

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2014-074-02**

**Anthem United
Creekview Project**

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*). CDFW is a responsible agency under CEQA with respect to the Creekview Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*). (See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a).)¹ CDFW makes these findings under CEQA as part of its discretionary decision to authorize Anthem United (Permittee) to incidentally take Boggs Lake hedge-hyssop (*Gratiola heterosepala*), (Covered Species) during implementation of the Project. (See generally Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4.) The Boggs Lake hedge-hyssop is designated an endangered species under CESA. (Cal. Code Regs., tit. 14, § 670.5, subd. (a)(23)(A)).

CDFW is a responsible agency under CEQA with respect to the Project because of prior environmental review and approval of the Project by the lead agency, City of Roseville. (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367.) The City of Roseville analyzed the environmental impacts associated with implementation of the Project in the Creekview Specific Plan Environmental Impact Report (SCH No. 2008032017) and approved the Project on October 3, 2012. In so doing, the City of Roseville imposed various mitigation measures for impacts to the Covered Species as conditions of Project approval and concluded that Project-related impacts to the Covered Species could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less than significant.

As approved by the City of Roseville, the Project involves the development of 95 acres of undeveloped land into a residential development which includes 37 acres of permanent open space including lot C61, a park site and lot C50, one of the lots comprising the Northern Preserve and 58 acres of development of Villages C1-C4 which includes 264 single family lots, completion of Benchmark Drive to the western Project boundary, wet and dry utilities, and recreational frontage and bike trails on both the Northern Preserve and the adjacent creek south of the villages. The Project site is within the range of the Covered Species and is known to support individuals of the species. Development of the Project site will result in the permanent loss of 0.10 acres of habitat for the Covered Species and take of the Covered

¹ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

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Species as defined by Fish and Game Code is expected. (Fish & G. Code, § 86.) These impacts fall within CDFW's permitting jurisdiction under CESA. (*Id.*, §§ 2080, 2081, subd. (b).)

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the Project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the Project as set forth in the City of Roseville's EIR, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because CDFW's exercise of discretion is limited to issuance of an Incidental Take Permit (ITP) for the Project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under CESA. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 935-941.) Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the EIR fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.)

CDFW's more limited obligations as a responsible agency affect the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each public agency that approves a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a); see also Pub. Resources Code, § 21068 (significant effect on the environment defined); CEQA Guidelines, § 15382.) Because the EIR certified by the City of Roseville for the Project identifies potentially significant impacts on the Covered Species, CDFW adopts the findings set forth below to fulfill its obligations as a responsible agency under CEQA. (CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund. V. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

FINDINGS:

CDFW has considered the EIR certified by the City of Roseville as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by the City of Roseville, along with the mitigation measures and Conditions of Approval set forth in CDFW's ITP for the Project, will ensure that all Project-related impacts on the Covered Species are mitigated to below a level of significance under CEQA. CDFW finds that issuance of the ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and

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implementation of the conditions of Project approval adopted by the lead agency, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of the ITP, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's ITP for the Project will mitigate to below a level of significance all Project-related impacts on the Covered Species:

- A. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology and natural history of the Covered Species and knowledgeable and experienced with the collection and translocation of vernal pool plant species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- B. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and make available a fact sheet handout containing this information for workers in the in the Project Area. Upon completion of the program, employees shall document they attended the program and understand all protection measures.
- C. Permittee shall purchase 0.627 acres of Covered Species credits from Stillwater Plains Mitigation Bank prior to initiating Covered Activities or within 18 months of the effective date of the ITP if a Security is provided.
- D. Compliance monitoring will be reported quarterly, and annual reports will be sent to CDFW by January 31 of each year.
- E. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure

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that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

- F. Permittee shall collect seed and soil of Covered Species prior to commencement of Covered Activities in VP-04. The top two inches (2") of topsoil shall be collected and translocated for use to enhance Covered Species habitat at a CDFW-approved location(s). Collection of soil should be conducted after seed set, generally by September and when vernal pools are dry. If seed and soil cannot be immediately translocated, Permittee shall properly store the seed and soil for translocation within one year. Permittee shall obtain written approval from CDFW of soil collection and storage methods prior to collection of soil.
- G. All soil collected shall be dispersed within protected Covered Species habitat approved by CDFW in writing by the Regional Manager or designee within one year of collection.
- H. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report.

CDFW finds that the Mitigation Monitoring and Reporting Program in Attachment 1 of CDFW's ITP for the Project will ensure compliance with mitigation measures by requiring the Permittee to monitor and report progress in implementing those measures for review by CDFW staff.

The Mitigation Monitoring and Reporting Program is adopted.

The Project is approved.

DATE: 5/28/2020 _____

By:  _____
Kevin Thomas, Regional Manager
North Central Region
DEPARTMENT OF FISH AND WILDLIFE