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June 27, 2023

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**Subject: Fresno County General Plan Review and Zoning Ordinance Update
(General Plan Amendment No. 529 and Amendment to Text No. 372)
State Clearinghouse Number: 2018031066**

Dear Chris Motta:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from Fresno County for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

CDFW ROLE

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

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.

Chris S. Motta, Principal Planner
County of Fresno, Department of Public Works and Planning
June 27, 2023
Page 2

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.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

PROJECT DESCRIPTION SUMMARY

Proponent: Fresno County

Objective: The proposed Project consists of a comprehensive update of the County's General Plan (GP) and is intended to build on the major policies of the current 2000 GP but expand and strengthen them to meet the challenges and community needs through planning horizon year 2042. The revised GP would accommodate County population growth projected through 2042. In addition, the revised GP seeks to preserve agricultural land and natural resources; conserve public spaces and recreational resources; promote the wellbeing of County residents; maintain economic vitality and balance; and direct land use policies that enable sustainable and forecasted growth in the County. The major themes of the current 2000 GP have been retained in the General Plan Review and include directing urban growth to existing communities, limiting the intrusion of development and incompatible land uses onto productive agricultural land, and limiting rural residential development. The revisions include only minimal changes to the land use designations and land use maps in the existing 2000 GP. The majority of revisions are to goals, policies, and implementation programs of the GP.

Location: The entirety of Fresno County.

Timeframe: To the horizon year of 2042.

COMMENTS AND RECOMMENDATIONS

CDFW understands that the Project seeks to update Fresno County's General Plan that has been in place since the mid-1970s, and that the County sees its primary role to be the protector of productive agricultural lands, open space, recreational opportunities,

Chris S. Motta, Principal Planner
 County of Fresno, Department of Public Works and Planning
 June 27, 2023
 Page 3

and environmental quality, and the coordinator of countywide efforts to promote economic development.

Given the county-wide implications of this Plan, CDFW is concerned that subsequent projects tiering from this General Plan/Program EIR (projects) could impact special-status plant and animal species that are present in Fresno County (CDFW 2023). These species include, but are not limited to the following: the State endangered (SE), federally endangered (FE), and State fully protected (FP) Sierra Nevada bighorn sheep (*Ovis canadensis sierrae*) and blunt-nosed leopard lizard (*Gambelia sila*); the SE and FE southern mountain yellow-legged frog (*Rana muscosa*), least Bell's vireo (*Vireo bellii pusillus*), giant kangaroo rat (*Dipodomys ingens*), Fresno kangaroo rat (*Dipodomys nitratooides exilis*), Hartweg's golden sunburst (*Pseudobahia bahiifolia*), and California jewelflower (*Caulanthus californicus*); the SE Bogg's Lake hedge-hyssop (*Gratiola heterosepala*); the SE and Federally threatened (FT) San Joaquin Valley ymose grass (*Orcuttia inaequalis*); the State Rare (SR) Greene's tuctoria (*Tuctoria greenei*); the SE and FP bald eagle (*Haliaeetus leucocephalus*); the SE and federally proposed endangered (FPE) foothill yellow-legged frog-south Sierra distinct population segment (DPS) (*Rana boylei* pop. 5); the SE and FT western yellow-billed cuckoo (*Coccyzus americanus occidentalis*); the State threatened (ST) and FE San Joaquin kit fox (*Vulpes macrotis mutica*); the SE great gray owl (*Strix nebulosa*) and willow flycatcher (*Empidonax trailii*); the SE and FT succulent owl's clover (*Castilleja campestris* var. *succulenta*); the FE Keck's checkerbloom (*Sidalcea keckii*); the FT Mariposa pussypaws (*Calyptridium pulchellum*); the FP American peregrine falcon (*Falco peregrinus anatum*); the ST and FE Sierra Nevada yellow-legged frog (*Rana sierrae*) and Sierra Nevada red fox-Sierra Nevada DPS (*Vulpes vulpes necator* pop. 2); the State species of special concern (SSC) Fisher-southern Sierra Nevada evolutionary significant unit (ESU) (*Pekania pennanti* pop. 2); the FE longhorn fairy shrimp (*Branchinecta longiantenna*) and vernal pool tadpole shrimp (*Lepidurus packardii*); the ST and FT California tiger salamander (*Ambystoma californiense*) and giant gartersnake (*Thamnophis gigas*); the FT valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*); the State proposed threatened (PT), FT, and FP wolverine (*Gulo gulo*); the FP northern California ringtail (*Bassariscus astutus raptor*) and golden eagle (*Aquila chrysaetos*); the FT and SSC California red-legged frog (*Rana draytonii*); the State Candidate Endangered (SCE) Crotch bumble bee (*Bombus crotchii*) and western bumble bee (*Bombus occidentalis*); the SCE and SSC Temblor legless lizard (*Anniella alexanderae*); the ST Swainson's hawk (*Buteo swainsoni*), tricolored blackbird (*Agelaius tricolor*), bank swallow (*Riparia riparia*), and Nelsons (=San Joaquin) antelope squirrel (*Ammospermophilus ymose*); the FP white-tailed kite (*Elanus leucurus*); the FT steelhead – Central Valley DPS (*Oncorhynchus mykiss irideus* pop. 11); and the following SSC including but not limited to: the burrowing owl (*Athene cunicularia*), western pond turtle (*Actinemys marmorata*), Yosemite toad (*Anaxyrus canorus*), northern harrier (*Circus hudsonius*), mountain plover (*Charadrius montanus*), yellow-headed blackbird (*Xanthocephalus xanthocephalus*), loggerhead shrike (*Lanius ludovicianus*), black tern (*Chlidonias niger*), Le Contes thrasher (*Toxostoma lecontei*), yellow warbler (*Setophaga petechia*), short-eared owl (*Asio flammeus*), long-eared owl

Chris S. Motta, Principal Planner
 County of Fresno, Department of Public Works and Planning
 June 27, 2023
 Page 4

(*Asio otus*), California spotted owl (*Strix occidentalis occidentalis*), white sturgeon (*Acipenser transmontanus*), hardhead (*Mylopharodon conocephalus*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), short-nosed kangaroo rat (*Dipodomys nitratooides exilis*), western mastiff bat (*Eumops perotis californicus*), American badger (*Taxidea taxus*), pallid bat (*Antrozous pallidus*), Townsends big-eared bat (*Corynorhinus townsendii*), spotted bat (*Euderma maculatum*), western red bat (*Lasiurus frantzii*), Northern legless lizard (*Anniella pulchra*), California legless lizard (*Anniella* spp.), California glossy snake (*Arizona elegans occidentalis*), San Joaquin coachwhip (*Masticophis flagellum ruddocki*), two-striped gartersnake (*Thamnophis gigas*), coast horned lizard (*Phrynosoma blainvillii*), and western spadefoot toad (*Spea hammondi*).

Additional plant species listed below have the potential to occur within Fresno County and are ranked as “Rare, Threatened, or Endangered in California and Elsewhere”. These species include, but are not limited to the following: Shevock’s copper moss (*Mielichhoferia shevockii*), Sanford’s arrowhead (*Sagittaria sanfordii*), Abram’s onion (*Allium abramsii*), San Benito onion (*Allium howellii* var. *sanbenitense*), spiny-sepaled button-celery (*Eryngium spinosepalum*), Howell’s tauschia (*Tauschia howellii*), Muir’s tarplant (*Carlquistia muirii*), Hall’s tarplant (*Deinandra halliana*), Hall’s daisy (*Erigeron aequifolius*), Keil’s daisy (*Erigeron inornatus* var. *keilii*), Winter’s sunflower (*Helianthus winteri*), Monarch golden-aster (*Heterotheca monarchensis*), short-leaved hulsea (*Hulsea brevifolia*), Diablo Range hare-leaf (*Lagophylla diabolensis*), forked-hare-leaf (*Lagophylla chrysantha*), alkali-sink goldfields (*Lasthenia chrysantha*), rayless layia (*Layia discoidea*), pale-yellow layia (*Layia heterotricha*), Munz tidy-tips (*Layia munzii*), showy golden madia (*Madia radiata*), San Joaquin woollythreads (*Monolopia congdonii*), San Joaquin adobe sunburst (*Pseudobahia peirsonii*), Tulare cyptantha (*Cryptantha incana*), Yosemite popcornflower (*Plagiobothrys torreyi* var. *torreyi*), Tulare rockcress (*Boechera tularensis*), Lemmon’s jewelflower (*Caulanthus lemmonii*), Mt. Whitney draba (*Draba sharsmithii*), Sierra draba (*Draba sierrae*), Panoche pepper-grass (*Lepidium jaredii* ssp. *album*), Tehipite Valley jewelflower (*Streptanthus fenestratus*), chaparral harebell (*Ravenella exigua*), heartscale (*Atriplex cordulata* var. *cordulata*), Earlimart orache (*Atriplex cordulata* var. *erecticaulis*), Lost Hills crownscale (*Atriplex coronata* var. *vallicola*), brittlescale (*Atriplex depressa*), lesser saltscale (*Atriplex minuscula*), subtle orache (*Atriplex subtilis*), San Joaquin spearscale (*Extriplex joaquinana*), Pierpoint Springs dudleya (*Dudleya ymose* ssp. *costatifolia*), orange lupine (*Lupinus citrinus* var. *citrinus*), Raven’s milk-vetch (*Astragalus ravenii*), Bolander’s clover (*Trifolium bolanderi*), aromatic canyon gooseberry (*Ribes menziesii* var. *ixoderme*), tree anemone (*Carpenteria californica*), Mono Hot Springs evening-primrose (*Camissonia sierrae* ssp. *alticola*), slender moonwort (*Botrychium lineare*), slender-stalked monkeyflower (*Erythranthe gracilipes*), Stanislaus monkeyflower (*Erythranthe marmorata*), Monarch gilia (*Gilia yorkii*), Madera leptosiphon (*Leptosiphon serrulatus*), shining navarretia (*Navarretia nigelliformis* ssp. *radians*), prostrate vernal pool navarretia (*Navarretia prostrata*), Monarch buckwheat (*Eriogonum ovalifolium* var. *monarchense*), recurved larkspur (*Delphinium recurvatum*), field ivesia (*Ivesia campestris*), and grey-leaved violet (*Viola pinetorum* ssp. *grisea*).

Chris S. Motta, Principal Planner
County of Fresno, Department of Public Works and Planning
June 27, 2023
Page 5

While this list may not include all special-status species present in the Project area, it does provide a robust source of information as to which species could potentially be impacted by future projects. CDFW recommends for all future projects tiered from this General Plan that qualified biologists assist with the scoping effort for projects by conducting a database search for potential wildlife, plant, and invertebrate species, rare habitat types, conduct early consultation with CDFW to help with this identification effort, and then perform appropriate reconnaissance, biological, and protocol surveys, as appropriate, as part of the biological technical studies conducted in support of the ensuing CEQA document.

Mitigation Measure BIO-1 (Protection of Nesting Birds)

Mitigation Measure BIO-1 in the DEIR lists the appropriate nesting birds season timeframe (February 1 through September 15), and lists that a qualified biologist shall determine an appropriate avoidance buffer for construction activities; however, CDFW recommends that additional information be added, this includes the following: a qualified biologist shall conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted 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, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends a qualified biologist continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW recommends the work causing that change cease and that CDFW be consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variances from these no-disturbance buffers are possible when there is a 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 biologist advise and support any variance from these buffers and notify and obtain concurrence from CDFW in advance of implementing a variance.

Please note that implementation of certain mitigation measures such as the relocation of listed species would constitute take of listed species under the California Endangered Species Act (CESA), and erecting exclusion fencing could also result in take of listed species under CESA. Such take of any species listed under CESA would be

Chris S. Motta, Principal Planner
County of Fresno, Department of Public Works and Planning
June 27, 2023
Page 6

unauthorized if an Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2081 subdivision (b) was not acquired in advance of such actions. It is recommended to consult with CDFW early in the project development process to discuss the potential for a project to take CESA-listed species and to obtain an ITP if take (including capture related to salvage and relocation) cannot be avoided.

Lake or Streambed Alteration Agreement (LSA Agreement)

It is likely that some projects and their activities will be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. If an LSA Agreement is needed, CDFW is required to comply with CEQA in the issuance or the amendment of an LSA Agreement. Therefore, for efficiency in environmental compliance, we recommend that any potential impacts to lakes or streams that may result from project activities be described, and mitigation for the disturbance be developed as part of the project's CEQA document. This will reduce the need for CDFW to require extensive additional environmental review for an LSA Agreement in the future. If inadequate or no environmental review has occurred for project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSA Agreement until CEQA analysis for the project is complete. This may lead to considerable project delays.

Policy OS-D.1 and OS-E.1

Policy OS-D.1 (No-Net-Loss Wetlands Policy, page 4.4-19) and Policy OS-E.1 (Avoid Habitat Loss, page 4.4-20) paragraphs list the "California Department of Fish and Game". Please edit "Game" to read "Wildlife".

Cumulative Impacts

CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of Projects tiered from this General Plan, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e., less than significant). CDFW recommends cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

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

Chris S. Motta, Principal Planner
County of Fresno, Department of Public Works and Planning
June 27, 2023
Page 7

subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be 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: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

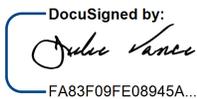
FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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).

CDFW appreciates the opportunity to comment on the Project to assist the County of Fresno in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3194, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

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Chris S. Motta, Principal Planner
County of Fresno, Department of Public Works and Planning
June 27, 2023
Page 8

LITERATURE CITED

California Department of Fish and Wildlife (CDFW). 2023. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>.