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June 5, 2025

Shane Smith
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ssmith@kdwcd.com

**Subject: Johnson Slough Recharge Project
Initial Study / Mitigated Negative Declaration (IS/MND)
SCH Number: 2025041173**

Dear Shane Smith:

The California Department of Fish and Wildlife (CDFW) received an Initial Study / Mitigated Negative Declaration (IS/MND) from the Kaweah Delta Water Conservation District (District) for the above referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide recommendations regarding the activities proposed at the Project site that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects on 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 and Game 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

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.

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 2

expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

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).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State for Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T as specified in the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, § 15380), CDFW recommends it be fully considered in the environmental analysis for this Project.

Water Pollution: Pursuant to Fish and Game Code Section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures this Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize watercourses in the Project area include the following: increased sediment input from road or construction runoff; toxic

Conserving California's Wildlife Since 1870

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 3

runoff associated with Project-related activities and implementation; and/or impairment of wildlife movement. The Regional Water Quality Control Board and United States

Water Rights: The capture of unallocated stream flows to artificially recharge groundwater aquifers is subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code section 1200 et seq. CDFW, as Trustee Agency, is consulted by 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 and riparian 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: Kaweah Delta Water Conservation District

Objective and Project Description: The proposed Project would divert surface water from Johnson Slough (Slough) into a new recharge basin by means of a newly constructed turnout structure to increase groundwater storage. The Project would assist the Consolidated Peoples Ditch Company on expanding its groundwater recharge efforts in response to the Sustainable Groundwater Management Act. The proposed facility would consist of a cast-in-place concrete structure, control gates, trash rack, and related appurtenances on the north bank of the Slough. The turnout would connect to an inlet structure approximately 150 feet from the Slough in a proposed distribution channel through reinforced concrete piping, equipped with a metered connection. Basin construction includes the use of heavy machinery to excavate an area of approximately 18 acres and construction of perimeter berms around the basin. The new berm would not exceed six feet in height and the maximum depth of the basin would be no more than nine feet. The new basin is anticipated to recharge approximately 450 acre-feet of water in years when water is available. Native species would be planted along the perimeter of the proposed recharge basin. The Project would result in approximately 41.1 acres of disturbance.

Location: The Project will take place on a property north of Johnson Slough east of the Kaweah Oaks Preserve along Road 182, north of highway 198, California; Assessor's Parcel Number (APN) 111-140-07, the centroid of the Project site is 36° 19' 57.88" N, 119° 09' 51.83" W

Conserving California's Wildlife Since 1870

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 4

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following recommendations to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document.

Currently, the IS/MND acknowledges that the Project site is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant for several species. CDFW has concerns about the ability of these measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species, including, but not limited to the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State and federally threatened California tiger salamander (*Ambystoma californiense*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumble bee (*Bombus crotchii*); and the state species of special concern American Badger (*Taxidea taxus*). CDFW is also concerned regarding potential impacts to the following special-status plant species with potential to occupy the Project area, the State endangered, federally threatened, and California rare plant rank (CRPR) 1B.1 San Joaquin adobe sunburst (*Pseudobahia peirsonii*); the CRPR 1B.1 alkali-sink goldfields (*Lasthenia chrysantha*); the CRPR 1B.2 recurved larkspur (*Delphinium recurvatum*), calico monkeyflower (*Diplacus pictus*) and spiny-sepaled button-celery (*Eryngium spinosepalum*). Based on a review of the Project description, a review of CNDDB records (CDFW 2025), and the surrounding habitat, special-status species could potentially be impacted by Project activities.

To evaluate impacts of the Project on these species, CDFW recommends that a qualified biologist conduct species-specific focused habitat assessments and, if suitable habitat is present, protocol-level surveys or assumption of presence. CDFW further recommends that the results of these surveys be summarized and used to evaluate Project impacts, impact avoidance and mitigation, and potential permitting needs in the IS/MND. The IS/MND must provide quantifiable and enforceable measures as needed that will reduce impacts to less than significant levels.

Please note that the CNDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDB but where there is suitable habitat with features capable of supporting species. A lack of an occurrence record in the CNDDB does not mean that a species is not

Conserving California's Wildlife Since 1870

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 5

present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species is present.

San Joaquin Kit Fox (SJKF)

The IS/MND states in Table 2 of the Biological Evaluation that the occurrence of SJKF is unlikely due to the presence of suboptimal quality habitat which is surrounded by agricultural land. CDFW disagrees with this determination due to SJKF being known to den and forage within rights-of-way, vacant lots, and other disturbed areas in addition to undisturbed habitats. Further, SJKF are also known to specifically forage in areas of irrigated agriculture (Warrick et al. 2007) and may use streams as dispersal corridors. In addition, the IS/MND does not indicate if there are potential SJKF burrows within 500-feet of the Project site, and it is unclear if construction activities within the Project footprint could disturb denning SJKF if they are present. SJKF absence in any one year is not necessarily a reliable predictor of future SJKF potential to occur on a site (Cypher et al. 2013). 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. To evaluate potential impacts to SJKF, CDFW recommends conducting the following evaluation and that the following mitigation measures be included in the IS/MND

Recommended Mitigation Measure 1: SJKF Habitat Assessment

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 Minimization

If suitable habitat is present, CDFW recommends assessing presence or absence of SJKF by having qualified biologists conduct surveys of Project areas and a 500-foot buffer of Project areas to detect SJKF and their sign. CDFW also recommends following the U.S. Fish and Wildlife Service (USFWS 2011) *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance during Project implementation*.

Recommended Mitigation Measure 3: SJKF Avoidance and/or Take Authorization

If the no-disturbance buffers outlined in the USFWS Protocol for SJKF is not feasible, CDFW recommends that consultation with CDFW occur to discuss how to implement the Project and avoid take. If take cannot be avoided, acquisition of an

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 6

Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is required to comply with CESA.

California Tiger Salamander (CTS)

The IS/MND states that CTS presence at the Project site is absent due to there not being any suitable vernal pool or upland habitat. CDFW disagrees with this determination due to it being unclear whether there is potential vernal pool habitat in undeveloped property near the Project area, and within CTS dispersal distance. CTS being physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands. Section 2 of the Biological Evaluation states that small mammal burrows were found on the Project site, which is a requisite upland habitat feature for CTS. Without appropriate avoidance and minimization measures for CTS, potential significant impacts associated with any construction or ground disturbing activity include burrow collapse; inadvertent entrapment; reduced reproductive success; reduction in health and vigor of eggs, larvae and/or young; and direct mortality of individuals. CDFW recommends protocol level surveys to determine if CTS is present at the Project site.

Recommended Mitigation Measure 4: CTS Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation, to determine if any Project area or its vicinity contains suitable habitat (upland or breeding) for CTS.

Recommended Mitigation Measure 5: CTS Avoidance

CDFW advises that avoidance for CTS include a minimum 50-foot no disturbance buffer delineated around all small mammal burrows and a minimum 250-foot no disturbance buffer around potential breeding pools within and adjacent to the Project area. CDFW also recommends avoiding any impacts that could alter the hydrology or result in sedimentation of breeding pools.

Recommended Mitigation Measure 6: Focused CTS Surveys

If avoidance of burrows and/or pools is not feasible, CDFW recommends that a qualified biologist evaluate potential Project-related impacts to CTS using the USFWS (2003) Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander. CDFW advises that the survey include a 100-foot buffer around the areas in wetland and upland habitats that could support CTS.

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 7

Recommended Mitigation Measure 7: CTS Take Authorization

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take, and if avoidance is not feasible, to acquire an ITP prior to any ground disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b). In the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

Swainson's Hawk (SWHA)

The IS/MND acknowledges that suitable SWHA nesting habitat occurs within the Project area and that nests have been observed. Mitigation Measure BIO-2b requires a survey for nesting birds, including SWHA within seven days prior to construction during the nesting season. Mitigation Measure BIO-2c further requires that should any nests be detected during surveys that a no disturbance buffer would be established. However, specific avoidance buffer distances are not included and the IS/MND analysis does not provide a biological basis of how a no disturbance buffer will be determined as adequate to avoid significant impacts, including but not limited to take of individuals through nest failure or other means, as a result of Project implementation. To evaluate potential impacts to SWHA, CDFW recommends conducting the following evaluation and that the following mitigation measures be included in the IS/MND.

Recommended Mitigation Measure 8: Focused SWHA Surveys

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), CDFW recommends that a qualified biologist conduct surveys for SWHA following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) during the nesting season of or prior to Project initiation, within the Project area and a ½-mile buffer around the Project area. In addition, if Project activities will take place during the species nesting season (i.e., March 1 through September 15), CDFW recommends that additional preconstruction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction.

Recommended Mitigation Measure 9: SWHA Avoidance Buffer

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 8

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 10: SWHA Take Authorization

If a ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, acquisition of an ITP pursuant to Fish and Game Code section 2081 subdivision (b) is required to comply with CESA.

Western Burrowing Owl (BUOW)

The California Fish and Game Commission approved western burrowing owl as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register (Notice Register) on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). CDFW concurs with MM BIO-3 to mitigate for potential significant impacts to BUOW including if take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Crotch's Bumble Bee (CBB)

The IS/MND states that the probability of CBB occurrence within the Project site is unlikely due to lack of foraging habitat. CDFW disagrees with this assessment. The Project is within the range of CBB and the IS/MND indicates there are burrows in the Project area that could be impacted by Project activities, but the IS/MND does not discuss CBB and it is unclear if the species was considered during the development of the IS/MND. CBB primarily nest in late February through late October and are known to inhabit a variety of habitats, including grasslands, scrublands, openings in woodlands, areas with bare ground including vacant lots, dirt roads, and levees (Xerces Society et al. 2018). Based on information provided in the IS/MND, these habitat elements are present within and adjacent to the Project site. Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010) or leaf litter or other debris (Williams et al. 2014). Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to impact local CBB populations. To evaluate potential impacts to CBB, CDFW recommends conducting the following evaluation of the Project area and that the following mitigation measures be included in the IS/MND.

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 9

Recommended Mitigation Measure 11: CBB Habitat Assessment

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment.

Recommended Mitigation Measure 12: CBB Surveys

If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023). If ground disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement the Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 13: CBB Avoidance Buffer

If CBB is detected, then CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts.

Recommended Mitigation Measure 14: CBB Take Authorization

If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

American Badger (AMBA)

The IS/MND states the probability of AMBA occurrence is possible and CDFW agrees with this assessment. The Project site is within the known geographic range of American badger (AMBA) and suitable habitat is present (CDFW 2025) within the Project site and its vicinity. AMBA occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e., ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). Mitigation Measure BIO-11 is provided to mitigate for potential impacts to AMBA. CDFW concurs with BIO-11 and also recommends the following:

Conserving California's Wildlife Since 1870

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 10

Recommended Mitigation Measure 15: Surveys

CDFW recommends that a qualified biologist conduct focused surveys for AMBA, as well as their requisite habitat features, to evaluate potential impacts resulting from ground disturbance.

Recommended Mitigation Measure 16: Avoidance

Avoidance whenever possible is encouraged via delineation and a 50-foot no disturbance buffer around burrows. CDFW also advises that any individuals observed be allowed to leave the Project site of their own volition.

Special-Status plants

The Project site is within the range of several special-status plant species. CDFW has concerns related to the level of survey effort conducted to inform the IS/MND as reconnaissance level surveys were conducted in June 2024, and it is unclear if protocol level botanical surveys were conducted. Additionally, no mitigation measures are proposed to mitigate for potential Project-related impacts to California Rare Plant Rank (CRPR) plants. As special-status plants have been documented in the Project area and have the potential to be present within the Project site, CDFW recommends the following mitigation measures be included in the IS/MND.

Recommended Mitigation Measure 17: Special-status plant Habitat Assessment and Surveys

CDFW recommends that a qualified botanist conduct a habitat assessment of the Project area well in advance of Project implementation to determine if the Project area or its vicinity contains suitable habitat for special-status plant species. If suitable habitat is present, 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 sensitive natural communities* (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

Recommended Mitigation Measure 18: Special-status plants Avoidance Buffers

If special-status plants are detected, CDFW recommends 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 is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 11

Recommended Mitigation Measure 19: Special-status plants Take Authorization

If a 50-foot no-disturbance buffer is not feasible for State listed plant species, consultation with CDFW is warranted, and acquisition of an ITP may be necessary prior to Project implementation, pursuant to Fish and Game Code section 2081, subdivision (b), to comply with CESA.

Editorial Comments and/or Suggestions

Lake and Streambed Alteration: The Project includes activities in the bed, bank, and channel of the Johnson Slough and these activities are subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. CDFW would like to note that Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 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 and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration (LSA) Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

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 that Project implementation occur during the non-nesting bird season. However, if ground-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 12

implementation 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 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 CDFW 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.

Endangered Species Act Consultation: CDFW recommends consultation with the USFWS prior to Project activity, due to potential impacts to federally listed and candidate species. Take under the Endangered Species Act (ESA) is differently defined than take under CESA; take under the ESA may also include 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 ESA is advised well in advance of Project implementation.

Water Rights: The Project description includes the diversion and storage of surface water for groundwater storage. As stated previously, the capture of unallocated stream flows to artificially recharge groundwater aquifers is subject to appropriation and approval by the SWRCB pursuant to Water Code section 1200 et seq. CDFW

Conserving California's Wildlife Since 1870

Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 13

recommends that the IS/MND include a detailed description of the water rights and water entitlements that would pertain specifically to the Project and address any applications or change petitions that may be filed. 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 impacts to special-status species and their habitats, it is advised that required consultation with CDFW occur well in advance of the SWRCB water right application process.

Sustainable Groundwater Management Act (SGMA) and Groundwater Dependent Ecosystems: Groundwater Sustainability Plans were prepared for the Kaweah Subbasin. The Kaweah (Subbasin No. 5-022.11 of the Kaweah Basin) is designated a high priority Subbasin by the Department of Water Resources. SGMA defines sustainable groundwater management as, "management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results (Water Code, § 10721 (v))." CDFW recommends that the IS/MND include an analysis of Project-related activities in relation to the North San Benito Subbasin Groundwater Sustainability Plan, including analysis of potential undesirable results and adverse impacts to groundwater dependent ecosystems including the biological resources listed above. CDFW recommends that it include specific triggers for evaluating changes to surface and ground water levels and monitoring wetland and riparian habitats that would be affected by these changes.

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

<https://www.wildlife.ca.gov/Data/CNDDDB/SubmittingData>. 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

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

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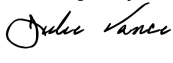
Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 14

operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the SBCWD in identifying and mitigating Project impacts on biological resources. If you have any questions, please contact Jackson Powell Environmental Scientist, at (559) 899-9758, or by electronic mail at Jackson.Powell@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

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Shane Smith, District Manager
Kaweah Delta Water Conservation District
June 5, 2025
Page 15

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June 5, 2025
Page 16

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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Johnson Slough Recharge Project (Project)

SCH No.: 2025041173

RECOMMENDED MITIGATION MEASURE	STATUS/ DATE/ INITIALS
Before Disturbing Soil or Vegetation	
San Joaquin kit fox (SJKF)	
Recommended Mitigation Measure 1: SJKF Habitat Assessment	
Recommended Mitigation Measure 2: SJKF Surveys and Minimization	
Recommended Mitigation Measure 3: SJKF Avoidance and/or Take Authorization	
California tiger salamander (CTS)	
Recommended Mitigation Measure 4: CTS Habitat Assessment	
Recommended Mitigation Measure 6: Focused CTS Surveys	
Recommended Mitigation Measure 7: CTS Take Authorization	
Swainson’s hawk (SWHA)	
Recommended Mitigation Measure 8: Focused SWHA Surveys	
Recommended Mitigation Measure 10: SWHA Take Authorization	
Crotch’s bumble bee (CBB)	
Recommended Mitigation Measure 11: CBB Habitat Assessment	
Recommended Mitigation Measure 12: CBB Surveys	
Recommended Mitigation Measure 14: CBB Take Authorization	
American badger	

Recommended Mitigation Measure 15: AMBA Surveys	
Special-status plants	
Recommended Mitigation Measure 17: Special-status plant Habitat Assessment and Surveys	
Recommended Mitigation Measure 19: Special-status plants Take Authorization	
During Construction	
Recommended Mitigation Measure 5: CTS Avoidance	
Recommended Mitigation Measure 9: SWHA Avoidance Buffer	
Recommended Mitigation Measure 13: CBB Avoidance Buffer	
Recommended Mitigation Measure 16: AMBA Avoidance	
Recommended Mitigation Measure 18: Special-status plants Avoidance Buffers	