State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670-4599
916-358-2900
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 14, 2019

Todd Smith
Sacramento County Office of Planning and Environmental Review
827 7th Street, Room 225
Sacramento, CA 95814

Subject: MATHER SOUTH COMMUNITY MASTER PLAN PROJECT
DRAFT ENVIRONMENTAL IMPACT REPORT SCH# 2014062087

Dear Mr. Smith:

The California Department of Fish and Wildlife (CDFW) received and reviewed the draft Environmental Impact Report from Sacramento County for the Mather South Community Master Plan Project (Project) in Sacramento County pursuant the California Environmental Quality Act (CEQA) statute and guidelines.[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, plants and their habitats. 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 (Fish & G. 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 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.

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

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.

implementation of the Project as proposed may result in Take[2] 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 is approximately 848-acres located on the northeast corner of Kiefer Boulevard and Zinfandel Drive, located in the Cordova community of unincorporated Sacramento County. It is approximately 10 miles east of downtown Sacramento via Highway 50 and is generally situated within the central portion of Sacramento County.

The Project includes a master plan community with up to 3,522 residential dwelling units of various densities (multi-family, detached, and attached single-family), a 28-acre environmental education campus including 200 multi-family dwelling units, a 21-acre research and development park, two elementary schools, a 6-acre community center, 21 acres of commercial-retail with up to 225,000 square feet of retail space, 44 acres of parkland including 26 acres of neighborhood parks and a 17-acre community park, 210 acres of open space areas that include a 53-acre portion of the Mather Preserve west of Zinfandel Drive, as well as other natural preserves and drainage corridors, stormwater quality and detention basins, landscape buffers, and public utility corridors all connected by multi-use pedestrian and bicycle trails.

## COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (i.e. biological resources). CDFW offers the comments and recommendations presented below to assist Sacramento County in adequately identifying and/or mitigating the Project's significant or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed Project with respect to impacts on biological resources. CDFW recommends that the final EIR address the following:

### Regulatory Setting

Biological Resources (Section 6, Page 23) defines the Regulatory Setting under the California Fish and Game Code for animals and plants. This paragraph should reference Section 4150 of the Fish and Game Code, which defines nongame mammals

---

2 Section 86 of the Fish and Game Code defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill

and identifies that a nongame mammal may not be Taken or possessed except as provided elsewhere in the Fish and Game Code.

**Project Scoping**

The Biological Resources Report for the draft EIR states that only the Folsom USGS quad was searched in CNDDB. It is common practice to do a 9-quad search when compiling the species list for this type of report. Thus, CDFW recommends using the 9-quad search results to determine which special-status species have the potential to be impacted by the Project. A 9-quad search from CDFW's BIOS online tool identifies at least 17 additional special-status species not analyzed under Table BR-3 and subsequent sections:

Table 1. Additional Species from a 9-quad Search

| Common Name | Scientific Name |
|---|---|
| double-crested cormorant | *Phalacrocorax auritus* |
| dwarf downingia | *Downingia pusilla* |
| ferruginous hawk | *Buteo regalis* |
| great blue heron | *Ardea herodias* |
| great egret | *Ardea alba* |
| Heckard's pepper-grass | *Lepidium latipes var. heckardii* |
| merlin | *Falco columbarius* |
| Northern California black walnut | *Juglans hindsii* |
| pallid bat | *Antrozous pallidus* |
| Peruvian dodder | *Cuscuta obtusiflora var. glandulosa* |
| pincushion navarretia | *Navarretia myersii ssp. myersii* |
| purple martin | *Progne subis* |
| saline clover | *Trifolium hydrophilum* |
| song sparrow | *Melospiza melodia* |
| western yellow-billed cuckoo | *Coccyzus americanus occidentalis* |
| woolly rose-mallow | *Hibiscus lasiocarpos var. occidentalis* |
| yellow-headed blackbird | *Xanthocephalus xanthocephalus* |

The list in Table 1 should be reviewed and analyzed. CDFW recommends Sacramento County perform its own to 9-quad search to further strengthen the impact analysis of the final EIR. If additional species are identified with the potential to be impacted by the proposed Project, then the draft EIR should be revised to include this analysis as well. CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the final EIR should include appropriate mitigation measures for adverse Project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite preservation, habitat restoration, and/or enhancement

should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed in the final EIR.

**Assessment of Biological Resources**

Species such as bats are included in the definition of nongame mammals referenced above, but not assessed through the draft EIR. The riparian habitat within the Plan Area may contain suitable roosting habitat and the grassland may contain suitable foraging habitat for bat species that may be adversely affected by the Project. Since the Project covers considerable area, other mammalian species may also be impacted. CDFW recommends analysis such as bat habitat assessment or a mammal study to identify impacts.

The draft EIR is not clear about the methodology used, for determining whether a species was present. The list of reports on pages 6-2 and 6-3 does not describe the methodology of Project-specific surveys, if conducted, or when surveys were conducted. CDFW recommends including clear descriptions of the surveys completed and the survey results for species present or with the potential to be present. Species such as Valley Elderberry Longhorn Beetle (*Desmocerus californicus dimorphus*)(VELB), Bogg's Lake Hedge-hyssop (*Gratiola heterosepala*), etc. are discussed but need further survey detail.

**Plant Survey**

The draft EIR only references surveys by WRA (2004) and for focused species in 2006-2008 by Carol Whitham. Plant survey methodology was not described, and it is unknown whether the Project biologists conducted rare plant surveys according to established protocol before determining that certain species were not present. Due to the high number of potential special-status plants within the Project area, CDFW recommends conducting a new set of surveys that are more recent and that demonstrate use of the *Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html) to identify rare plants that may occur on the Project site or otherwise be impacted by Project activities. Failure to locate a plant during the floristic surveys of one field season does not constitute evidence that the plant is absent from the surveyed location. The timing and number of visits necessary to conduct a floristic survey should be determined by geographic location, the natural communities present and the weather patterns of the year, with the understanding that more than one field visit, or field season may be necessary to accurately survey the floristic diversity of a site and detect the presence of special-status plant taxa. To conduct a new survey or reach compliance for an existing survey. CDFW recommends:

- Botanical surveys be floristic (every plant taxon that occurs on a site is identified to the taxonomic level necessary to determine rarity and listing status)
- Surveys be conducted in the field at the time of year when target plant taxa are both evident and identifiable (usually during flowering or fruiting), and multiple visits to a site be made (e.g. in early, mid, and late-season) to accurately survey the floristic diversity of the site and detect the presence of all special-status plant taxa that are evident and identifiable
- Nearby reference populations be visited whenever possible to determine if known special status plant populations are evident and identifiable this year, and to obtain a visual image of the target species, associated habitat, and associated natural community. Reference populations may be particularly important to ensure that the timing of surveys is appropriate and to help substantiate negative findings in adverse conditions

Again, additional field seasons of surveys may be necessary to accurately survey the floristic diversity of a site and substantiate negative findings. This may be particularly true because of the high diversity of plants in the vicinity and high potential for annual or short-lived perennial plant taxa.

The draft EIR suggests that some surveys are to be completed immediately prior to groundbreaking. Phasing of the projects in the Project area could change the hydrology of the system which could irrevocably and adversely affect vernal pool/swale ecosystems that are hydrologically connected. Changing the hydrology of the area could affect special-status species that may be present in subsequent phasing areas or within the onsite/offsite preserves that will not be surveyed according to the draft EIR. Further discussion of potentially significant impacts is provided in the California Endangered Species Act section below, but CDFW recommends completion of comprehensive surveys prior to circulation of the final EIR. The final EIR should provide the results along with a clear explanation of where, when, and how many surveys were conducted along with a rationale for this determination.

**Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources**

Upland habitat adjacent to streams and wetlands, provide critical habitat to semi-aquatic reptiles and amphibians, in addition to their importance to aquatic habitat function. A summary of 65 wetland-dependent amphibian and reptile species shows their core upland habitats ranged more than 100 meters (328 feet) from wetlands.[3] Amphibians, which are dependent on wetlands for reproduction and juvenile life stages, are demonstrated to depend upon and range widely in adjacent uplands as adults.[4] Wetland

---

3 Semlitsch, R.D. and Bodie, J.R. (2003) Biological criteria for buffer zones around wetlands and riparian habitats for amphibians and reptiles. Conservation Biology, 17, 1219-1228.

4 Rittenhouse, T.A.G. and Semlitsch, R.D. (2007) Distribution of Amphibians in Terrestrial Habitat Surrounding

buffers of 15 to 30 meters (~50 to 100-feet) wide have been shown to provide inadequate habitat protection for amphibians and reptiles.[3] Buffers help maintain important microclimate characteristics such as air temperature, relative humidity, and wind speed in adjacent wetlands and riparian forest habitats. Many amphibians and reptiles, for example, rely on a certain microclimate range for all or some of their habitat needs[5] [6] as do bird species[7] and mammals.[8] It has been concluded that at a minimum, a 45-meter (~147 foot) buffer (as measured along each side of a stream) is necessary to maintain a natural microclimate along streams.[9]

The draft EIR does not analyze the viability of the open space drainage preserves. Although the draft EIR protects watercourses, narrow open space drains are surrounded by development. The exact size of the open space drains and the reason why that size was determined should be identified in the final EIR. Likewise, CDFW questions which species would still benefit from these narrow open space drainages. Narrow natural habitats are often indicative of habitat fragmentation that reduces the ecological function of the current drainage regime. Through development, high density human influence increases in these drainage corridors, where there is currently little to no human impact. Risk of trash and chemical pollution, domestic pets, and habitat obstruction all decrease the functionality of the habitat. CDFW recommends an analysis of these impacts and how design changes or mitigation measures can be enacted to reduce impacts.

Residential and commercial development within areas identified for their high value as habitat for fish and wildlife can result in significant cumulative impacts due to habitat fragmentation. Adverse effects of roads and structures placed in or near preserve/natural areas include increased wildlife road-kill, increased garbage and roadside dumping, light and noise disturbances, the introduction of invasive species, harassment and killing of wildlife by domestic animals, and an increase in predator fauna such as corvids (jays, crows, and ravens). These affect the long-term

---

Wetlands. Wetlands, 27, 153-161.

5 Petranka, J.W., Eldridge, M.E., Haley K.E.(1993) Effects of Timber Harvesting on Southern Appalachian Salamanders. Conservation Biology, 7, 363-369.

6 Machtans, C.S., Villard, M.A., Hannon, S.J., 1996. Use of riparian buffer strips as movement corridors by forest birds. Conservation Biology, 10, 1366–1379.

7 Feldhamer, G.A. and Rochelle (1982) Mountain beaver (*Aplodontia rufa)*. Wild mammals of North America, 167-175.

8 Raedeke, K.J, Taber, R.D., Paige, D.K. (1988) Ecology of large mammals in riparian systems of Pacific Northwest forests. Streamside management: riparian and forestry interactions, 113-132.

9 Brosofske, K.D, Chen, J. Naiman, R.J., Franklin, J.F. (1997) Harvesting Effects on Microclimate Gradients from Small Streams to Uplands in Western Washington. Ecological Applications, 7, 1188-1200.

sustainability of wildlife populations in wetland and vernal pool resources within areas known for their high value as ecologically diverse ecosystems. Likewise, there is potential for impact to sensitive plant communities and the integrity of woodlands as habitat for diverse species of reptiles, mammals and migratory and non-migratory birds including raptors. Furthermore, the placement of residential developments in natural areas typically leads to human conflict with wildlife.

As with the open space drainages, onsite open space preserves are also subject to a drastic increase in human influence. The draft EIR states there will be two open space areas. CDFW is concerned with the integrity of the 53-acre extension of the Mather Preserve area within the Project footprint. The rerouting of Zinfandel Drive will border this area where it previously has not, and development of the site will bring thousands of new residences and commuters through the roadway. In addition, the onsite preserve will be largely isolated. Habitat islands such as this serve ecological benefit, but functionality may decrease. These factors should be considered when evaluating alternatives and choosing mitigation.

When a habitat is fragmented, the amount of edge habitat - the zone along the boundary of a habitat - increases while the amount of interior core habitat decreases. Species dependent on interior habitat suffer, while edge dependent species, including invasive species and predators, thrive. The increase of edge habitat impacts the habitat's microclimate, including light, soil, temperature, moisture, and wind conditions, which, in turn, alters the composition of plant communities.[10] For birds, predators such as crows and raccoons, and nest parasites, find target nests more easily in edge habitats.[11] Because different plant communities support different collections of wildlife and rare plant species, changes in habitat also shift and displace wildlife. These changes disrupt the pollination mechanisms plants depend upon, and without animal pollinators or seed dispersers, plant communities slowly lose species.[12] Peripheral plant populations in edge habitats also tend to exhibit unique traits from the core populations: they tend to be smaller, have more variable densities, restricted gene flow, less genetic variation, greater extirpation risk and be morphologically similar.[13]

CDFW therefore recommends the final EIR specifically evaluate the potential for indirect and cumulative impacts due to fragmentation of sensitive plant community and wildlife

---

10 Lerner, Jeff. On-line Paper: *Habitat Fragmentation*, Biodiversity Partnership, Washington DC, see http://www.biodiversitypartners.org/habconser/sprawl/01b.shtml.

11 Askins, R. A. Restoring North America's birds. Yale University Press, New Haven, Connecticut. 2000.

12 Buchmann, Stephen L. and Gary Paul Nabhan. The Forgotten Pollinators. Washington DC: Island Press. 1997.

13 Leppig, G. and J.W. White (2006) Conservation of peripheral plant populations in California. Madrono 53:264-274.

habitat areas that will result from the Project. The final EIR should examine options for effective mitigation for such effects, which could include avoidance by prudent refinement of Project design that tends to preserve contiguous habitats and limit fragmentation. The final EIR's alternative analysis must also evaluate alternatives that would serve to decrease impacts due to habitat fragmentation.

Impacts to hydrology and physical habitat are magnified in sensitive ecotypes such as vernal pools. The Project footprint lies between two existing and extensive vernal pool complexes, the Mather Preserve and the Sunrise Douglas (Anatolia) Mitigation Bank. The draft EIR does not analyze potentially significant effects to surrounding these two preserves. Due to the nature of the Project, the hydrologic character of the site will change drastically, which can decrease the habitat value of the preserve sites. As mentioned above, use of Zinfandel Drive will also increase which will bring many new travelers directly through the Mather Preserve. Critical conservation in the local region is already tied to these two sites, so further steps should be taken to ensure that impacts to these sites are reduced.

CDFW suggests more detail be included on fencing for any preserves or designated habitat areas. Perimeter fencing should be restricted to 3-4 strand wire with a bottom strand a minimum of 16 inches above ground and not to exceed 48 inches in total height. The bottom strand should be barbless wire. Other fence designs that allow for unobstructed animal movement are also acceptable.

CDFW recognizes the draft EIR discusses the need for and significance level of offsite improvements; however, there is a distinction between Project impacts on surrounding environment and offsite improvement impacts on the environment. CDFW recommends Sacramento County provide complete plans for offsite improvements and perform a complete study on both impacts for the final EIR, as highly sensitive ecotypes will be impacted in both cases.

**Mitigation Approach**

The draft EIR often references the Mather Preserve as a location for where mitigation for both special-status species and aquatic resources will occur. The Mather Preserve has already been designated for conservation purposes in the U.S. Fish and Wildlife Service Biological Opinion for the Disposal of the Former Mather Air Force Base (81420-2008-F-1567-3) provided to Sacramento County in 2012. Project mitigation is not available at the Mather Preserve; therefore, CDFW recommends a new mitigation proposal to offset impacts to fish and wildlife resources at the Project site. The new proposal should address its feasibility with varying mitigation standards for regulatory approval, should specifically discuss each species and habitat type, and address potential adverse effects to the South Sacramento Habitat Conservation Plan.

**Fully Protected Species**

The classification of Fully Protected was the State's initial effort in the 1960's to identify and provide additional protection to those animals that were rare or faced possible extinction. Lists were created for fish, mammals, amphibians and reptiles, birds and mammals. Fully Protected species may not be Taken or possessed at any time and no licenses or permits may be issued for their Take except for collecting these species for necessary scientific research, through a Natural Community Conservation Plan, and relocation of the bird species for the protection of livestock.

The draft EIR, CNDDB records, and a search on CDFW BIOS indicate that one Fully Protected Species, white-tailed kite (*Elanus leucurus*), is present within the Project area. The draft EIR does not include any discussion of specific impacts to white-tailed kite. Because of the species' status, any impact could be considered significant under CEQA. CDFW is concerned that the project, as designed, could result in Take of white-tailed kite and thus, would not be compliant with State regulations regarding Fully Protected Species.

**California Endangered Species Act**

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in Take[2] of State-listed CESA species or rare plants either through construction or over the life of the Project.

The Project area as shown in the draft EIR includes habitat for State-listed species. Environmental analysis should determine whether the project may have the potential to result in Take of a State-listed species. If there is potential for Take, CDFW recommends the final EIR disclose that an ITP or a consistency determination (Fish & G. Code, §§ 2080.1 & 2081) be obtained prior to starting construction activities. To receive authorization for Take, the final EIR must include all avoidance and minimization measures to fully mitigate the Take (Cal. Code Regs., tit. 14, § 783.2, subd.(a)(8)). CDFW encourages early consultation with staff to determine appropriate measures to fully mitigate impacts of the Taking. Project modifications may be needed to demonstrate compliance with CESA.

Tricolored blackbird (*Agelaius tricolor*): The draft EIR suggests that the surrounding area is sufficient for foraging, but further evidence is needed to support this claim. Tricolored blackbird may rely solely on or heavily depend on the foraging habitat present in the Project area. More than 10 active breeding colonies are known to exist within 3 miles (average maximum foraging distance) of the Project site. CDFW recommends the draft EIR provide a survey and analysis of tricolored blackbird foraging behavior on the Project site and any proposed mitigation locations.

Furthermore, protecting actively used-foraging habitat during the nesting season will help to enable the tricolored blackbird nesting colony to complete its nesting cycle, as loss of valuable foraging habitat could cause the nesting colony to fail. Loss or alteration of breeding habitat or nest site disturbance may ultimately result in the Take (killing) of nestling or fledgling tricolored blackbirds incidental to otherwise lawful activities through: 1) nest abandonment; 2) loss of young; or 3) reduced health and vigor of eggs and/or nestlings (resulting in reduced survival rates). Hazing (predator calls, light reflecting objects, falconry, etc.) could be considered Take depending on the method used and when it is employed. Tricolored blackbirds rely heavily on an insect prey base when breeding. Tricolored blackbirds may rely heavily on using productive foraging habitat to obtain enough food to feed their young during the nesting season.

Swainson's hawk (*Buteo swainsoni*): There are numerous occurrence records within a 10-mile radius of the Project (CDFW 2019, CNDDB layer in BIOS). The loss of nesting habitat due to agricultural and urban expansion has greatly reduced the breeding range and abundance of Swainson's Hawk in California (CDFW 1993; 5-year Status Review: Swainson's Hawk). Mitigation Measure BR-12 does fully address the loss of a nest or nest tree, or discontinuation of use of the nest tree during Project implementation, which could be considered Take. CDFW recommends providing a full tree removal inventory along with Swainson's hawk nest survey results for said trees. Surveys should be conducted prior to the circulation of the final EIR and in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000). With survey results, the final EIR should evaluate the potential for Take and mitigation options for Swainson's hawk.

The draft EIR also lacks sufficient analysis on impacts to Swainson's hawk foraging habitat. CDFW recommends including a discussion of Swainson's hawk foraging behaviors within the Project area and functionality information on the quality of impacted habitat. As stated above, mitigation for lost habitat does not appear to be available at the Mather Preserve. CDFW recommends proposing a revised mitigation strategy to adequately reduce impacts to foraging habitat to a less than significant level.

Bogg's Lake Hedge-Hyssop, Slender Orcutt Grass, and Sacramento Orcutt Grass: CDFW recommends revising the draft EIR to specifically discuss these three State-listed plants that have documented CNDDB occurrences on or adjacent to the Project site. Surveys should be conducted prior to circulation of the final EIR and in accordance with the above-referenced protocol so a more complete analysis can be performed. Due to the proximity of species occurrences, the discussion should evaluate potential for Take either in Project implementation or offsite improvements. Currently, CDFW does not have enough information to fully vet the significance of impact to these species.

The Project as described may cause Take of CESA-listed species, so CDFW recommends obtaining a multi-species ITP; however, these sections are not exhaustive,

and recommendations may be influenced by Project modifications, updated surveys, and/or the revised 9-quard search.

**Native Plant Protection Act**

The Native Plant Protection Act (NPPA) (Fish & G. Code §1900 *et seq.*) prohibits the Take or possession of state-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW in certain limited circumstances. Take of state-listed rare and/or endangered plants due to Project activities may only be permitted through an ITP.

The CNDDB contains records of several plants that fall under the NPPA. Other special-status plant species may also be present. Subsequently, the draft EIR should identify how the Project is compliant with NPPA and any species specifically related to NPPA.

**Other Special-Status Species**

CDFW 2012 guidelines state that "the survey methods used and results including the information described in the Summary Report and to include the reports within the CEQA documentation." As such, CDFW recommends following survey methodology below to determine burrowing owl (*Athene cunicularia*) use of the Project area prior to circulation of the final EIR. Activities (e.g. relocation) described in the draft EIR are a potentially significant impact and can be more properly evaluated with survey results.

The draft EIR states that suitable habitat for burrowing owl is present on and adjacent to the Project site. CDFW recommends a qualified biologist complete surveys for burrowing owl in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). The survey includes: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. Surveys will be conducted on the Project site and within 150 meters of areas that will be directly or indirectly impacted by the Project, where feasible. Surveys shall not be conducted during inclement weather, when burrowing owls are typically less active and visible. If burrowing owls or evidence of burrowing owls (e.g. whitewash or pellets) are not observed during any surveys, no additional mitigation is necessary. If the birds are present, Take could occur. If any new burrowing owl colonizes the Project site after the CEQA document has been adopted, it may constitute changed circumstances that should be addressed in a re-circulated CEQA document (CDFG 2012) if those potential impacts have not been disclosed.

Passive relocation is considered an impact to the species unless there is adjacent natural habitat nearby. CDFW recommends that Burrowing Owl sections, including BR-14 and BR-15 are amended so they are consistent with the *Staff Report on Burrowing Owl Mitigation*. Namely, the Project proponent should develop a Burrowing Owl Exclusion Plan approved by the CDFW. In addition, the impact analysis does not include compensatory mitigation for the loss of occupied burrowing owl habitat. CDFW recommends that temporary and permanent loss of habitat is mitigated as outlined in

the CDFW's staff report to include permanent protection of mitigation land, a management plan, and endowment.

**Mitigation Measures for Project Impacts to Biological Resources**

BR-1 discusses preservation of open space drainages as a part of the Mather Preserve. CDFW recommends including our department in the conservation easement (third-party beneficiary) discussion and subsequent management plans. Without doing so, using the open space drainages as mitigation for CDFW permits may not be feasible. Subsequent measures or impact analysis should include communication, approval, etc. with CDFW.

BR-1a mitigation measure does not cite the scientific viability or effectiveness. The hardpan restoration plan does not state any performance measure that must be met or if there is any monitoring after the plan is implemented to ensure the functionality. CDFW is concerned that alterations to the hardpan may have regional impacts to the preserved onsite features, the Mather Preserve, and/or the Sunrise Douglas (Anatolia) Mitigation Bank. Additional mitigation may be needed if hardpan restoration is unsuccessful or if hardpan alterations have impacts on non-impacted vernal pools

BR-2 states that mitigation may occur at the existing Mather Preserve, please see above for why this cannot occur. It also stated that the applicant can mitigate for the loss of vernal pool habitat by creating habitat within designated preserve areas. Doing so can have its own adverse impacts that are not analyzed in this document. In addition, it is not stated that CDFW would be involved in the approval process. In the likely event that these features are connected to the stream system, a Lake or Streambed Alteration Notification would be required and CDFW should be included in the approval process.

Impact analysis for Loss of Venal Pool Invertebrates suggests the standard ratio would either be 1:1 or the total preservation required for indirect impacts should be 8.86 acres for a 2:1 ratio. Given the presence of special-status species, stressors on vernal pool systems in south Sacramento, and its proximity to critical habitat areas, the final EIR should disclose how the mitigation will reduce impacts to a less than significant level.

CDFW recommends revising BR-4 and subsequent measures to include agency approvals for qualified biologist(s). CDFW also recommends specifying that work handouts will include images of sensitive plants and animals that may be encountered.

CDFW recommends that biological monitors ensure that no Take of sensitive resources occur (not just listed species). For instance, several rare plants have the potential to be present and be impacted but are not necessarily "listed" under an Endangered Species Act.

BR-7 is not sufficient given the potential number and diversity of special-status plants in the Project area and impact of Project activities. As stated above, a full suite of surveys should be conducted prior to circulation of the final EIR. Following the completion of the

surveys, more detail should be provided on species, mitigation, and monitoring, so that CDFW can assess impacts more effectively. Mitigation should be focused to species and provide more specifics on mitigation approaches. CDFW recommends that evaluation of mitigation sites and/or transplanting be supported by adequate scientific evidence. Gathering seeds may also be an option for this section if transplantation is not scientifically viable. Regardless, CDFW recommends specifying that all activities will be carried out by a qualified botanist with adequate scientific collecting permit(s). "Comparable habitat" should be revised to "same quality or better habitat".

BR-9 lacks information needed to effectively minimize Take. Further minimization measures such as exclusion fencing, Project phasing, etc. should be included. As with BR-7, scientific evidence for relocation should be provided as the basis for choosing this approach. Survey method choice and relocation coordination with CDFW should be described in more detail, given the reasonable probability that Western Spadefoot Toad (*Spea hammondii*) toad may utilize the Project area habitat beyond the single vernal pool identified. The final EIR should discuss the potential for transfer of diseases, common in situations where amphibian populations are mixed. BR-9 currently reads that relocations could happen during the breeding season when egg masses are present. CDFW is concerned that this timing may substantially compromise the breeding season at impacted habitat. Breeding behavior and egg masses could be disrupted if this occurs. CDFW recommends more specifics on relocation timing and more concrete measures on impact avoidance methods.

The removal of VELB habitat in the Project area may result in significant impacts even if Mitigation Measure BR-10 is followed. The document does not analyze the effect of the loss of the habitat in the regional context. Since "all, or nearly all" of the shrubs would be removed, this is especially relevant. CDFW is concerned that the Project site connects two populations. As a metapopulation, removal of the habitat may prevent the species from migrating to adjacent areas and result in significant impacts to VELB.

BR-11 states that surveys will be conducted within 1650 feet of Mather Lake. There is no biological reason given for the 1,650-foot buffer survey distance. Western pond turtle (*Actinemys marmorata*) is terrestrial and can be found in the surrounding upland habitats as well as the surrounding swales, wetlands, and streams. Turtles may bask on land or near water on logs, branches or boulders and terrestrial habitat may be just as important as aquatic habitat for this turtle. In some populations, turtles can be found on land 10-12 months of the year.[14] CDFW recommends that this measure be refined to more adequately address and reduce impacts.

---

14 Thomson, R.C., Wright, A.N., and Shaffer, H.B. California Amphibian and Reptile Species of Special Concern. Oakland California: California Department of Fish and Wildlife and University of California Press. 2016.

BR-13 CDFW recommends using the 15-day lapse in construction activities described in Bullet 3 throughout the draft EIR.

BR-14, Bullet 5 suggests a 150-1500-foot buffer for active burrows. CDFW recommends providing information on how buffer sizes will be determined and the justification for those buffer sizes. Starting with a larger buffer, monitoring, and then reducing buffer size would reduce impacts but also allow flexibility in construction.

BR-16 states that two American Badger (*Taxidea taxus*) dens are within the Project area. Since this has been identified, more descriptive mitigation measures are needed. The final EIR should identify where the dens are located and how the Project will avoid (or impact) existing dens. CDFW also questions how large the exclusion zones will be, timing for den monitoring, and how the loss of a den would be mitigated. As with other measures above, CDFW cannot fully evaluate potential impacts given the information currently presented in the draft EIR.

BR-19 states that a "no net loss of functions and values" will be achieved through a 1:1 ratio. CDFW is concerned that no net loss strategy may not reduce impacts to a less than significant level because of the sensitivity and uniqueness of vernal pool habitats. CDFW recommends a higher standard of mitigation that considers the value of the impacted ecosystems.

BR-21 3. states that equipment will be used when necessary; however, 5. states that no equipment will used at any time. CDFW recommends revising these two bullets to allow sufficient equipment use while still protecting trees. 8. Suggests boring may be needed. For any boring project, CDFW recommends an associated frac-out plan.

**Lake and Streambed Alteration Program**

As stated in the draft EIR, Notification under section 1600 of the Fish and Game Code will be required. CDFW recommends that a complete list of crossings, bridges, culverts, etc. be provided and analyzed as it relates to substantial adverse effects to fish and wildlife resources. In addition, grading and infrastructure improvements that alter the hydrology of the site have both an effect on nearby resources as well on adjacent properties.

Further information is needed in the discussion of tree removal in respect to section 1600. Given the unique nature of the Project site's cottonwood woodland, CDFW recommends providing biological evidence for why these trees are not associated with the stream system. Activities that remove these trees may be subject to Notification.

CDFW also recommends discussion of the Folsom South Canal and the Project's potential impacts to the bed, bank, or channel.

Issuance of a Lake or Streambed Alteration Agreement (LSAA) is facilitated by comprehensive review through the CEQA process. CDFW must make a Notice of

Determination when executing the LSAA, and adequate mitigation measures are needed to reduce adverse impacts to Fish and Wildlife resources. CDFW is concerned that a Statement of Overring Considerations may be needed for Project impacts because mitigation measures may not reduce impacts to a less than significant level. CDFW recommends the final EIR address these concerns prior to final certification.

**Consistency with Community Plans**

The draft EIR outlines goals of existing community plans which are pertinent to discussion of fish and wildlife resources. The Sacramento County General Plan seeks to "encourage development that complements the aesthetic style and character of existing development nearby to help build a cohesive identity for the area." Vernal pool and wetland ecosystems are a significant part of the character of south Sacramento County, something that previous developments have incorporated into project design. Surrounding developments such as Independence at Mather, Anatolia Subdivision, and developments within of the SunCreek Specific Plan often balance significant onsite preserves within urbanized areas (e.g. Anatolia is split directly in two). Past developments have recognized the unique character of the natural features of the region and made it part of their own. The Cordova Community Plan "encourage[s] infill development and redevelopment to strengthen and improve the character of existing development as it means to avoid sprawl in other areas... and to complement and complete existing neighborhoods." Again, existing developments reflect this goal by dispersing houses within large sections of preserve. This serves to complement and complete other neighborhoods by moving with natural features and maintaining consistency. CDFW is concerned that, as designed, the Project does not provide large, contiguous preserve sections that balance natural corridors with development. Therefore, the Project can contribute to sprawl in the south county and diminish the strong character that previous projects have set out to achieve. CDFW encourages consideration of the "biological resources alternative" or project modifications that will more effectively synchronize with previous developments.

**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 CNDDB. The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be submitted online or mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov.

**FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination

by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code § 711.4; Pub. Resources Code, § 21089.)

**CONCLUSION**

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the Project. Written notifications shall be directed to:

California Department of Fish and Wildlife, North Central Region, Attn: Dylan Wood, 1701 Nimbus Road, Rancho Cordova, CA 95670

CDFW appreciates the opportunity to comment on the draft EIR for the Mather South Community Master Plan Project and recommends that Sacramento County address CDFW's comments and concerns in the forthcoming final EIR. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

If you have any questions regarding the comments provided in this letter or wish to schedule a meeting and/or site visit, please contact Dylan Wood, Environmental Scientist at 916-358-2384 or dylan.a.wood@wildlife.ca.gov.

Sincerely,

Kevin Thomas
Regional Manager

ec: Jennifer Nguyen, Senior Environmental Scientist (Supervisor)
Dylan Wood, Environmental Scientist
*California Department of Fish and Wildlife*

Office of Planning and Research, State Clearinghouse, Sacramento