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November 12, 2020

Governor's Office of Planning & Research

November 12, 2020

STATE CLEARINGHOUSE

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**Subject: McKay Point Reservoir Project (Project)
Notice of Preparation (NOP)
State Clearinghouse No.: 2014011078**

Dear Ms. Rohr:

The California Department of Fish and Wildlife (CDFW) received an NOP for an Environmental Impact Report (EIR) from Tulare Irrigation District (Tulare ID), which is the Lead Agency for the Project pursuant 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.

While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public

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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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.*), related authorization as provided by the Fish and Game Code will be required.

CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take.

The use of unallocated stream flows are subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code section 1225. CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Certain fish and wildlife are reliant upon aquatic ecosystems, which in turn are reliant upon adequate flows of water. CDFW therefore has a material interest in assuring that adequate water flows within streams for the protection, maintenance, and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities.

PROJECT DESCRIPTION SUMMARY

Proponent: The Tulare ID is the Lead Agency for the Project. The Project proponents are Tulare ID, the Consolidated People's Ditch Company (CPDC), and the Visalia and Kaweah Water Company (VKWC).

Proposed Project: The Project would develop approximately 200 acres within the 500-acre McKay Point property into a surface water storage and re-regulation reservoir. The reservoir would be located on the north side of the divergence of the Lower Kaweah River and St. Johns River, and would consist of the following phases: excavation of the site for the reservoir, construction of the reservoir, and operation of the reservoir.

The Project would divert and receive water immediately upstream of the divergence of the Lower Kaweah River and St. Johns River, commonly referred to as McKay Point. The reservoir would provide a water storage capacity of approximately 4,600 acre-feet

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and deliver water back to either the Lower Kaweah River or the St. Johns River, as needed. The Project would provide additional storage capacity for storm water layoff and flood prevention. The reservoir would also be used to optimize groundwater recharge within the service areas for Tulare ID, CPCD, and VKWC.

Objectives: The Project objectives include capturing and re-regulating water made available to the Project proponents during flood releases from Lake Kaweah; capturing and re-regulating water entitlements belonging to the Project proponents released from Lake Kaweah; capturing and re-regulating water released for the Project proponents during peak power enhancement flows from the Terminus Hydropower Plant (Lake Kaweah); capturing and re-regulating any other water sources on the Kaweah River that may be made available to the Project proponents; allowing other entities with water rights on the Kaweah River to capture and/or re-regulate flows when designated by the Project proponents; allowing other entities to capture and/or re-regulate flows of the Lower Kaweah River and St. Johns River for purposes of storm water runoff and flood prevention with permission of the Project proponents and Kaweah/St. Johns water rights interests; constructing the reservoir in such a way that revenue can be obtained to offset the construction and development costs; and locating the reservoir adjacent to the Kaweah River to allow for off-stream access to surface water storage, thus minimizing the need for pipelines.

Location: The Project site includes portions of the following Assessor's Parcel Numbers: 113-070-016-000, 113-080-005-000, 113-080-008-000, 113-090-001-000, and 113-100-002-000.

The Project is located in Tulare County, California, between and to the south of both Lake Kaweah (2.5 miles northeast of the site) and Bravo Lake (1.5 miles northwest of the site); 1.0 miles northwest of the community of Lemon Cove; and 2.5 miles southeast of the community of Woodlake. The Project site is located approximately 1.0 mile west-southwest of the intersection of State Highways 216 and 198, in Sections 3 and 4, Township 18 South, Range 27 East, Mount Diablo Base and Meridian.

Timeframe: No timeframe given.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Tulare ID 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 document.

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Based on a review of aerial imagery, the Project description, and a review of California Natural Diversity Database (CNDDDB) records, several special status species and habitat types could potentially be impacted by Project activities. Project-related construction activities within the Project alignment and surrounding area could impact the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State and federally endangered least Bell's vireo (*Vireo bellii pusillus*); the State threatened tricolored blackbird (*Agelaius tricolor*); the State threatened and fully protected Bald eagle (*Haliaeetus leucocephalus*); the State fully protected golden eagle (*Aquila chrysaetos*); the State endangered foothill yellow-legged frog (*Rana boylei*); the State candidate endangered Crotch bumble bee (*Bombus crotchii*); the State endangered and federally threatened San Joaquin adobe sunburst (*Pseudobahia peirsonii*); the California rare plant rank 1B.2 recurved larkspur (*Delphinium recurvatum*), spiny-sepaled button-celery (*Eryngium spinosepalum*), and calico monkeyflower (*Diplacus pictus*); and the State species of special concern American badger (*Taxidea taxus*), western pond turtle (*Emys marmorata*), pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops perotis californicus*), western red bat (*Lasiurus blossevillii*), burrowing owl (*Athene cunicularia*), Northern California legless lizard (*Anniella pulchra*), and western spadefoot (*Spea hammondi*).

Vegetation communities and habitats in the Project vicinity includes Valley sacaton grassland, Great Valley oak riparian forest, sycamore alluvial woodland, irrigated row crops, vineyards, orchards and field crops, non-native annual grassland, ruderal disturbed areas, and barren unvegetated areas including levee roads. Aquatic features in and near the Project area include the Kaweah and St. Johns Rivers and associated riparian and fresh emergent wetlands, recharge basins, detention basins, agricultural ditches and canals, and agricultural ponds.

Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. Therefore, a lack of an occurrence record in the CNDDDB is not tantamount to a negative species finding.

The NOP acknowledges the potential to adversely affect special status species. CDFW recommends that the following modifications and/or edits be incorporated into the EIR.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?

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COMMENT 1: San Joaquin Kit Fox (SJKF)

Issue: SJKF occurrences have been documented within the Project area (CDFW 2020). Review of recent aerial imagery shows suitable habitat for SJKF in the Project area. SJKF den in right-of-ways, agricultural and fallow/ruderal habitat, dry stream channels, and canal levees, etc., and populations can fluctuate over time. SJKF are also capable of occupying urban environments (Cypher and Frost 1999). SJKF may be attracted to project areas due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. SJKF will forage in fallow and agricultural fields and utilize streams and canals as dispersal corridors. As a result, there is potential for SJKF to occupy all suitable habitat within the Project boundary and surrounding area.

Specific impact: Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with construction include habitat loss, den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss resulting from land conversion to agricultural, urban, and industrial development is the primary threat to SJKF (Cypher *et al.* 2013). Tulare and Kern Counties support relatively large areas of high suitability habitat and one of the largest remaining populations of SJKF (Cypher *et al.* 2013). The Project area is within and bordered by this remaining highly suitable habitat, which is otherwise intensively managed for agriculture. Therefore, subsequent ground-disturbing activities have the potential to significantly impact local SJKF populations.

Recommended Potentially Feasible Mitigation Measures

To evaluate potential impacts to SJKF associated with subsequent land conversion, ground disturbance and construction, CDFW recommends conducting the following evaluation of project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 1: SJKF Habitat Assessment

For all Project-specific components including construction and land conversion, CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for SJKF.

Recommended Mitigation Measure 2: SJKF Surveys and Avoidance

CDFW recommends assessing presence/absence of SJKF by having qualified biologists conducting surveys of Project areas and a 500-foot buffer of Project areas

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to detect SJKF and their sign. CDFW also recommends following the USFWS “Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance” (2011).

Recommended Mitigation Measure 3: SJKF Take Authorization

SJKF detection warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 2: Swainson’s Hawk (SWHA)

Issue: Review of recent aerial imagery indicates that trees capable of supporting nesting SWHA occur along the streams and canals within the Project boundary. Landscape trees may also provide suitable nesting habitat. In addition, grassland and agricultural land in the surrounding area provide suitable foraging habitat for SWHA, increasing the likelihood of SWHA occurrence within the vicinity.

Specific impact: Without appropriate avoidance and minimization measures for SWHA, potential significant impacts associated with Project activities include loss of foraging and/or nesting habitat, nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Evidence impact would be significant: Lack of suitable nesting habitat in the San Joaquin Valley limits the local distribution and abundance of SWHA (CDFW 2016). The trees and riparian habitat within the Project area represent some of the only remaining suitable nesting habitat in the local vicinity. Depending on the timing of construction, activities including noise, vibration, and movement of workers or equipment could affect nests and have the potential to result in nest abandonment, significantly impacting local nesting SWHA. In addition, agricultural cropping patterns can directly influence distribution and abundance of SWHA. For example, SWHA can forage in grasslands, pasture, hay crops, and low growing irrigated crops; however, other agricultural crops such as orchards and vineyards are incompatible with SWHA foraging (Estep 2009, Swolgaard *et al.* 2008).

Recommended Potentially Feasible Mitigation Measures

To evaluate potential impacts to SWHA associated with subsequent development, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

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Recommended Mitigation Measure 4: Focused SWHA Surveys

To evaluate potential Project-related impacts, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (2000) prior to Project initiation.

Recommended Mitigation Measure 5: SWHA Nest Avoidance

CDFW recommends that if Project activities will take place during the SWHA nesting season (March 1 through August 31) and active SWHA nests are present, a minimum ½-mile no-disturbance buffer be maintained around each nest until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

Recommended Mitigation Measure 6: SWHA Take Authorization

If implementation of a ½-mile no-disturbance nest buffer around active nests is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If SWHA cannot be avoided, acquisition of an ITP pursuant to Fish and Game Code section 2081 subdivision (b) prior to the start of Project activity is warranted to comply with CESA.

Recommended Mitigation Measure 7: SWHA Tree Replacement

CDFW recommends that the removal of known SWHA or other raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity. This mitigation would offset the temporal impacts of nesting habitat loss.

COMMENT 3: Least Bell's Vireo (LBV)

Issue: Review of aerial imagery indicates the presence of riparian woodland vegetation suitable to support LBV, within the Project site and its vicinity

Specific impact: Without appropriate avoidance and minimization measures for LBV, potential significant impacts associated with Project development include nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

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Evidence impact is potentially significant: LBV were abundant and widespread in the United States until the 1950s (Grinnell and Miller 1944). By the 1960s, they were considered scarce (Monson 1960), and by 1980 there were fewer than 50 pairs remaining (Edwards 1980), although this number had increased to 2,500 by 2004 (Kus and Whitfield 2005). The primary cause of decline for this species has been the loss and alteration of riparian woodland habitats (USFWS 2006). Fragmentation of their preferred habitat has also increased their exposure to brown-headed cowbird (*Molothrus ater*) parasitism (Kus and Whitfield 2005). Current threats to their preferred habitat include colonization by non-native plants and altered hydrology (diversion, channelization, etc.) (USFWS 2006).

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to LBV, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 8: LBV Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its immediate vicinity contains suitable habitat for LBV.

Recommended Mitigation Measure 9: LBV Avoidance

CDFW recommends that Project activities be timed to avoid the typical bird breeding season (February 1 through September 15).

Recommended Mitigation Measure 10: LBV Surveys

If Project activities must take place during the typical bird breeding season, and suitable LBV habitat is detected during habitat assessments, CDFW recommends assessing presence/absence of LBV by conducting surveys following the USFWS "Least Bell's Vireo Survey Guidelines" (2001) in advance of the start of Project implementation, to evaluate presence/absence of LBV nesting in proximity to Project activities, and to evaluate potential Project-related impacts and permitting needs.

Recommended Mitigation Measure 11: LBV Take Authorization

LBV detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an ITP prior to Project activities, pursuant to Fish and Game Code section 2081 subdivision (b).

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COMMENT 4: Tricolored Blackbird (TRBL)

Issue: TRBL are known to occur in the Project vicinity (CDFW 2020, UC Davis 2020). Review of aerial imagery indicates that the Project boundary includes flood-irrigated agricultural land, which is an increasingly important nesting habitat type for TRBL, particularly in the San Joaquin Valley (Meese *et al.* 2017).

Specific impact: Without appropriate avoidance and minimization measures for TRBL, potential significant impacts associated subsequent development include nesting habitat loss, nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Evidence impact would be significant: As mentioned above, flood-irrigated agricultural land is an increasingly important nesting habitat type for TRBL, particularly in the San Joaquin Valley (Meese *et al.* 2014). This nesting substrate is present within the Project vicinity. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese *et al.* 2014). Approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub *et al.* 2016). In addition, TRBL have been forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause nest entire colony site abandonment and loss of all unfledged nests, significantly impacting TRBL populations (Meese *et al.* 2014).

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to TRBL associated with subsequent development, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 12: TRBL Surveys

CDFW recommends that Project activities be timed to avoid the typical bird-breeding season of February 1 through September 15. If Project activity that could disrupt nesting must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

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Recommended Mitigation Measure 13: TRBL Colony Avoidance

If an active TRBL nesting colony is found during preactivity surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer, in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015), until the breeding season has ended or until a qualified biologist has determined that nesting has ceased and the young have fledged and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason, CDFW recommends that an active colony be reassessed to determine its extent within 10 days prior to Project initiation.

Recommended Mitigation Measure 14: TRBL Take Authorization

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss whether the Project can avoid take; if take avoidance is not feasible, to acquire an ITP pursuant to Fish and Game Code section 2081 subdivision (b), prior to any Project activities.

COMMENT 5: Nesting Bald Eagle (BAEA) and Golden Eagle (GOEA)

Issue: Nesting BAEA and GOEA have the potential to occur in the Project area and its vicinity, including the Kaweah River and St. Johns River corridors.

Specific impact: Without appropriate avoidance and minimization measures, potentially significant impacts associated with the Project's construction include loss of foraging and/or nesting habitat, nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Evidence impact would be significant: Without appropriate survey methods, eagles nesting in the vicinity of a project can remain undetected resulting in avoidance and minimization measures not being effectively implemented (American Eagle Research Institute 2010). In addition, human activity near nest sites can cause reduced provisioning rates of GOEA chicks by adults (Steidl *et al.* 1993 *in* Kochert *et al.* 2002). Depending on the timing of construction, Project activities including noise, vibration, odors, and movement of workers or equipment could affect nests and also have the potential to result in nest abandonment, significantly impacting local nesting raptors.

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Recommended Potentially Feasible Mitigation Measures

To evaluate potential impacts to roosting or nesting eagles associated with Project construction, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of approval.

Recommended Mitigation Measure 15: Focused Surveys for Nesting Eagles

CDFW recommends that a qualified wildlife biologist conduct surveys for nesting raptors following the Protocol for Golden Eagle Occupancy, Reproduction, and Prey Population Assessment (Driscoll 2010), and the Protocol for Evaluating Bald Eagle Habitat and Populations in California (Jackman and Jenkins 2004). If ground-disturbing activities take place during the typical bird breeding season (February 1 through September 15), CDFW recommends that additional pre-construction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction.

Recommended Mitigation Measure 16: Nesting Eagle Avoidance

If an active raptor nest is found, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer 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 parental care for survival. If nesting raptors are detected and the ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. Please note that BAEA and GOEA are State fully protected species and no take, incidental or otherwise, of those species can be authorized by CDFW.

COMMENT 6: Burrowing Owl (BUOW)

Issue: BUOW occur within and in the vicinity of the Project area (CDFW 2020). BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Habitat both within and bordering the Project supports grassland habitat.

Specific impact: Potentially significant direct impacts associated with Project development include habitat loss, burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais *et al.* 2008). The Project area contains remnant undeveloped land but is otherwise

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intensively managed for agriculture; therefore, subsequent ground-disturbing activities associated with subsequent constructions have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to BUOW associated with subsequent development, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 17: BUOW Habitat Assessment and Surveys

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for BUOW. If suitable habitat is present on or in the vicinity of the Project area, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "*Burrowing Owl Survey Protocol and Mitigation Guidelines*" (1993) and CDFW's "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012). Specifically, these documents suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (i.e., April 15 to July 15), when BUOW are most detectable. In addition, CDFW advises that surveys include a minimum 500-foot buffer around the Project area.

Recommended Mitigation Measure 18: BUOW Avoidance

CDFW recommends that no-disturbance buffers, as outlined in the "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

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Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Recommended Mitigation Measure 19: BUOW Passive Relocation and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), excluding owls from burrows is not a take avoidance, minimization, or mitigation method and is instead considered a potentially significant impact under CEQA. If it is necessary for Project implementation, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance at a rate that is sufficient to detect BUOW if they return.

COMMENT 7: Foothill Yellow-Legged Frog (FYLF)

Issue: FYLF are primarily stream dwelling and require shallow, flowing water in streams and rivers with at least some cobble-sized substrate. (Thomson *et al.* 2016). FYLF have been documented to occur in the vicinity of the Project site (CDFW 2020). The Project site contains habitat that could support this species.

Specific impact: Without appropriate avoidance and minimization measures for FYLF, potentially significant impacts associated with Project activities could include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

Evidence impact would be significant: FYLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated; historically, FYLF occurred in mountain streams from the San Gabriel River in Los Angeles County to southern Oregon west of the Sierra-Cascade crest (Thomson *et al.* 2016). Habitat loss from growth of cities and suburbs, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control,

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degraded water quality, and introduced predators, such as bullfrogs are the primary threats to FYLF (Thomson *et al.* 2016).

Recommended Potentially Feasible Mitigation Measures

To evaluate potential impacts to FYLF, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 20: FYLF Surveys

CDFW recommends that a qualified wildlife biologist conduct surveys for FYLF in accordance with the USFWS “*Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog*” (USFWS 2005) to determine if FYLF are within or adjacent to the Project area. While this survey is designed for California red-legged frog, the survey may be used for FYLF with focus on stream/river habitat.

Recommended Mitigation Measure 21: FYLF Avoidance

CDFW recommends that initial ground-disturbing activities be timed to avoid the period when FYLF are most likely to be moving through upland areas (i.e., November 1 through March 31). If ground-disturbing activities must take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activity daily for FYLF.

Recommended Mitigation Measure 22: FYLF Take Authorization

If through surveys or monitoring it is determined that FYLF occupies or has the potential to occupy the Project site and take cannot be avoided, take authorization would be warranted prior to initiating ground-disturbing activities, through issuance of a State ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any Project activities.

COMMENT 8: Crotch’s Bumble Bee (CBB)

Issue: On June 28, 2019, the Fish and Game Commission published findings of its decision to advance CBB to candidacy as endangered. Pursuant to Fish and Game Code section 2074.6, CDFW has initiated a status review report to inform the Commission’s decision on whether listing of CBB pursuant to CESA is warranted. During the candidacy period, consistent with CEQA Guidelines, section 15380, the status of the CBB as an endangered candidate species under CESA (Fish and G. Code, § 2050 *et seq.*) qualifies it as an endangered, rare, or threatened species under CEQA.

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CBB have been documented to occur within the vicinity of the Project area (CDFW 2020). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows, but may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams *et al.* 2014; Hatfield *et al.* 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams *et al.* 2014). Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local CBB populations.

Specific impact: Without appropriate avoidance and minimization measures for CBB, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with construction of the Project include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality.

Evidence impact is potentially significant: CBB was once common throughout most of the central and southern California; however, it now appears to be absent from most of it, especially in the central portion of its historic range within California's Central Valley (Hatfield *et al.* 2014). Analyses by the Xerces Society *et al.* (2018) suggest that there have been sharp declines in relative abundance by 98% and persistence by 80% over the last 10 years.

Recommended Potentially Feasible Mitigation Measures

To evaluate potential impacts to CBB associated with the Project, CDFW recommends incorporating the following mitigation measures into the EIR prepared for this Project and implementing the following mitigation measures as a condition of approval for the Project.

Recommended Mitigation Measure 23: CBB Surveys

CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance associated with the Project, and potential impacts resulting from vegetation removal and discing.

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Recommended Mitigation Measure 24: CBB Take Avoidance

If surveys cannot be completed, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and other potentially significant impacts.

COMMENT 9: Special-Status Bat Species

Issue: Western mastiff bat have been documented to occur in the vicinity of the Project area (CDFW 2020). In addition, habitat features that have the potential to support Western mastiff bat, Western red bat, pallid bat, and other bat species are present within the Project area.

Specific impact: Without appropriate avoidance and minimization measures for special-status bat species, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project construction include habitat loss, inadvertent entrapment, roost abandonment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Evidence impact is potentially significant: Western mastiff bat and pallid bat are known to roost in buildings, caves, tunnels, cliffs, crevices, trees. (Lewis 1994). Western red bat is highly associated with riparian habitat (Peirson *et al.* 2006). Project activities have the potential to affect habitat upon which special-status bat species depend for successful breeding and have the potential to impact individuals and local populations.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW recommends that the EIR include the following measures and that these be made conditions of approval for the Project.

Recommended Mitigation Measure 25: Bat Roost Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if the Project area or its immediate vicinity contains suitable roosting habitat for special-status bat species.

Recommended Mitigation Measure 26: Bat Surveys

If suitable habitat is present, CDFW recommends assessing presence/absence of special-status bat roosts by conducting surveys during the appropriate seasonal period of bat activity. CDFW recommends methods such as through emergence surveys or bat detectors to determine whether bats are present.

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Recommended Mitigation Measure 27: Bat Roost Disturbance Minimization and Avoidance

If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and that a qualified biologist who is experienced with bats monitor the for signs of disturbance to bats from Project activity. If a bat roost is identified and work is planned to occur during the breeding season, CDFW recommends that no disturbance to maternity roosts occurs and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

COMMENT 10: Western Pond Turtle (WPT)

Issue: WPT are documented in the vicinity of the Project (CDFW 2020), and a review of aerial imagery shows requisite habitat features that WPT utilize for nesting, overwintering, dispersal, and basking occur in the Project area. These features include aquatic and terrestrial habitats such as rivers, lakes, reservoirs, ponded areas, irrigation canals, riparian and upland habitat. WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson *et al.* 2016).

Specific impact: Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

Evidence impact is potentially significant: WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson *et al.* 2016). Noise, vegetation removal, movement of workers, construction and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to WPT, CDFW recommends conducting the following evaluation of the Project site, and to including the following measures in the EIR.

Recommended Mitigation Measure 28: WPT Surveys

CDFW recommends that a qualified biologist conduct focused surveys for WPT within ten10 days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season (i.e., March through August).

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Recommended Mitigation Measure 29: WPT Avoidance and Minimization

CDFW recommends that any WPT nests that are discovered remain undisturbed with a no-disturbance buffer maintained around the nest until the eggs have hatched and neonates are no longer in the nest or Project areas. If WPT individuals are discovered at the site during surveys or Project activities, CDFW recommends that they be allowed to move out of the area on their own volition without disturbance or harm.

COMMENT 11: Special-Status Plants

Issue: Special-status plants meeting the definition of rare or endangered under CEQA section 15380 are known to occur in the vicinity of the Project. The State endangered and federally threatened San Joaquin adobe sunburst and California rare plant rank 1B.2 recurved larkspur, spiny-sepaled button-celery, and calico monkeyflower have been documented within the Project area.

Specific impact: Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts associated with subsequent construction include loss of habitat, loss of reduction of productivity, and direct mortality.

Evidence impact would be significant: San Joaquin adobe sunburst, recurved larkspur, spin-sepaled button-celery, and calico monkeyflower are threatened by grazing and agricultural, urban, and energy development. Many historical occurrences of these species are presumed extirpated (California Native Plant Society 2020). Though new populations have recently been discovered, impacts to existing populations have the potential to significantly impact populations of plant species.

Recommended Potentially Feasible Mitigation Measures

To evaluate potential impacts to special-status plants associated with subsequent development, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 30: Special-Status Plant Surveys

CDFW recommends that individual Project sites be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities” (CDFW 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

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Recommended Mitigation Measure 31: Special-Status Plant Avoidance

CDFW recommends that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW may be warranted to determine appropriate minimization and mitigation measures for impacts to each special-status plant species.

Recommended Mitigation Measure 32: Special-Status Plant Take Authorization

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization would be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 12: Other State Species of Special Concern

Issue: Western spadefoot, Northern California legless lizard, and American badger can inhabit grassland and upland scrub habitats (Thomson *et al.* 2016, Williams 1986). These special status species have been documented to occur in the vicinity of the Project boundary, which supports requisite habitat elements for these species (CDFW 2020).

Specific impact: Without appropriate avoidance and minimization measures for these species, potentially significant impacts associated with ground disturbance include habitat loss or nest/den/burrow abandonment, which may result in reduced health or vigor of individuals and direct mortality.

Evidence impact is potentially significant: Habitat loss threatens of the species mentioned above (Thomson *et al.* 2016, Williams 1986). Habitat within and adjacent to the Project represents some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Ground- and vegetation-disturbing activities associated with the Project have the potential to significantly impact local populations of these species.

Recommended Potentially Feasible Mitigation Measures

To evaluate potential impacts to special-status species associated with subsequent development, CDFW recommends conducting the following evaluation of project areas and implementing the following mitigation measures.

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Recommended Mitigation Measure 33: Special-Status Species Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if project areas or their immediate vicinity contain suitable habitat for the species mentioned above.

Recommended Mitigation Measure 34: Special-Status Species Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features prior to the start of Project activity to detect individuals that could be impacted from ground- and vegetation-disturbance.

Recommended Mitigation Measure 35: Special-Status Species Avoidance or Minimization

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around dens of mammals like the American badger, as well as the entrances of burrows that can provide refuge for small mammals, reptiles, and amphibians.

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT 13: Wetland and Riparian Habitats

Issue: The Project area contains numerous waterways and riparian and wetland areas. Development within the Project has the potential to involve temporary and permanent impacts to these features.

Specific impact: Project activities have the potential to result in the loss of riparian and wetland vegetation, in addition to the degradation of wetland and riparian areas through grading, fill, and related development.

Evidence impact is potentially significant: The Project area includes stream and wetland features within an agricultural landscape that also maintains undeveloped habitats. Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and

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increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow. Within the San Joaquin Valley, modifications of streams to accommodate human uses has resulted in damming, canalizing, and channelizing of many streams, though some natural stream channels and small wetland or wetted areas remain (Edminster 2002). The Fish and Game Commission policy regarding wetland resources discourages development or conversion of wetlands that results in any net loss of wetland acreage or habitat value. Construction activities within these features also has the potential to impact downstream waters as a result of Project site impacts leading to erosion, scour, and changes in stream morphology.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to wetland and riparian habitats, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 37: Stream and Wetland Mapping

CDFW recommends that formal stream mapping and wetland delineation be conducted by a qualified biologist or hydrologist, as warranted, to determine the baseline location, extent, and condition of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that while there is overlap, State and Federal definitions of wetlands differ, and complete stream mapping commonly differs from delineations used by the U.S. Army Corps of Engineers specifically to identify the extent of Waters of the U.S. Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as the extent of all streams including floodplains, if present, within the Project area. CDFW advises that site map(s) depicting the extent of any activities that may affect wetlands, lakes, or streams be included with any Project site evaluations, to clearly identify areas where stream/riparian and wetland habitats could be impacted from Project activities.

Recommended Mitigation Measure 38: Stream and Wetland Habitat Mitigation

CDFW recommends that the potential direct and indirect impacts to stream/riparian and wetland habitat be analyzed according to each Project activity. Based on those potential impacts, CDFW recommends that the EIR include measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat (i.e., biotic and abiotic features) take into account the effects to stream function and hydrology from riparian habitat loss or damage, as well as potential effects from the loss of riparian habitat to special-status species already identified herein. CDFW recommends that losses to stream and wetland habitats be offset with corresponding riparian and wetland habitat restoration incorporating native vegetation to replace the value to fish and wildlife provided by the habitats lost

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from Project implementation. If on-site restoration to replace habitats is not feasible, CDFW recommends offsite mitigation by restoring or enhancing in-kind riparian or wetland habitat and providing for the long-term management and protection of the mitigation area, to ensure its persistence.

II. Editorial Comments and/or Suggestions

Federally Listed Species: CDFW recommends consulting with the USFWS regarding potential impacts to federally listed species including, but not limited to, SJKF, LBV, and San Joaquin adobe sunburst. 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 in order to comply with FESA is advised well in advance of any Project activities.

Lake and Streambed Alteration: Project activities have the potential to substantially change the bed, bank, and channel of waterways onsite. Jurisdictional Project activities are subject to the notification requirement of Fish and Game Code section 1602, which requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (Agreement); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for Agreement issuance. For additional information on notification requirements, please contact staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593 or R4LSA@willife.ca.gov, of the Program website: <https://wildlife.ca.gov/Conservation/LSA>.

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).

CDFW encourages Project implementation to occur during the bird non-nesting season; however, if Project activities must occur during the breeding season (February through mid-September), the Project proponent is responsible for ensuring that implementation

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of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of each Project activity to maximize the probability that nests that could potentially be impacted by the Project are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends that a qualified biologist continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW recommends that the work causing that change cease and CDFW be consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife 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 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 area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Indirect and Cumulative Riparian Impacts from Surface Water Diversions: Project-related diversions may impact riparian, wetland, fisheries, and terrestrial (i.e., upland) wildlife species and habitats downstream of the Project location by reducing the amount of surface flow in the active stream channel at the discharge location and downstream, as well as reducing the amount of subsurface flow from percolation

Watershed and habitat protection are vital to CDFW's management of California's diverse fish, wildlife, and plant resources. The riparian zone of the Kaweah and St. Johns Rivers in the vicinity of the Project supports mature riparian woodland habitat and may potentially support several sensitive species listed as threatened or endangered under CESA and FESA, as well as several State Species of Special Concern, including those species listed above. The proposed Project could result in direct and cumulative adverse impacts to these fish and wildlife and other public trust resources.

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The Sequoia Riverlands Trust manages the Kaweah Oaks Preserve located downstream of the proposed Project. The Kaweah Oaks Preserve is 344 acres and contains some of the last remaining Valley oak riparian forests in the San Joaquin Valley. Project-related activities resulting in surface water diversion may potentially impact these properties and sensitive habitats and special-status plant and wildlife species including Valley sacaton grassland, Great Valley oak riparian forest, least Bell's vireo, Swainson's hawk, tricolored blackbird, and numerous other special-status species (CDFW 2020).

Surface flow diversion may impact the riparian woodland habitat located downstream by reducing the amount of water available in the active channel to native plant species within the riparian woodland. This may subsequently lead to a reduction in the native plant species composition of the riparian woodland, which would allow adjacent nonnative plant species to invade and colonize the habitat, reducing the quality of habitat for and presence of sensitive species.

CDFW recommends that the EIR include 1) an analysis of the proposed acquisition of surface water and any potential direct, indirect, and cumulative biological impacts to fish and wildlife species and their habitats, as well as to properties permanently conserved to protect those resources; and 2) a hydrologic study to determine if the production of the watershed is sufficient to reduce the discharge flows, as proposed, without having significant adverse impacts to riparian and aquatic resources of watershed downstream, including the invasion and establishment of nonnative plant species and change in habitat type.

Water Rights: The Project will divert surface flow from the Kaweah and St. Johns Rivers. CDFW recommends that the draft EIR include a detailed description of the water rights and water entitlements for the points of diversion and places of use that pertain to the proposed Project. CDFW recommends including information on the historic and current water rights and water use agreements/contracts including pre-1914 and appropriative rights, riparian rights, prescriptive rights, and adjudications.

CDFW recommends that the draft EIR address whether the Project proponents will be filing a change petition or a new application for additional surface water. As stated previously, CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Given the potential for significant impacts to sensitive species and their habitats, it is advised that required consultation with CDFW occur well in advance of the SWRCB water right application process.

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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 CNDDDB. The CNDDDB field survey form can be found at the following link:

http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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

CDFW appreciates the opportunity to comment on the NOP to assist the Tulare ID in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Annette Tenneboe, Senior Environmental Scientist (Specialist), at (559) 243-4014 extension 231 or by email at annette.tenneboe@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Bob Stafford
5343A684FF02469...
Julie A. Vance
Regional Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento

ec: Annette Tenneboe
California Department of Fish and Wildlife

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Attachment 1**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)****PROJECT: McKay Point Reservoir Project**

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>Before Project Implementation</i>	
Recommended Mitigation Measure 1: SJKF Habitat Assessment	
Recommended Mitigation Measure 2: SJKF Surveys and Avoidance	
Recommended Mitigation Measure 3: SJKF Take Authorization	
Recommended Mitigation Measure 4: Focused SWHA Surveys	
Recommended Mitigation Measure 6: SWHA Take Authorization	
Recommended Mitigation Measure 7: SWHA Tree Replacement	
Recommended Mitigation Measure 8: LBV Habitat Assessment	
Recommended Mitigation Measure 10: LBV Surveys	
Recommended Mitigation Measure 11: LBV Take Authorization	
Recommended Mitigation Measure 12: TRBL Surveys	
Recommended Mitigation Measure 14: TRBL Take Authorization	
Recommended Mitigation Measure 15: Focused Surveys for Nesting Eagles	
Recommended Mitigation Measure 17: BUOW Habitat Assessment and Surveys	
Recommended Mitigation Measure 19: BUOW Passive Relocation and Mitigation	
Recommended Mitigation Measure 20: FYLF Surveys	
Recommended Mitigation Measure 22: FYLF Take Authorization	
Recommended Mitigation Measure 23: CBB Surveys	
Recommended Mitigation Measure 25: Bat Roost Habitat Assessment	
Recommended Mitigation Measure 26: Bat Surveys	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 28: WPT Surveys	
Recommended Mitigation Measure 30: Special-Status Plant Surveys	
Recommended Mitigation Measure 32: Special-Status Plant Take Authorization	
Recommended Mitigation Measure 33: Special-Status Species Habitat Assessment	
Recommended Mitigation Measure 34: Special-Status Species Surveys	
Recommended Mitigation Measure 36: Stream and Wetland Mapping	
Recommended Mitigation Measure 37: Stream and Wetland Habitat Mitigation	
<i>During Project Implementation</i>	
Recommended Mitigation Measure 2: SJKF Surveys and Avoidance	
Recommended Mitigation Measure 5: SWHA Nest Avoidance	
Recommended Mitigation Measure 9: LBV Avoidance	
Recommended Mitigation Measure 13: TRBL Colony Avoidance	
Recommended Mitigation Measure 16: Nesting Eagle Avoidance	
Recommended Mitigation Measure 18: BUOW Avoidance	
Recommended Mitigation Measure 21: FYLF Avoidance	
Recommended Mitigation Measure 24: CBB Take Avoidance	
Recommended Mitigation Measure 27: Bat Roost Disturbance Minimization and Avoidance	
Recommended Mitigation Measure 29: WPT Avoidance and Minimization	
Recommended Mitigation Measure 31: Special-Status Plant Avoidance	
Recommended Mitigation Measure 35: Species Avoidance or Minimization	