State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
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Redding, CA 96001
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GAVIN NEWSOM, Governor
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February 16, 2024

Wes Grossman
Associate Superintendent
Tehama County Department of Education
1135 Lincoln Street
Red Bluff, CA 96080
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Subject: GERBER SPECIAL EDUCATION EXPANSION PROJECT AT THE GERBER ELEMENTARY SCHOOL, STATE CLEARING HOUSE NUMBER 2024010454, TEHAMA COUNTY

Dear Wes Grossman:

The California Department of Fish and Wildlife (CDFW) has reviewed the Tehama County Department of Education (Lead Agency) Draft Initial Study and Mitigated Negative Declaration (ISMND), for the above-referenced project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines[1].

CDFW's 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 and G. Code, §§ 711.7, subd. (a) & 1802; Public Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its Trustee Agency 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

[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.

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 (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. 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 and G. Code, § 2050 et seq.), or state listed rare plants pursuant to the Native Plant Protection Act (NPPA; Fish and G. Code § 1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description
The Project, as described in the ISMND, is as follows:

"*The Tehama County Department of Education is proposing to expand the existing Gerber Elementary School with a special education program for handicapped students by adding 3.93 acres onto the existing school site located at 23014 Chard Avenue, Gerber, Tehama County, California. The existing Special Education program on the site would be expanded by replacing two old portable buildings and constructing three new buildings. Two of the new buildings would contain three classrooms and the third building would contain two classrooms for a total of eight new classrooms. A Medical Therapy Unit (MTU) building would also be placed on the Project Site. There would be a total of four new buildings on the Project Site: three new classroom buildings and one MTU building. Additionally, the project would add a new parking area that would establish parent and small bus drop off for special education students and improve street access to the Site.*"

Comments and Recommendations
CDFW offers the comments and recommendations below to assist the Lead Agency in adequately identifying, avoiding, minimizing and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on biological resources. Editorial comments are also included to improve the document.

Section 4.0 Biological Resources

Section 4.0 of the ISMND, Biological Resources, describes the Project area to solely include agricultural land, specifically 3.93-acres of almond orchards. While the ISMND mentions that orchards may provide potentially suitable wildlife habitat, the document does not describe which species orchards may support, which species have the potential to occur in the Project area, which species have the potential to be impacted with the implementation of the Project, or avoidance and minimization measures to reduce potentially significant impacts to less than significant. CDFW recommends including a more robust discussion of the species in which orchards may support, special status species (including those listed in Table 1 and others whose range overlaps the Project area) that have the potential to occur within and adjacent to the Project area, species that have the potential to be impacted by Project activities, and appropriate avoidance and minimization measures to reduce potentially significant impacts to less than significant (**Recommendation #1**).

Nesting Birds

Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

Despite routine disturbance of agricultural orchards, birds have been observed to nest successfully within and adjacent to orchards. Nesting migratory birds and raptors, if present, may be directly or indirectly impacted by elevated noise disturbances, increased human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations caused by heavy equipment. Such impacts may result in the loss of eggs or nestlings, or otherwise lead to nest abandonment, which may be significant.

Due to the potential for nesting birds within and adjacent to the Project area, CDFW recommends construction activities occur when birds are not anticipated to be nesting (the non-nesting season is typically between September 15 and January 31) (**Recommendation #2**).

If Project activities cannot occur outside of the nesting season, the Project applicant is responsible for ensuring that Project implementation does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes. CDFW recommends a qualified biologist conduct pre-construction nesting bird survey(s) no more than seven days prior to the start of Project activities (**Recommendation #3**). If Project activities are delayed or suspended for more than seven days after the pre-construction nesting bird survey is performed, CDFW recommends re-surveying (**Recommendation #4**). Nesting bird surveys should cover the entire Project area, and any suitable nesting habitat within 500 feet of the Project area that has the potential to be indirectly affected by Project activities (e.g., line of sight and/or elevated noise).

CDFW recommends the preparation of a nesting bird survey report (**Recommendation #5**). The report, at minimum, typically includes a description of the area surveyed, date and time of the survey, ambient conditions, bird species observed, a description of any active nests observed, any evidence of breeding behaviors (e.g., courtship, carrying nest materials or food, etc.), and a description of any outstanding conditions that may have impacted the survey results (e.g., weather conditions, excess noise, presence of predators).

If an active nest is located during pre-construction surveys, CDFW recommends implementing avoidance and minimization measures (**Recommendation #6**). Avoidance and minimization measures may include, but are not limited to, exclusionary buffers (typically 250-feet, 500-feet for non-listed raptors), sound-attenuation systems, educating construction personnel, and ongoing nest monitoring by qualified biologists.

Swainson's Hawk

According to the California Natural Diversity Database[2] (CNDDB), four observations of Swainson's hawk (*Buteo swainsoni*, CESA Threatened) have been recorded throughout the Gerber quadrangle. Aerial imagery indicates potentially suitable nesting habitat for Swainson's hawk may occur

[2] https://wildlife.ca.gov/Data/CNDDB

immediately adjacent to the Project area (several lone trees occur along the intermittent drainage north of the Project area). As stated above, Section 4.0 does not identify or discuss in detail species with potential to occur, and Swainson's hawk should be included as part of Recommendation #1. If Swainson's hawks are nesting adjacent to the Project area, Project activities have the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels, which could result in nest abandonment, loss of eggs, or reduced health and vigor of young and/or loss of young. Such impacts would be significant and in violation of CESA unless authorized.

To reduce potential impacts to Swainson's hawk to less-than-significant and to comply with CESA, CDFW recommends implementing Project activities outside the nesting season for Swainson's Hawk (nesting typically occurs between March 1 to September 15) (**Recommendation #7**). If Project activities cannot be performed outside of the Swainson's hawk nesting season, a qualified biologist should conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley[3] prior to the initiation of Project activities, and a Swainson's hawk nesting survey report should be prepared (**Recommendation #8**). Survey methods should be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because tree foliage becomes dense as vegetation increases). Surveys should be conducted within a minimum 0.5-mile radius of the Project site, or a larger area if needed, to identify potentially impacted active nests, surveys should be completed for at least the two survey periods immediately prior to a project's initiation and occur annually for the duration of the Project, as referenced in the methodology.

If an active Swainson's hawk nest(s) is detected, the nest should be protected with a 0.5-mile avoidance buffer and monitored for the duration of Project activities, unless otherwise approved by CDFW (**Recommendation #9**).

Crotch's Bumble Bee

The California Fish and Game Commission accepted a petition to list Crotch's bumble bee (*Bombus crotchii*) as endangered under CESA, advancing the

[3] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline

species to the candidacy stage of the CESA listing process on September 30, 2022. Crotch's bumble bee is granted full protection of a threatened species under CESA. Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Additionally, Crotch's bumble bee has a State ranking of S1/S2, of which are imperiled/critically imperiled and extremely rare (often five or fewer populations) and Crotch's bumble bee is listed as an invertebrate of conservation priority under the Terrestrial and Vernal Pool Invertebrates of Conservation Priority[4].

According to the CNDDB, this Project occurs within the range of Crotch's bumble bee. While the Project area is unlikely to support suitable habitat for this species, CDFW recommends discussing this species in the ISMND and its potential to occur, as referenced in Recommendation #1. This species may not have been listed in Table 1 of CNDDB species occurrences, however absence of occurrence records should not be interpreted as absence of the species at or near a given project site and all species with potential to occur should be analyzed. Specific to bumble bees, records should be evaluated by consulting a combination of reliable data sources including the occurrence database for the Bumble bees of North America[5] (which can be requested from its curator Dr. Leif Richardson), citizen science data platforms that have been verified such as iNaturalist[6] and Bumble Bee Watch[7]. The June 2023 Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species[8] is a useful resource for performing adequate habitat assessments (**Recommendation #10**).

California Endangered Species Act

Please be advised that a CESA permit[9] must be obtained if the Project has the potential to result in "take" (hunt, pursue, catch, capture, kill, or attempt thereof) of plants or animals listed under CESA, either during construction or over the life of the project. Issuance of a CESA permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation

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[4] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline
[5] https://www.leifrichardson.org/bumble-bees-of-north-america.html
[6] https://www.inaturalist.org/
[7] https://www.bumblebeewatch.org/
[8] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline
[9] https://wildlife.ca.gov/Conservation/CESA/Permitting

measures, and a mitigation monitoring and reporting program. If the Project has the potential to result in the take of a CESA-listed species, early consultation is encouraged, as significant modification to the Project may be necessary to minimize and fully mitigate impacts as required by Fish and Game Code Section 2081(b)(2).

Low Impact Development

The ISMND indicates an increase in impervious surfaces. CDFW recommends the implementation of Low Impact Development[10] (LID) strategies to prevent a net-increase in stormwater runoff from new development and parking lots (**Recommendation #11**). LID strategies may include permeable pavement, vegetated stormwater bio-swales and retention basins to treat, retain and infiltrate stormwater runoff on-site. These LID strategies are typically designed to prevent project generated stormwater runoff from exceeding that of a 100-year storm event, to protect water quality and manage stormwater as close to its source as possible, thus mitigating potential flooding and the outflow of toxic pollutants such as N-1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine, a chemical contaminant derived from vehicle tires, suspected to negatively impact aquatic organisms[11]. Ideally, post project stormwater run-off volume, rate and duration will match pre-project conditions and hydro modification would not occur as a result of the Project. CDFW supports the use of LID strategies because they minimize impacts to aquatic habitats by filtering out pollutants, decrease peak flows, minimize erosion, and increase ground water recharge.

Wildlife Friendly Fencing

The ISMND indicates the installation of permanent security fencing. CDFW understands fences are essential for human safety and the control of trespass, however, inappropriately designed and/or installed fencing may create serious hazards for wildlife. Therefore, CDFW encourages the Lead Agency to consider designing and constructing perimeter fencing with wildlife friendly fencing techniques to reduce the potential of injury or death.
Please consult A Landowner's Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind[12] for construction recommendations and use of wildlife friendly fencing (**Recommendation #12**).

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[10] https://www.waterboards.ca.gov/water_issues/programs/low_impact_development/

[11] Tian, Z. et al. 2021. A ubiquitous tire rubber–derived chemical induces acute mortality in coho salmon. Science 371: 185-18.

[12] https://fwp.mt.gov/binaries/content/assets/fwp/conservation/land-owner-wildlife-resources/a_landowners_guide_to_wildlife_friendly_fences.pdf

CDFW staff are also available to assist in providing further recommendations for effective wildlife friendly fencing techniques.

Native Vegetation in Landscaping

CDFW recommends landscaping with vegetation native to the local area (**Recommendation #13**). Benefits of utilizing native vegetation in landscaping are numerous and include providing vital resources for native wildlife such as hummingbirds and other beneficial pollinators, conserving water, reducing pesticide use, and reducing landscaping maintenance. The California Native Plant Society (CNPS) website includes a variety of useful information and tools to help determine which native species occur in a particular area, information on care and maintenance of native species, and contacts for purchasing native plants or seeds. The CNPS tool Calscape[13] generates a list of native plants that grow in an area based on a specific address and can be used to develop a planting palate for landscaping plans. For more information regarding the importance of using native species in landscaping, please refer to the CNPS Guidelines for Landscaping to Protect Native Vegetation from Genetic Degradation.

Submitting Data

CEQA requires that information developed in environmental documents is incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Public Resources Code, § 21003, subd. (e).) Accordingly, please report any observation of special status species to the CNDDB (**Recommendation #14**). Use this link to access the CNNDB field survey form[14] and this link for additional information on the type of information reported to CNDDB[15].

Summary of Recommendations

1) Include a robust discussion of the species in which orchards may support, special status species that have the potential to occur within and adjacent to the Project area, species that have the potential to be impacted by the Project, and appropriate avoidance and minimization measures to reduce potentially significant impacts to less than significant in the final ISMND.
2) Perform construction activities outside of the nesting bird season, between September 15 and January 31.

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[13] https://calscape.org/

[14] https://nrm.dfg.ca.gov/fieldSurvey/default.aspx

[15] https://wildlife.ca.gov/Data/CNDDB/Submitting-Data

3) If construction activities cannot be performed between September 15 and January 31, perform pre-construction nesting bird survey(s) no more than seven days prior to the start of ground disturbing activities.
4) If Project activities are delayed or suspended for more than seven days after the pre-construction nesting bird survey, re-survey for nesting birds.
5) Prepare a nesting bird survey report that includes pre-construction survey results.
6) If an active nest is located during pre-construction surveys, implement avoidance and minimization measures to reduce potentially significant impacts.
7) Perform construction activities outside the nesting season for Swainson's Hawk, between September 16 and February 29.
8) If Project activities cannot be performed outside of the Swainson's hawk nesting season, perform Swainson's hawk surveys following the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley prior to the initiation of Project activities and prepare a Swainson's hawk nesting survey report.
9) If an active Swainson's hawk nest(s) is detected, implement a 0.5-mile avoidance buffer around the nest and monitor the nest for the duration of Project construction. A CESA permit may be required if the Project has the potential to take Swainson's hawk.
10) Consult the June 2023 Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species to include a discussion about potentially occurring CESA listed bumble bees.
11) Implement Low Impact Development strategies to ensure no-net-increase in stormwater runoff from newly developed areas.
12) Consult A Landowner's Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind for construction and use of wildlife friendly fencing.
13) Landscape with locally occurring native plant species to support native pollinators and promote drought tolerant landscaping.
14) Report special status species observations to CNDDB.

Future CEQA Consultation

CDFW would like to emphasize that our staff are available for consultation at every stage of the project development process. CDFW strongly encourages the Lead Agency to consult with CDFW before and during the development of future projects and those equivalent CEQA documents, specifically regarding the analyses of biological resources and the formulation of avoidance,

minimization, and mitigation measures for such resources. Engaging with CDFW early-on plays a critical role in allowing our agency to fulfill our mandate to conserve California's valuable fish and wildlife resources and will simultaneously aid the Lead Agency in an efficient and comprehensive CEQA review.

Conclusion

CDFW appreciates the opportunity to comment on the Project to assist the Lead Agency in adequately analyzing and minimizing impacts to biological resources. If you have any questions regarding the information above, or for future CEQA consultation requests, please contact Erika Iacona, Senior Environmental Scientist, by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Tina Bartlett
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Tina Bartlett, Regional Manager
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