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GAVIN NEWSOM, Governor
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November 7, 2025

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**Subject: Conditional Use Permit No. 24-03 (4Creeks / Sozinho Dairy No. 5)
Notice of Preparation (NOP) of a Draft Environmental Impact Report
(DEIR) SCH No. 2025100441**

Dear Victor Hernandez:

The California Department of Fish and Wildlife (CDFW) received a NOP from Kings County (County) for the 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 the 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

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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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 & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or 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 section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

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: Sozinho Dairy No. 5, Inc.

Objective: The Project proposes to expand an existing dairy facility. The Project includes the construction of a manure processing area (200,000-square feet.), a post manure organic matter processing area (40,000-square feet), a post biodynamic aerobic bed organic matter processing area (150,000-square feet), a processing and product storage area (30,000-square feet), one reception pit, two mechanical separators, one 14-foot by 20-foot tank on a concrete pad for solid separation and collection, two earthen berms, two lift stations and five water processing beds. The proposal also includes improvements to the animal housing and operations areas of the dairy such as three new feed storage areas, twelve rows of calf hutches, one freestall barn, one maternity barn, twelve shade structures over existing corrals, one commodity barn, one shop, and one open lot corral.

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Location: The proposed Project site is located in a rural unincorporated area of Kings County, just east of Hanford, on the southwest corner of Houston Avenue and 7th Avenue at address 12252 7th Avenue. The Project site consists of Assessor's Parcel Numbers (APNs): 016-200-005, -028, -029 and -035.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County 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 DEIR prepared for the Project.

The Initial Study prepared for the Project (IS) states the site is topographically flat and surrounded by agricultural uses and some rural residences to the north. Aerial imagery shows the Project site is comprised of agricultural row crops and an active dairy facility. Agricultural lands are also present outside of the Project site to the south, east and west.

Based on a review of California Natural Diversity Database (CNDDB) (CDFW 2025) records, and the surrounding habitat, the Project is within the geographic range of several special-status animal species including, but not limited to: the State threatened Swainson's hawk (*Buteo Swainsoni*) and tricolored blackbird (*Agelaius tricolor*); and the State candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumble bee (*Bombus crotchii*).

CDFW has the following recommendations and comments to either inform the biological technical studies conducted in support of the DEIR or to be incorporated as measures within the DEIR and implemented prior to initiating ground disturbance activities associated with the Project.

Swainson's Hawk

The IS provides Mitigation Measures (MM) BIO-1.1, BIO-1.2, and BIO-1.3 to mitigate for potentially significant impacts to Swainson's hawk (SWHA) and requires that a qualified biologist conduct pre-construction nesting bird surveys within 10 days prior to initiating construction activities during the SWHA breeding season. CDFW does not concur that these measures are sufficient to mitigate for potentially significant impacts to SWHA and avoid unauthorized take. As such, CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) as part of the biological technical studies conducted in support of the DEIR.

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In addition to conducting SWHA surveys, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 1: SWHA Surveys Prior to Construction

Depending on the time between the initial survey efforts conducted in support of the DEIR and Project construction, CDFW recommends that additional surveys, following the survey methodology developed by the SWHA Technical Advisory Committee, be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 2: 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 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 3: SWHA Take Authorization

CDFW also recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Tricolored Blackbird

The IS provides MM BIO-3.1, BIO-3.2, and BIO-3.3 to mitigate for potentially significant impacts to tricolored blackbird (TRBL) and requires that a qualified biologist conduct pre-construction nesting bird surveys within 15 days prior to initiating construction activities during the nesting season. CDFW concurs with conducting pre-construction nesting bird surveys but recommends a qualified wildlife biologist conduct focused surveys for nesting TRBL no more than 10 days prior to the start of construction to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts. These measures also require that a qualified biologist implement an appropriate no-disturbance buffer around active nests based on applicable CDFW guidelines and/or the biology of the affected species. CDFW concurs with this portion of the measures and recommends implementation of a minimum 300-foot no-disturbance buffer around the colony in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW recommends that this

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buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged and are no longer reliant upon the colony or parental care for survival. CDFW also recommends if a TRBL nesting colony is detected during surveys and avoidance is not feasible, consultation with CDFW is warranted to discuss how to implement the Project 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.

Western Burrowing Owl

The California Fish and Game Commission (FGC) approved western burrowing owl (BUOW) 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).

The IS provides MM BIO-2.1, BIO-2.2, and BIO-2.3 to mitigate for potential Project related impacts to BUOW and requires that a qualified biologist conduct pre-construction clearance surveys following the methods outlined in the Staff Report on Burrowing Owl Mitigation (CDFG 2012), no less than 14 days prior to the initiation of construction activities. The measures also require that a qualified biologist implement a no-disturbance buffer of 250 feet around active BUOW nest burrows during the breeding season (Feb 1 through Aug 31). CDFW does not concur that the proposed survey measures and no-disturbance buffer distance are sufficient to mitigate for potentially significant impacts to BUOW and avoid unauthorized take of the species absent an ITP.

MM BIO-2.3 also states that, "If the applicant chooses to passively relocate owls during the non-breeding season, this activity shall be conducted in accordance with a relocation plan prepared by a qualified biologist." CDFW does not concur MM BIO-2.3 is sufficient to mitigate for potentially significant impacts to BUOW and avoid unauthorized take. Passive relocation in particular would have a strong likelihood in result in the unauthorized take of the species absent an ITP being issued for the Project. As such, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) as part of the biological studies conducted in support of the DEIR. In addition to the habitat assessment and focused surveys for BUOW, CDFW recommends the DEIR include the following:

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Recommended Mitigation Measure 4: BUOW Pre-construction Surveys

Depending on the time between the initial survey efforts conducted in support of the DEIR and Project construction, CDFW recommends that additional surveys, following the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 5: BUOW Avoidance Buffer

Should a BUOW or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 6: BUOW Take Authorization

If a BUOW or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report on Burrowing Mitigation are not feasible, consultation with CDFW is warranted to discuss how to implement the Project 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.

Crotch's Bumble Bee

The Project site is within the known geographical range of Crotch's bumble bee (CBB) and a historical occurrence has been documented within 1 ½ miles of the Project site (CDFW 2025). CBB are known to inhabit areas of grasslands and scrub that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, and these habitat elements may be present within the Project site. As such, CDFW recommends a qualified biologist conduct a habitat assessment as part of the biological studies conducted in support of the DEIR 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, would need to be documented as part of the assessment. 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 surveys indicate the presence or potential presence of CBB, consultation with the CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation. 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.

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Editorial Comments and/or Suggestions

Nesting birds: CDFW encourages that all ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 15 through September 15), the Project applicant is responsible for ensuring that implementation of the Project does not result in a violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

CDFW recommends that a qualified biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation 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 Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW 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 on-site 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 areas 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 CDFW in advance of implementing a variance.

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 the Project. 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

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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 are available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Project Alternatives Analysis: CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the DEIR be used to develop and modify the Project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources should be mitigated to reduce impacts to a less than significant level, if feasible.

California Natural Diversity Database: Please note that the CNDDDB is populated by 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. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDDB does not mean that a species is not 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 to determine whether or not any special-status species are present.

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 California Natural Diversity Database. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. 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 environmental document filing 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).

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CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the County in identifying and mitigating Project 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>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table (Attachment 1) which corresponds with the recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453 or john.riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

ATTACHMENT 1 - MMRP

ec: State Clearinghouse
Governor's Office of Land Use and Climate Innovation
state.clearinghouse@lci.ca.gov

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REFERENCES

- California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. Sacramento, California, USA.
- California Department of Fish and Wildlife. 2015. Staff guidance regarding avoidance of impacts to tricolored blackbird breeding colonies on agricultural fields in 2015. Sacramento, California, USA.
- California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act (CESA) candidate bumble bee species. Sacramento, California, USA.
- California Department of Fish and Wildlife. 2025. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 28 October 2025.
- Swainson's Hawk Technical Advisory Committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee.

Attachment 1

Attachment 1

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

**PROJECT: Conditional Use Permit No. 24-03 (4Creeks / Sozinho Dairy
No. 5)**

SCH No.: 2025100441

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Swainson's Hawk (SWHA)	
Recommended Mitigation Measure 1: SWHA surveys prior to construction	
Recommended Mitigation Measure 3: SWHA take authorization	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 4: BUOW preconstruction surveys	
Recommended Mitigation Measure 6: BUOW take authorization	
<i>During Construction</i>	
Swainson's Hawk (SWHA)	
Recommended Mitigation Measure 2: SWHA avoidance buffer	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 5: BUOW avoidance buffer	