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July 29, 2024

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**Subject: Sandridge Irrigation Pipeline Project (Project)
Draft Environmental Impact Report (DEIR)
State Clearinghouse No. 2023120577**

Dear Caryn Larson:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the Stratford Public Utility District, as Lead Agency for the 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 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

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.

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 2

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.

Cumulative Impacts: General impacts from Projects include habitat fragmentation, degradation, habitat loss, migration/movement corridor limitations, and potential loss of individuals from the population. CDFW recommends that the lead agency consider all approved and future projects when determining impact significance to biological resources.

Water Rights: The capture of unallocated stream flows to artificially recharge groundwater aquifers is subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code section 1200 et seq. CDFW, as Trustee Agency, is consulted by SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Certain fish and wildlife are reliant upon aquatic and riparian ecosystems, which in turn are reliant upon adequate flows of water. CDFW, therefore, has a material interest in assuring that adequate water flows within streams for the protection, maintenance, and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from Project activities.

Bird Protection: 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 section 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), section 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T as specified in the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, § 15380), CDFW recommends that it be fully considered in the environmental analysis for this Project.

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Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 3

PROJECT DESCRIPTION SUMMARY

The Project is located in northwest Kings County. The pipeline begins approximately two miles south of the City of Lemoore and continues south before proceeding west across the Tulare Lake Canal and Kings River until reaching its terminus at the Blakely Canal. The Project boundary encompasses a 3.7-mile irrigation water pipeline that would connect to and from existing Sandridge Partners LP (Sandridge) water distribution systems. The Project includes segments that are both constructed (approximately 3.2 miles) and yet to be constructed (approximately 0.5 mile); together these segments comprise a total of 3.7 miles of pipeline. Activities began in 2021 and have been paused to address CEQA-related litigation.

The previously completed activities included installation of 2.4 miles of 48-inch diameter pipeline between Highway 41 and the north side of the Tulare Lake Canal, and 0.8 mile of 48-inch diameter pipeline from the south side of the Tulare Lake Canal to the Blakeley Canal. The installation of these pipeline sections are estimated to have disturbed a 10-foot area on either side of the alignment to bury the pipe to an undisclosed depth, with a disturbance area of 7.7 acres for an undisclosed volume of displaced soil.

New construction would involve the installation of a 48-inch diameter pipeline approximately 200 feet across the Tulare Lake Canal, and the reconstruction and replacement of approximately 0.5 mile of existing canal. The pipeline construction would have an approximately 10-foot disturbance area on either side of the pipe alignment for construction activities and would have a disturbance area of approximately 1.3 acres.

Project operation following construction would transport groundwater and surface water supplies from existing Sandridge sources located north of the community of Stratford to irrigate Sandridge-owned farmlands within Kings County, with residual tailwater discharged into the Blakeley Canal. During flood events, the pipeline would transport water in the opposite direction from the Blakeley Canal to the north, in order to facilitate the utilization of flood waters.

Proponent: Stratford Public Utility District

Objective: The proponent of the Project is proposing to develop and install high-density polyethylene pipe infrastructure to convey water from northern to eastern and southwestern areas near Stratford within Kings County and enhance efficiency by reducing water loss due to sandy soil perching and evaporation.

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 4

Location: The Project will take place two miles south of the City of Lemoore, in the vicinity of Java Avenue directly west of State Route 41 and run south for approximately two miles before crossing State Route 41 near King Avenue east for approximately 450 feet before turning south along 20th Avenue for approximately one mile, eventually crossing Laurel Avenue. It then will run south along the Stratford Canal for about 0.5 mile before turning west, crossing the canal, and running along Lincoln Avenue for approximately 280 feet.

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following recommendations to assist Stratford Public Utility District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document.

The DEIR acknowledges that the Project area is within the geographic range of several special-status animal species and determined that species-specific mitigation measures were not warranted. The CNDDDB and aerial imagery of the Project boundary and its surroundings confirm that portions of the Project area support Valley sink scrub habitat (CDFW 2024). CDFW is concerned about the lack of proposed measures to mitigate for potential impacts to special-status animal species including the State and federally endangered Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State candidate endangered Crotch's bumble bee (*Bombus crotchii*); the State threatened Swainson's hawk (*Buteo swainsoni*), tricolored blackbird (*Agelaius tricolor*), and San Joaquin (= Nelson's) antelope squirrel (*Ammospermophilus nelsoni*); the federally threatened and State species of special concern western snowy plover (*Charadrius nivosus nivosus*); the federally proposed threatened and State species of special concern western spadefoot (*Spea hammondi*) and western pond turtle (*Actinemys marmorata*); and the State species of special concern burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), LeConte's thrasher (*Toxostoma lecontei*), long-billed curlew (*Numenius americanus*), coast horned lizard (*Phrynosoma blainvillii*), and San Joaquin coachwhip (*Masticophis flagellum*). The Project alignment is also within the geographic range of the California Rare Plant Rank 1B.2 California alkali grass (*Puccinellia simplex*).

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 5

To evaluate impacts of the Project on these species, CDFW recommends that a qualified biologist conduct species-specific focused habitat assessments and, if suitable habitat is present, protocol-level surveys or assumption of presence. CDFW further recommends that the results of these surveys be summarized and used to evaluate Project impacts, impact avoidance and mitigation, and potential permitting needs in the DEIR. The DEIR must provide quantifiable and enforceable measures as needed that will reduce impacts to less than significant levels.

Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat with features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean that a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species is present.

Tipton Kangaroo Rat (TKR)

The DEIR states on page 3.3-8 that there is potential TKR habitat located in levee embankments but that TKR have a low likelihood of occurring on the Project route due to high levels of human disturbance. TKR have been documented to occur within areas of suitable habitat within and adjacent to the Project (CDFW 2024). Suitable TKR habitat includes areas of grassland, upland scrub, and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows (ESRP 2024). Without appropriate avoidance and minimization measures for TKR, 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. To evaluate potential Project-related impacts to TKR, CDFW recommends conducting the following evaluation of the Project site and implementing the following mitigation measures.

- **Recommended Mitigation Measure 1: TKR 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 TKR.
- **Recommended Mitigation Measure 2: TKR Avoidance**
If suitable habitat is present, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances.

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 6

- **Recommended Mitigation Measure 3: TKR Surveys**
If burrow avoidance is not feasible, CDFW recommends that focused protocol-level trapping surveys be conducted by a qualified biologist that is permitted to do so by both CDFW and the United States Fish and Wildlife Service (USFWS), to determine if TKR occurs in the Project area. CDFW advises that these surveys be conducted in accordance with the USFWS (2013) *Survey Protocol for Determining Presence of San Joaquin Kangaroo Rats*, well in advance of ground-disturbing activities in order to determine whether impacts to TKR could occur.
- **Recommended Mitigation Measure 4: TKR Take Authorization**
TKR detection warrants consultation with CDFW to discuss how to avoid take. If avoidance is not feasible, take authorization through the issuance of Incidental Take Permit (ITP) for TKR prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA.

San Joaquin Kit Fox (SJKF)

The DEIR states on page 3.3-16 that SJKF have the potential to be present in transit, though they are unlikely to den in the Project area due to high levels of human disturbance. SJKF den in a variety of areas such as rights-of-way, agricultural and fallow/ruderal habitat, dry stream channels, and canal levees, and populations can fluctuate over time. SJKF are also capable of occupying urban environments (Cypher et al. 2013). 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. As a result, there is potential for SJKF to occupy all suitable habitat within the Project boundary and surrounding area.

The DEIR also states that if avoidance of potential dens is not feasible, the biologist shall excavate these dens by hand with a shovel to prevent them from being used during construction. SJKF detection warrants consultation with CDFW to discuss how to avoid take prior to ground-disturbing activities in order to comply with CESA. Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with construction include habitat loss, den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals. To evaluate potential impacts to SJKF, CDFW recommends implementing the following mitigation measures.

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 7

- **Recommended Mitigation Measure 5: SJKF Surveys and Minimization**
CDFW recommends assessing presence or absence of SJKF in areas where SJKF are not already known to occur 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* (USFWS 2011) during Project implementation.
- **Recommended Mitigation Measure 6: SJKF Take Authorization**
SJKF known presence or detection of individuals or activity warrants consultation with CDFW to discuss how to avoid take. If avoidance is not feasible, take authorization through the issuance of an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA.

Crotch's Bumble Bee (CBB)

The DEIR states on page 3.3-4 that CBB has low potential to occur in the project area due to high levels of agricultural disturbance and lack of suitable open scrub or sandy grassland habitat. CDFW does not concur with these findings, as CBB are known to inhabit areas of grassland and scrub habitats that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses (CDFW 2023), and it appears that these habitat elements are present throughout the Project area. Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local CBB populations. Without appropriate avoidance and minimization measures for CBB, potentially significant impacts from ground- and vegetation-disturbing Project activities include direct mortality, loss of forage plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, and reduced health and vigor of eggs, young and/or queens. To evaluate potential impacts to CBB, CDFW recommends implementing the following mitigation measures.

- **Recommended Mitigation Measure 7: CBB Surveys**
CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features following the methodology outlined in the *Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species* (CDFW 2023) during the blooming period immediately prior to construction.

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 8

- **Recommended Mitigation Measure 8: CBB Avoidance Buffer**
If CBB is detected, then CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.
- **Recommended Mitigation Measure 9: CBB Take Authorization**
If take cannot be avoided, take authorization through the issuance of an ITP pursuant to Fish and Game Code Section 2081, subdivision (b), prior to initiating ground-disturbing activities is necessary to comply with CESA.

Swainson's Hawk (SWHA)

The DEIR states on page 3.3-4 that suitable nest trees and foraging habitat are present in the Project area. The DEIR does not require surveys for SWHA prior to Project implementation but impacts to nesting Swainson's hawk can occur through disturbance related to the construction and other Project activities. To evaluate potential impacts to SWHA, CDFW recommends conducting the following evaluation of the subject parcel and implementing the following mitigation measures.

- **Recommended Mitigation Measure 10: SWHA Surveys**
To evaluate potential Project-related impacts, CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the survey methodology developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) during the nesting season of or 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 species' nesting season (i.e., March 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 Project implementation.
- **Recommended Mitigation Measure 11: SWHA Avoidance**
If an active SWHA nest is present, CDFW recommends implementing a minimum ½-mile no-disturbance buffer around the nest 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 for survival. If a ½-mile buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take of SWHA.
- **Recommended Mitigation Measure 12: SWHA Take Authorization**

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Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 9

If a ½-mile buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take of SWHA. If avoidance is not feasible, take authorization through the issuance of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA.

San Joaquin Antelope Squirrel (SJAS)

The DEIR states on page 3.3-8 that SJAS has low potential to occur in the Project area due to lack of suitable grassland or shrubland habitat; however, aerial imagery confirms that portions of the Project area support Valley sink scrub habitat (CDFW 2024). Project activities may impact SJAS and in order to determine if Project implementation would impact SJAS, focused surveys for SJAS would need to be conducted by a qualified biologist during the appropriate conditions for detection of the species. To evaluate potential impacts to SJAS, CDFW recommends conducting the following evaluation of the subject parcel and implementing the following mitigation measures.

- **Recommended Mitigation Measure 13: 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 potential habitat for SJAS.
- **Recommended Mitigation Measure 14: SJAS Surveys**
In areas of potential habitat, CDFW recommends that a qualified biologist conduct focused daytime visual surveys for SJAS using line transects with 10- to 30-meter spacing. CDFW further advises that these surveys be conducted between April 1 and September 30, during daytime temperatures between 68 degrees to 86 degrees Fahrenheit, to maximize detectability (CDFG 1990).
- **Recommended Mitigation Measure 15: SJAS Avoidance Buffer**
If potential habitat is present and surveys are not feasible, CDFW recommends that a minimum 50-foot no-disturbance buffer be employed around all small mammal burrows. If a minimum 50-foot no-disturbance buffer cannot be maintained, then consultation with CDFW is warranted to determine if the Project can avoid take.
- **Recommended Mitigation Measure 16: SJAS Take Authorization**
If a minimum 50-foot no-disturbance buffer for SJAS is not feasible, consultation with CDFW would be warranted to determine if the Project can avoid take. If avoidance is not feasible, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA.

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 10

Tricolored Blackbird (TRBL)

The DEIR states on page 3.3-7 that no TRBL nesting colonies are present in the Project area but did not state if potential nesting habitat is present in the Project area or if a survey was performed to confirm this. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests and disturbance can cause entire nest colony site abandonment and loss of all unfledged nests (Meese et al. 2016). Without appropriate avoidance and minimization measures for TRBL, potential significant impacts include nesting habitat loss, nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young. To evaluate potential impacts to TRBL, CDFW recommends conducting the following evaluation of the subject parcel and implementing the following mitigation measures.

- **Recommended Mitigation Measure 17: TRBL Habitat Assessment**
As TRBL have the potential to use the Project site and have been documented within the vicinity of the Project, CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the CEQA document. If potentially suitable habitat is identified, consultation with CDFW is recommended for guidance on focused survey methods and mitigation measures such avoidance, minimization, and mitigation.
- **Recommended Mitigation Measure 18: TRBL Surveys**
CDFW recommends that Project activities be timed to avoid the typical bird breeding season (February 1 through September 15). If Project activities 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 construction to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.
- **Recommended Mitigation Measure 19: 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 *Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015* (CDFW 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. It is important to note that TRBL colonies can expand over time and

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 11

for this reason, the colony should be reassessed to determine the extent of the breeding colony within 10 days prior to Project initiation.

- **Recommended Mitigation Measure 20: TRBL Take Authorization**
In the event that a TRBL nesting colony is detected during surveys and a 300-foot no disturbance buffer is not feasible, consultation with CDFW is warranted to discuss whether the Project can avoid take of TRBL. If avoidance is not feasible, take authorization through the issuance of an ITP pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA.

Western Spadefoot (WESP)

The DEIR states on page C1-2 that the Project route lacks suitable grassland habitat for WESP. WESP occur primarily in grasslands with shallow temporary pools (Thomson et al. 2016) and these habitat features are present within the Project site and Project vicinity but no mitigation measures were proposed to mitigate potential Project-related impacts to the species. Without appropriate avoidance and minimization measures for western spadefoot, potentially significant impacts associated with ground disturbance include collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. To evaluate potential impacts to WESP, CDFW recommends conducting the following evaluation of the subject parcel and implementing the following mitigation measures.

- **Recommended Mitigation Measure 21: WESP Surveys**
CDFW recommends that a qualified biologist conduct focused surveys immediately prior to construction for WESP and their requisite habitat features.
- **Recommended Mitigation Measure 22: WESP Avoidance Buffers and Relocation**
If WESP are found during preconstruction surveys, avoidance is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows. If WESP are observed on the Project site, CDFW recommends that Project activities in their immediate vicinity cease, allowing individuals to leave the Project site of their own accord. Alternatively, a qualified biologist with appropriate authorization can relocate them to a more suitable location out of harm's way.

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 12

Western Pond Turtle (WPT)

The DEIR on page 3.3-4 acknowledges that WPT individuals have been sighted and may disperse freely in habitat connected to the Project site. WPT occur in the vicinity of the Project (CDFW 2024) and a review of aerial imagery shows habitats that WPT utilize for nesting, overwintering, dispersal, and basking, including streams, ponded areas, irrigation canals, and riparian and upland habitats. 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. 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. To evaluate potential impacts to WPT, CDFW recommends conducting the following evaluation of the subject parcel and implementing the following mitigation measures.

- **Recommended Mitigation Measure 23: WPT Surveys**
In areas of suitable habitat, CDFW recommends that a qualified biologist conducts focused surveys for WPT within 10 days prior to Project implementation, and that focused surveys for nests occur during the egg-laying season of March through August.
- **Recommended Mitigation Measure 24: WPT Avoidance**
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.

Burrowing Owl (BUOW)

The DEIR states on page 3.3-7 that the open agricultural fields in the Project area are potential habitat and that the species is moderately likely to occur. BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. The Project area consists of suitable grassland habitat that has the potential to support BUOW; therefore, there is potential for BUOW to colonize the Project site. Without appropriate avoidance and minimization measures for BUOW, potentially significant impacts associated with Project construction could include burrow

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 13

collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduced health and vigor of eggs and/or young, and direct mortality of individuals. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Project area is also bordered by grassland habitat that has the potential to support BUOW. Therefore, ground-disturbing activities associated with the Project has 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. To evaluate potential impacts to BUOW, CDFW recommends conducting the following evaluation of the subject parcel and its vicinity and implementing the following mitigation measures.

- **Recommended Mitigation Measure 25: BUOW Habitat Assessment**
CDFW recommends that a qualified biologist conducts a habitat assessment in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for BUOW.
- **Recommended Mitigation Measure 26: BUOW Surveys**
CDFW recommends that a qualified biologist conduct surveys for BUOW following the California Burrowing Owl Consortium (1993) *Burrowing Owl Survey Protocol and Mitigation Guidelines* and CDFW's *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). 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 (April 15 to July 15), when BUOW are most detectable. In addition, CDFW advises that surveys include a 500-foot buffer around the Project area.
- **Recommended Mitigation Measure 27: BUOW Avoidance Buffer**
CDFW recommends that no-disturbance buffers as outlined in the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012) be implemented prior to and during Project activities and 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.

Caryn Larson
 Stratford Public Utility District
 July 29, 2024
 Page 14

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 28: BUOW Consultation**

If BUOW are found within these recommended buffers and avoidance is not possible, consultation with CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation.

Other State Species of Special Concern

American badger, Tulare grasshopper mouse, LeConte’s thrasher, long-billed curlew, coast horned lizard, San Joaquin coachwhip, and western snowy plover are known to occur in the vicinity of the Project alignment (CDFW 2024), which supports habitats that these species are known to use, including wetland habitat, grassland in playas and alkali flats, and open, uncultivated areas with friable soils (Williams 1986, Thomson et al. 2016). Without appropriate avoidance and minimization measures for these species, potentially significant impacts associated with Project construction could include den/burrow abandonment, which may result in reduced health or vigor of eggs or young and/or direct mortality. To evaluate potential impacts to these species, CDFW recommends conducting the following evaluation of the subject parcel and its vicinity and implementing the following mitigation measures.

- Recommended Mitigation Measure 29: 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 the species mentioned above.

- Recommended Mitigation Measure 30: Surveys**

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

- Recommended Mitigation Measure 31: Avoidance**

Avoidance whenever possible is encouraged via delineation and observing a 50-foot no-disturbance buffer around burrows and dens. CDFW also advises that

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 15

any individuals observed be allowed to leave the Project area of their own volition.

Special-Status Plants

The DEIR indicates that plant surveys have not been conducted because the area lacks alkali scrub and valley grassland habitats; however, aerial imagery confirms that portions of the Project area support grassland habitats (CDFW 2024). Special-status plant species have the potential to occur on the Project site, including the California Rare Plant Rank 1B.2 California alkali grass (*Puccinellia simplex*). To evaluate potential Project-related impacts to special-status plant species, CDFW recommends conducting the following evaluation of the Project site and including the following measures in a CEQA document.

- **Recommended Mitigation Measure 32: Special-Status Plant Surveys**
CDFW recommends that the Project site 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 Sensitive Natural Communities* (CDFW 2020). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.
- **Recommended Mitigation Measure 33: Special-Status Plant Avoidance**
CDFW recommends that special-status plant species be avoided whenever possible by delineation and observation of 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 is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.
- **Recommended Mitigation Measure 34: Special-Status Plant Consultation**
If a State-listed plant species is identified during botanical surveys, consultation with CDFW is advised to determine permitting needs.

Sustainable Groundwater Management Act (SGMA) - Groundwater Dependent Ecosystems

The DEIR states that the Project will not result in an increase in groundwater pumping but did not provide an analysis of how this conclusion was reached. Section 2.4.2 of the DEIR states that the maximum capacity of the pipeline and maximum amount of

Conserving California's Wildlife Since 1870

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 16

groundwater pumped would be 38 cubic feet per second, which converts to a maximum 75.24 acre-feet per day or 27,463 acre-feet per year. 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 boundary for the Tulare Lake Subbasin located in the San Joaquin Valley Groundwater Basin (Groundwater Basin Number 5-022.12) and is within the Tulare Lake Groundwater Sustainability Plan (Tulare Lake GSP). The Tulare Lake Subbasin is listed as a high priority Subbasin by the California Department of Water Resources, which deemed the Tulare Lake GSP to be inadequate and placed it on probationary status by the SWRCB. 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 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.

Project-related activities 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 DEIR include an analysis of Project-related activities in relation to the Tulare Lake GSP, including analysis of potential undesirable results and adverse impacts to groundwater dependent ecosystems.
- CDFW recommends that the DEIR analyze how the Project may affect surface and subsurface water levels, including drawdown from confined aquifers.
- CDFW recommends completing a hydrologic study or other information that will identify and analyze the impacts to the aquatic ecosystems and fisheries of the Kings River system that may result from Project implementation, including well pumping.
- CDFW recommends that the DEIR 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.

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 17

Recommended Mitigation Measure 35: Groundwater Dependent Ecosystem Monitoring and Mitigation

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

Editorial Comments and/or Suggestions

Water Rights: The Project description allows for the diversion and storage of surface water for irrigation. As stated previously, the capture of unallocated stream flows to artificially recharge groundwater aquifers is subject to appropriation and approval by SWRCB pursuant to Water Code section 1200 et seq. CDFW recommends that the DEIR include a detailed description of the water rights and water entitlements that would pertain specifically to the Project and address any applications or change petitions that may be filed. CDFW, as Trustee Agency, is consulted by SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Given the potential for impacts to special-status species and their habitats, it is advised that required consultation with CDFW occur well in advance of the SWRCB water right application process.

Baseline Conditions: The DEIR states that some segments of the pipeline alignment were constructed between the Summer of 2021 and March of 2022. No change in onsite conditions has occurred since the issuance of a temporary restraining order in March 2022. The DEIR used an environmental baseline date of December 20, 2023, which is the date the NOP was published. Given that 3.2 miles of the Project alignment was constructed prior to the issuance of an NOP or other CEQA review, and the potential for impacts to sensitive species and habitat along these Project segments, CDFW recommends that the DEIR determine baseline conditions for environmental and biological analysis for the whole of the CEQA action as the environmental conditions that existed prior to construction of any Project alignment.

Cumulative Impacts: Portions of the Project's segments have already been constructed. CDFW recommends recirculating the DEIR to include existing and future impacts in the cumulative impact analysis conducted for all biological resources, including those that will either be significantly or potentially significantly impacted by implementation of the Project and those whose impacts are determined to be less than

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 18

significant with mitigation incorporated or for those resources that are rare or in poor or declining condition and will be impacted by the Project, even if those impacts are relatively small (i.e., less than significant). CDFW recommends that cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Riparian and Wetland Habitats: The Project potentially diverts flow from the Kings River, and the alignment that crosses the Kings River and potentially other drainages has already been constructed. Given the baseline conditions used to determine impacts were post construction of the alignment, analysis of impacts to riparian and wetland habitats were insufficient. Project activities such as water diversion and any associated ground disturbances have the potential to involve temporary and permanent impacts to stream/riparian and wetland habitat features. CDFW recommends that the DEIR document the extent of all such impacts in the Project area and that the potential direct and indirect impacts to stream/riparian and wetland habitat be analyzed. Based on those potential impacts, CDFW recommends recirculating the DEIR to include measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat, including 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.

Lake and Streambed Alteration: CDFW recommends that the DEIR address activities related to the Project alignment that are already constructed and any related work in or adjacent to lakes and streams. Notification was not submitted to CDFW pursuant to Fish and Game Code Section 1600 et seq. for any jurisdictional activity. Jurisdictional activities in rivers, streams, and lakes are subject to CDFW's 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, intermittent, or episodic, as well as those that are perennial, regardless of the duration, frequency, or volume of flow.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement; therefore, if the CEQA document approved for the Project does

Conserving California's Wildlife Since 1870

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 19

not adequately describe the Project and its impacts to lakes or streams as they relate to Fish and Game Code section 1600 et seq., a subsequent CEQA analysis may be necessary for a Lake or Streambed Alteration Agreement issuance. For information on notification requirements or to voluntarily address remediation of any work completed without notification, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact the Central Region Lake and Streambed Alteration Program at (559) 243-4593 or R4LSA@wildlife.ca.gov.

Endangered Species Act Consultation: CDFW recommends consultation with USFWS prior to Project activity, due to potential impacts to federally listed species. Take under 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. Consultation with USFWS in order to comply with ESA is advised well in advance of Project implementation.

Nesting birds: CDFW encourages that Project implementation occur outside the bird nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season from 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 Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct pre-activity 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 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 a project. In addition to direct impacts (i.e. nest destruction), noise, vibration, odors, 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 from the project. If behavioral changes occur, CDFW recommends ceasing the work causing that change and consulting with CDFW 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-

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 20

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 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 and notify CDFW in advance of implementing a variance.

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 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

The Project, as proposed, would have an impact on fish and/or wildlife, and an 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).

If you have any questions about 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:

E9964E60293D40A...

For Julie A. Vance
Regional Manager

Enclosure

Conserving California's Wildlife Since 1870

Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 21

ec: California Department of Fish and Wildlife
Annette Tenneboe, Environmental Scientist

State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

United States Fish and Wildlife Service
Matthew Nelson
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Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 22

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Caryn Larson
Stratford Public Utility District
July 29, 2024
Page 23

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Attachment 1

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

PROJECT: Sandridge Irrigation Pipeline Project

STATE CLEARINGHOUSE No.: 2023120577

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>Before Project Activity</i>	
Recommended Mitigation Measure 1: TKR Habitat Assessment	
Recommended Mitigation Measure 3: TKR Surveys	
Recommended Mitigation Measure 4: TKR Take Authorization	
Recommended Mitigation Measure 5: SJKF Surveys and Minimization	
Recommended Mitigation Measure 6: SJKF Take Authorization	
Recommended Mitigation Measure 7: CBB Surveys	
Recommended Mitigation Measure 8: CBB Avoidance Buffer	
Recommended Mitigation Measure 9: CBB Take Authorization	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 10: SWHA Surveys	
Recommended Mitigation Measure 12: SWHA Take Authorization	
Recommended Mitigation Measure 13: SJAS Habitat Assessment	
Recommended Mitigation Measure 14: SJAS Surveys	
Recommended Mitigation Measure 16: SJAS Take Authorization	
Recommended Mitigation Measure 17: TRBL Habitat Assessment	
Recommended Mitigation Measure 18: TRBL Surveys	
Recommended Mitigation Measure 19: TRBL Colony Avoidance	
Recommended Mitigation Measure 20: TRBL Take Authorization	
Recommended Mitigation Measure 21: WESP Surveys	
Recommended Mitigation Measure 23: WPT Surveys	
Recommended Mitigation Measure 25: BUOW Habitat Assessment	
Recommended Mitigation Measure 26: BUOW Surveys	
Recommended Mitigation Measure 27: BUOW Avoidance Buffer	
Recommended Mitigation Measure 28: BUOW Consultation	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 29: Species of Special Concern Habitat Assessment	
Recommended Mitigation Measure 30: Species of Special Concern Surveys	
Recommended Mitigation Measure 32: Special-Status Plant Surveys	
Recommended Mitigation Measure 34: Special-Status Plant Consultation	
Recommended Mitigation Measure 35: Groundwater Dependent Ecosystem Monitoring and Mitigation	
<i><u>During Project Activity</u></i>	
Recommended Mitigation Measure 2: TKR Avoidance	
Recommended Mitigation Measure 5: SJKF Surveys and Minimization	
Recommended Mitigation Measure 8: CBB Avoidance Buffer	
Recommended Mitigation Measure 11: SWHA Avoidance	
Recommended Mitigation Measure 15: SJAS Avoidance Buffer	
Recommended Mitigation Measure 19: TRBL Colony Avoidance	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 22: WESP Avoidance Buffers and Relocation	
Recommended Mitigation Measure 24: WPT Avoidance	
Recommended Mitigation Measure 27: BUOW Avoidance Buffer	
Recommended Mitigation Measure 31: Species of Special Concern Avoidance	
Recommended Mitigation Measure 33: Special-Status Plant Avoidance	