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October 11, 2024

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**Subject: Notice of Preparation (NOP) of a Program Environmental Impact Report
(PEIR) No. PLN2024-0083-Salida Community Plan Amendment Area
(Project) State Clearinghouse No. 2024090382**

Dear Jeremy Ballard:

The California Department of Fish and Wildlife (CDFW) received a Notice Of preparation (NOP) from Stanislaus County 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

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.

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purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

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 section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to Federally listed species. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes 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 the USFWS to comply with FESA is advised well in advance of any ground disturbing activities.

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

PROJECT DESCRIPTION SUMMARY

Proponent: Stanislaus County

Objective: In 2007; the Stanislaus County Board of Supervisors approved the Salida Area Planning, Road Improvement, Economic Development, and Farmland Protection

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Initiative. Now known as the Salida Community Plan Amendment Area, the Initiative covered a 3,383-acre area with a proposed mix of uses, including 2,029 acres of employment uses, 1,110 acres of residential uses, regional and local parkland, open space, a wastewater treatment plant, transportation improvements, and other uses. Stanislaus County Planning and Community Development Department will prepare a Program Environmental Impact Report (PEIR) for the Project that will provide a planning level analysis of the land uses outlined for the Salida Community Plan Amendment Area. The NOP lacks detailed information regarding specific Project related environmental impacts that may occur within the Project boundary.

Location: The Project Area is located along the State Route (SR) 99 corridor, north of Modesto and south of Ripon, abutting the San Joaquin County boundary. The Community Plan area is bound by Dale Road to the east, Bacon Road to the south, Hammett Road to the west, and Stanislaus River and Ladd Road to the north; and is divided by SR 99 into eastern and western portions.

Timeframe: Unknown

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Stanislaus County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the PEIR prepared for the Project.

The NOP states that current development in the community of Salida consists mostly of residential housing, with commercial and light industrial uses located along SR 99. The Project Area primarily consists of production agriculture and scattered residential development. Aerial imagery of the Project Area and its surroundings also identifies that the Stanislaus River and associated riparian habitat are located adjacent to the Project's northwestern border. A review of the California Natural Diversity Database (CNDDDB) (CDFW 2024) indicates the Project Area is within the geographic range of several special-status species including but not limited to: the State threatened Swainson's hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*), the State and federally endangered riparian brush rabbit (*Sylvilagus bachmani riparius*), the State species of special concern and federally endangered riparian woodrat (*Neotoma fuscipes riparia*), the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State candidate endangered Crotch's bumble bee (*Bombus crotchii*), the State species of special concern and federally threatened green sturgeon-southern Distinct Population Segment (DPS) (*Acipenser medirostris*) and steelhead-Central Valley DPS (*Oncorhynchus mykiss irideus*), the State species of

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special concern and federally proposed threatened northwestern pond turtle (*Actinemys marmorata*), the State species of special concern burrowing owl (*Athene cunicularia*) and Central Valley fall-run Chinook salmon-Evolutionary Significant Unit (ESU) (*Oncorhynchus tshawytscha*).

In order to adequately assess potential impacts to biological resources, a qualified biologist should perform database and other research of the Project Area, then conduct focused habitat assessments and/or focused biological surveys during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project Area. CDFW recommends this initial work be documented and used to inform further efforts that may be needed thereafter including the need for additional protocol surveys and/or the development of avoidance, minimization, and/or mitigation measures. This information and analysis should also be used to consider the development of modified or new project alternatives to avoid and minimize potentially significant environmental impacts on the biological environment. This information is critical to make an informed decision during the CEQA process and to ensure Project compliance with CESA, Fish and Game code, and other applicable State and federal laws and regulations.

CDFW recommends surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: [Conservation and Management of Wildlife and Habitat \(ca.gov\)](#)

Botanical surveys for special-status plant species, including those listed by the California Native Plant Society [Rare Plant Program | CNPS](#), should also be conducted during the blooming period for all sensitive plant species potentially occurring within the Project Area and include the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants available at: [Native Plants \(ca.gov\)](#).

Riparian Habitat Proximity: Riparian natural communities along the Stanislaus River on the northern border of the Project Area provide many essential benefits to terrestrial, avian and aquatic species, including, but not limited to thermal protection, cool water refugia, cover, large woody debris, foraging areas, breeding and rearing sites, habitat and connectivity corridors, as well as buffers to sedimentation and runoff from adjacent land uses. Direct and indirect impacts into these habitat types can adversely impact sensitive species including but not limited to the riparian brush rabbit, riparian San Joaquin Valley woodrat, green sturgeon-southern DPS, steelhead-Central Valley DPS, and Central Valley fall-run Chinook salmon-ESU. These impacts can lead to reduction of habitat, reduced reproductive success; reduced health and vigor; nest abandonment; loss of foraging habitat that would reduce nesting success (loss or reduced health or

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vigor of eggs or young); and introduction of debris and/or deleterious materials into river habitats. Narrow riparian buffers are considerably less effective in minimizing the effects of adjacent development than wider buffers (Castelle et al. 1992, Brososke et al. 1998, Kiffney et al. 2003, Moore et al. 2005). CDFW recommends the Project establish, and tiered projects incorporate, sufficient buffer zones between the Project Area perimeter and adjacent Stanislaus River riparian habitat.

Editorial Comments and/or Suggestions

Nesting birds: CDFW recommends that all projects tiered from this Plan occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 15 through September 15), each future project applicant is responsible for ensuring that implementation of their project does not result in a violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate future project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct an assessment of nesting habitat during biological surveys in support of each project's CEQA document, and then conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around each future project 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, 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 having a qualified biologist continuously monitor nests to detect behavioral changes resulting from each future project. If behavioral changes occur, CDFW recommends halting 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-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 or on-site parental care 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 areas would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and

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support any variance from these buffers and notify CDFW in advance of implementing a variance.

Cumulative Impacts: Given that this NOP serves primarily as a planning level analysis and that future project-level CEQA documents are expected to be tiered from it, CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project. Including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e., less than significant). CDFW recommends 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.

Alternatives Analysis: CDFW recommends that the information and results obtained from the cumulative impacts analysis conducted as part of this Plan's PEIR be used to develop and modify the Plan's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. Please note that for all future projects tiered from this Plan, that when efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources may need to be mitigated to reduce impacts to a less than significant level, if feasible.

California Endangered Species Act: Reasonably foreseeable future projects tiered from this Plan may be subject to CDFW's regulatory authority pursuant to the California Endangered Species Act (CESA). In the event that species listed under CESA are detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid "take," or if avoidance is not feasible, to acquire a State Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground disturbing activities. In addition, CDFW advises that mitigation measures for the CESA listed species be fully addressed in the CEQA document prepared for any future project tiered from this Plan. CDFW therefore recommends that the PEIR for this Plan include information related to these requirements and advises that projects tiered from this Plan retain a qualified biologist to determine if potential impacts to CESA listed species may require the need to obtain a 2081 ITP.

Lake and Streambed Alteration: The Project Area resides immediately adjacent to the Stanislaus River and riparian habitat along its northern border for over three miles. Any ground-disturbing activities that have the potential to impact streams, including the Stanislaus River and adjacent riparian habitat, may be subject to CDFW's regulatory

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authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires the Project proponent 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); or (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 or intermittent as well as those that are perennial in nature. For additional information on notification requirements, please contact our staff in the LSA Program at R4LSA@wildlife.ca.gov.

California Natural Diversity Database: Please note that the CNDDDB is populated by 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 and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, 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 are present.

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

FILING FEES


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

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CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist Stanislaus County in identifying and mitigating Project impacts on biological resources. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453 or john.riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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