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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



July 17, 2024

Scott Johnson  
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City of Sacramento, Community Development Department  
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Sacramento, CA 95811  
[srjohnson@cityofsacramento.org](mailto:srjohnson@cityofsacramento.org)

Subject: AIRPORT SOUTH INDUSTRIAL PROJECT  
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)  
SCH No. 2022030181

Dear Scott Johnson:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a DEIR from the City of Sacramento (City) for the Airport South Industrial Project (Project) pursuant 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 southeast of the intersection of Powerline Road and Interstate 5 (I-5) in Sacramento County, California. The approximately 474.4-acre project site is undeveloped and consists entirely of agricultural land. The Project site is bound by I-5 to the north, the City of Sacramento boundary to the east, the West Drainage Canal to the south, and Power Line Road to the west. Surrounding existing land uses include the Life Storage Facility and Westlake residential subdivision to the east; undeveloped agricultural land and the Paso Verde School to the south; currently undeveloped Sacramento International Airport Master Plan Commercial Development to the west; the Sacramento International Airport to the northwest, across I-5; the Metro Air Park and the Amazon SMF-1 Fulfillment Center to the north, across I-5; and the currently under construction Northlake subdivision to the northeast, across I-5. While the entire Project site is proposed for annexation into the City limits, only a 353.5-acre portion of the Project site is currently proposed for development as part of requested entitlements.

The Project consists of the development of an industrial park that would allow for the construction of up to 5,204,500 square feet (sf) of industrial uses, as well as approximately 98,200 sf of retail/highway commercial uses, including approximately 73,400 sf of hotel/hospitality, on approximately 13.4 acres of the overall site. Each industrial building would include associated parking areas to accommodate vehicles and/or trailers, as well as bio-detention areas to capture stormwater runoff from the newly constructed impervious surfaces.

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City of Sacramento 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 potential for the Project to have a significant impact on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

CDFW is primarily concerned with the project impacts to giant garter snake (GGS), Swainson's hawk (SWHA), and their habitats.

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**COMMENT 1: Project Area Outside the Natomas Basin Habitat Conservation Plan (HCP), Mitigation Measure(s) sections of Covered Species, pages 4.4-36 and 4.4-43**

**Issue:** The DEIR states that the Take Avoidance, Minimization, and Mitigation Measures set forth by the HCP would be applied to all Project construction activities to address potential impacts to the Covered Species, despite the fact that only approximately 20% of the total Project site, the eastern portion, is within the HCP permit area. Since the western portion of the Project site is outside the HCP boundary (as shown in Exhibit B of the HCP), the City should not solely rely on to the use of the Take Avoidance, Minimization, and Mitigation Measures in the HCP to mitigate to a level of less than significant. While the eastern portion may use the HCP's Take Avoidance, Minimization, and Mitigation Measures fully, the western portion should rely on the HCP's Avoidance and Minimization Measures at a minimum, but also should include additional mitigation measures that will ensure the Project impacts are mitigated to a level of less than significant under CEQA. The western portion of the Project site cannot solely rely on the conservation strategy of the HCP.

**Recommendation or Recommended Mitigation Measure:** CDFW recommends the DSEIR describe how the considerations identified below will be implemented and incorporated into the appropriate DSEIR section(s):

1. CDFW recommends that a map visually showing the HCP boundary within the Project site is included in the DEIR. The DEIR should clearly show how many acres of the 353.5-acre Project site are in the HCP permit area and how many acres are not.
2. CDFW recommends that DEIR include additional mitigation measures for the non-HCP permit area since the western portion of the Project site is outside the HCP boundary. CDFW recommends mitigation includes on-site and off-site permanently conserved habitat at no less than a 3:1 replacement to loss ratio for giant garter snake habitat and no less than a 1:1 ratio for loss of Swainson's hawk foraging habitat. Mitigation could also include restoring or creating habitat connectivity in the Project's vicinity or purchasing mitigation bank credits at a 3:1 ratio with CDFW and U.S. Fish and Wildlife Service (USFWS) approval.

**COMMENT 2: CESA Permit for Project activities, State Regulations, page 4.4-30**

**Issue:** The DEIR states that if Project activities may impact State-listed species that are also Covered Species under the HCP, then direct consultation with CDFW for State-listed take authorization is not required as long as the covered Project complies with the applicable HCP requirements. As mentioned in the previous comment, while the eastern portion of the Project site may be within the HCP permit area and thus eligible to use the HCP's existing incidental take permit (ITP), the remaining portion of the Project site is outside of the HCP permit area and cannot rely on the HCP for CESA Take Authorization. A separate ITP will be necessary to acquire CESA coverage for the remaining Project activities. Please note that mitigation measures that are adequate to reduce impacts to a

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less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To issue an ITP, CDFW must demonstrate that the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code §2081 (b)).

**Recommendation or Recommended Mitigation Measure:** CDFW recommends that the DEIR be modified to state that any Project activities that may result in take of State-listed species in the non-HCP permit area will require CESA authorization separate from the HCP. This may include an ITP for GGS and SWHA or a consistency determination for GGS. To facilitate the issuance of an ITP, if applicable, CDFW recommends the DEIR include measures to minimize and fully mitigate the impacts to any State-listed species the Project has potential to take. CDFW encourages early consultation with staff to determine appropriate measures to facilitate future permitting processes and to engage with the USFWS to coordinate specific measures since both state and federally listed species are present within the Project vicinity.

**COMMENT 3: Swainson's Hawk (SWHA) Foraging Habitat Mitigation, Mitigation Measure(s) for SWHA, page 4.4-53**

**Issue:** The DEIR states the Project site contains agricultural fields which are high-quality foraging habitat for SWHA. Project impacts may include the loss of SWHA foraging habitat. The DEIR recognizes that a portion of the identified SWHA foraging habitat within the Project site occurs outside of the HCP permit area. The DEIR proposes to mitigate for the potential loss of SWHA foraging habitat by either payment of the HCP mitigation fees and using a portion of the City's "surplus HCP coverage" acreage to cover the non-HCP covered portion of the Project site or preserving habitat elsewhere at 0.5:1 mitigation ratio through establishing off-site mitigation lands and funding an endowment for perpetual preservation of the same in compliance with applicable CDFW guidelines. Mitigation for the impacts to agricultural resources at another 0.5:1 mitigation ratio is also factored into the SWHA mitigation for a combined 1:1 mitigation ratio. Based on best available science, at least a 1:1 mitigation ratio for any loss of SWHA foraging habitat is recommended for mitigating potential impacts to SWHA to a level of less than significant. However, the specifics of the 0.5:1 agriculture mitigation are unclear and whether or not it will be suitable for SWHA foraging. The DEIR does not specify what type of crops will be planted (or preserved) and how the land will be managed for maintaining SWHA foraging ability.

**Recommendation or Recommended Mitigation Measure:** CDFW recommends that the DEIR be modified to make it clear in the agricultural resources mitigation section that the mitigation will be subjected to the same requirements as the SWHA foraging mitigation in terms of crop types (suitable for SWHA foraging) and management to ensure that the mitigation is useful for SWHA foraging activities. Crop types that SWHA prefer to forage in includes fallow fields, alfalfa, wheat, tomatoes, and beets during harvest, other hay crops, and various row crops (excluding orchards and vineyards) that have been recently mowed, disced, harvested or irrigated (2016 CDFW's Five-year Status Review of the SWHA).

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**COMMENT 4: Cumulative Agricultural Land Loss, Agricultural Resources and Significant and Unavoidable Impacts, pages 4.2-15, 6-7**

**Issue:** The Project is partially within the boundaries of the HCP Plan Area and adjacent to the boundary of the Metro Air Park Habitat Conservation Plan (MAP HCP). CEQA Guidelines section 15125(d) states that EIRs must discuss any inconsistencies between projects and applicable plans (including habitat conservation plans/natural community conservation plans). The HCP anticipates a certain amount of acreage to sustain the agricultural land that Covered Species can utilize for habitat (foraging, nesting, dispersal, cover, etc.). Since the HCP's implementation, projects in the Natomas Basin have resulted in a decrease in the amount of agricultural land available to Covered Species. CDFW is concerned that this Project will further contribute to the habitat loss and a reduction in the effectiveness of the HCP's Conservation Strategy. When the HCP was first implemented in 2003 it was anticipated that 15,095 acres of agricultural land would remain, specifically as buffers for habitat reserves and supporting ecological functions of the Covered Species that rely on agricultural resources (Natomas Basin Habitat Conservation Plan, Page IV-11 thru Page IV-13) . However, agricultural land remaining for Covered Species has decreased since the HCP was adopted, through projects such as Greenbriar (1041 acres) and the Sacramento Area Flood Control Agency Natomas Levee Improvement Project (1600 acres). Further development projects under consideration, including this Project, Upper Westside (2066 acres), and Grandpark (5676 acres) will further decrease the remaining agricultural lands. CDFW is concerned that further agricultural land loss will contribute to significant cumulative impacts to biological resources and will make maintaining 15,095 acres of agricultural land, as described in the HCP, unreachable.

**Recommendation or Recommended Mitigation Measure:** To identify any potential inconsistencies with the NBHCP and MAP HCP, CDFW recommends that the DEIR analyze Project related impacts from developing up to 353.5 acres within areas anticipated to remain in agricultural uses and providing available habitat for HCP and MAP HCP Covered Species. CDFW also recommends the DEIR discuss the persistence of the HCP and MAP HCP Covered Species, critical for the success of both plans, including what actions are needed to sustain the appropriate levels of habitat to support all Covered Species within the HCP and MAP HCP boundaries. CDFW also recommends the DEIR include a discussion on how the City will ensure that implementation of the Project will not impede the City's ability to meet the HCP's or MAP HCP's permit conditions and biological goals and measurable objectives.

**COMMENT 5: Giant Garter Snake (GGS) Impacts and Mitigation, section title of document, pages 4.4-47 and 4.4-67**

**Issue:** The DEIR states that suitable habitat exists for GGS within the Project site. The West Drainage Canal and the other canals provides connectivity habitat between Fisherman's Lake (south basin), where suitable GGS rearing habitat exists and has a known GGS population, and the northern basin where another known population of GGS exists. The north basin has a more stable population of GGS while the south basin has a less stable GGS population (2023 Annual Monitoring Report and CDFW observations).

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The DEIR states that Project activities could interfere substantially with the movement of giant garter snake through the site, however the DEIR does not clearly state how the activities would interfere with GGS movement. More specifically, the DEIR does not state if there will be any impacts to the canals and whether the impacts will be permanent or temporary. Impacts to the canals will greatly impact the ability of GGS to move through the site between the populations of the north and south basins. Free movement between the two populations greatly benefits the south basin population.

**Recommendation or Recommended Mitigation Measure:** CDFW recommends that the DEIR's Project Description section be modified to include more detailed information about what impact to the canals will occur and how long the canals will be impacted during the Project duration. CDFW also recommends that the Mitigation Measure(s) section for GGS include more detailed measures on how the impacts of the blocked GGS movement will be mitigated besides dewatering and preconstruction surveys. Additional measures that CDFW recommends include active biological monitoring, relocation of captured species to facilitate current GGS movements, and/or implementation of alternatives routes for GGS movement between the north and south basins.

**COMMENT 6: Northwestern Pond Turtle (WPT) Tentative Federal Status, Mitigation Measure(s) for WPT, pages 4.4-25 and 4.4-50**

**Issue:** The DEIR states that WPT is not federally or State-listed and is a California Species of Special Concern and a Covered Species under the HCP. The species was proposed to be listed as federally threatened on October 3, 2023. While a federal candidate status affords the species no protection currently, the situation may change in the future if the species does become formally listed. The current mitigation measures proposed for the WPT in the DEIR are insufficient as they only propose preconstruction surveys and dewatering of suitable WPT habitat and are not suitable if take of the species occur during the Project. The HCP also does not offer mitigation for take of the species.

**Recommendation or Recommended Mitigation Measure:** CDFW recommends that the DEIR be modified in the WPT Mitigation Measure(s) section to include measures that compensate for the take of the WPT in case the species become federally listed which may include, but not limited to, on-site or off-site habitat creation or restoration and purchase of suitable credits at a USFWS-approved mitigation banks. CDFW recommends that the Project proponent consult with USFWS when formulating these mitigation measures.

**COMMENT 7: Fish and Game Code 1602, State Regulations, pages 2-44 and 4.4-31**

**Issue:** The DEIR states that Fish and Game Code 1602 only applies to rivers, streams, and lakes that flow at least intermittently through a bed or channel. This statement is not entirely true as the Code also applies to ephemeral flows as well. Some of the ditches on the Project site may have hydrological connectivity to the canals and may have ephemeral flows that may require notification for a Streambed Alteration Agreement if construction activities will impact them. The Project Description states that a new bridge crossing over

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the Lone Tree Canal will be built as part of construction of the new Airport South Industrial Drive and the bridge would include installation of a new culvert to the canal. The installation of the culvert in the canal will require notification for a Streambed Alteration Agreement.

**Recommendation or Recommended Mitigation Measure:** CDFW recommends that the statement in the DEIR be removed. CDFW also recommends the DEIR clearly states that notification for a Streambed Alteration Agreement will be required for construction of the new bridge crossing over the Lone Tree Canal as well as any other activities that will impact the onsite canals. The notification should include mitigation proposals for compensation to any permanent impacts to the canals which may include the purchase of suitable mitigation credits at a 3:1 replacement to loss ratio, habitat restoration/enhancement onsite or offsite, habitat connectivity enhancements (wildlife crossings), partnership with other agencies or non-profit groups on restoration projects, or another mechanism pre-approved by CDFW. Areas of the canal inside the HCP permit area may be mitigated by providing mitigation fee payment to the Natomas Basin Conservancy.

**COMMENT 8: White-tailed Kite (WTKI) Avoidance Measures, Mitigation Measure(s) for Raptors, pages 4.4-59 and 4.4-60**

**Issue:** The DEIR fails to state that WTKI is a State Fully Protected Species. As a Fully Protected Species, take of this species is prohibited. The DEIR lists WTKI as having a high probability of occurring onsite due to suitable foraging habitat and some potential nesting trees.

**Recommendation or Recommended Mitigation Measure:** CDFW recommends that the DEIR be modified to state that WTKI is a State Fully Protected Species. CDFW recommends full avoidance of any active WTKI nests until the younglings have fledged., . Avoidance measures may include an appropriate size no-disturbance buffer around the nest and daily monitoring of the nest by a qualified biologist until the nest is no longer in use.

**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).

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## FILING FEES

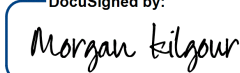
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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 Airport South Industrial Project to assist the City of Sacramento 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 Harvey Tran, Senior Environmental Scientist (Specialist) at (916) 358-4035 or [harvey.tran@wildlife.ca.gov](mailto:harvey.tran@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
C3A86764C0AD4F6...

Morgan Kilgour  
Regional Manager

ec: Dylan Wood, Senior Environmental Scientist (Supervisory)  
Harvey Tran, Senior Environmental Scientist (Specialist)  
*Department of Fish and Wildlife*

Office of Planning and Research, State Clearinghouse, Sacramento

## REFERENCES

2016 Five-year Status Review of the Swainson's Hawk (*Buteo swainsoni*) in California, California Department of Fish and Wildlife, Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133622&inline>

2023 Biological Effectiveness Monitoring Report for the Natomas Basin HCP Area, Available at: <https://natomasbasin.org/reports/monitoring-reports/>