resources including creeks, rivers, ponds, marshes, vernal pools, and other seasonal wetlands, to the extent feasible. If not feasible, the mitigation of all adverse impacts on wetland resources shall be required in compliance with State and federal regulations protecting wetland resources, and if applicable, special-status species such as: Swainson's hawk (*Buteo swainsoni*), and Burrowing Owl (*Athene cunicularia*). Additionally, the City shall require either on- or off-site permanent preservation of an equivalent amount of wetland habitat to ensure no net loss of value and/or function;
5. The City shall preserve and protect native grasslands and vernal pools that provide habitat for rare and endangered species. If not feasible, the mitigation of all adverse impacts on annual grasslands shall comply with State and federal regulations protecting foraging habitat for those species known to utilize this habitat;
6. The City shall preserve, protect, and avoid impacts to natural, undisturbed habitats that provide movement corridors for sensitive wildlife species. If corridors are adversely affected, damaged habitat shall be replaced with habitat of equivalent value or enhanced to enable the continued movement of species;
7. The City shall consider the potential impact on sensitive plants and wildlife for each Project requiring discretionary approval. If site conditions are such that potential habitat for sensitive plant and/or wildlife species may be present, the City shall require habitat assessments, prepared by a qualified biologist, for sensitive plant and wildlife species. If the habitat assessment determines that suitable habitat for sensitive plant and/or wildlife species is present, then either (1) protocol-level surveys shall be conducted (where survey protocol has been established by a resource agency), or, in the absence of established survey protocol, a focused survey shall be conducted consistent with industry recognized best practices; or (2)

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suitable habitat and presence of the species shall be assumed to occur within all potential habitat locations identified on the Project site. Survey Reports shall be prepared and submitted to the City and CDFW or the United States Fish and Wildlife Service (USFWS) (depending on the species) for further consultation and development of avoidance and/ or mitigation measures consistent with State and federal law;

8. The City will thoroughly analyze future Projects' potential direct, indirect, and cumulative impacts on biological resources. To ensure these impacts are fully analyzed, the City will define the threshold of significance for each impact and describe the criteria used to determine whether the impacts are significant (CEQA Guidelines, § 15064, subd. (f)). The City shall analyze potential direct impacts from lighting, noise, human activity, and wildlife-human interactions created by development activities especially those adjacent to natural areas, exotic and/or invasive species occurrences, and drainages, as well as analyze potential indirect impacts including resources in areas adjacent to the Project footprint, such as nearby public lands, open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands. Additionally, the City shall analyze a Project's cumulative impacts and determine if that contribution would result in a significant impact;
9. The City will adopt appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of construction and long-term operation and maintenance of Projects. Mitigation will be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (Guidelines § § 15126.4(a)(4)(B), 15064, 15065, and 16355);
10. The City shall support active habitat restoration and enhancement to reduce impact of climate change stressors and improve overall resilience of habitat within existing parks and open space in the city;
11. The City shall support educational programs for residents and visitors about the uniqueness and value of the natural resources, plants, and wildlife in the region, and how to manage development to preserve native wildlife populations, to the extent they are consistent with habitat protection requirements; and
12. The City shall comply with all applicable laws related to nesting birds and birds of prey. Potential habitat for nesting birds and birds of prey is present throughout the City of Lodi. The City shall analyze all potential activities that may incur a direct or indirect take to nongame nesting birds within the city and provide appropriate avoidance, minimization, and/or mitigation measures to avoid take. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. The City shall also include specific avoidance and minimization measures that will be implemented should a nest be located within a Project site. In addition to larger, protocol level survey efforts and scientific assessments, final preconstruction surveys may be required no more than fifteen

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(15) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted earlier.

## 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](mailto:CNDDDB@wildlife.ca.gov).

## 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 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](mailto:R2CEQA@wildlife.ca.gov).

CDFW appreciates the opportunity to comment on the DEIR for the Union Ranch North Project to assist the City 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](mailto:zachary.kearns@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
C3A86764C0AD4F6...

Morgan Kilgour, PhD  
Regional Manager

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ec: Billie Wilson, Senior Environmental Scientist (Supervisory)  
Zach Kearns, Environmental Scientist  
*Department of Fish and Wildlife*

Office of Planning and Research, State Clearinghouse, Sacramento