Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
VALERIE TERMINI, Acting Director

January 28, 2026

Gene Kilgore, District Manager
Exeter Irrigation District
150 South "E" Street
Exeter, California 93221
gkilgore@tdwauthority.org

Subject: Paregien Basin Project (Project)
Mitigated Negative Declaration (MND)
State Clearinghouse No. 2025120957

Dear Gene Kilgore:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the Exeter Irrigation 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 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. Although the public comment period has ended, CDFW respectfully requests that the District consider these comments prior to approving the MND.

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.

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

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.

Bird Protection: CDFW has jurisdiction over actions that may 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 section 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird).

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

The Project will develop an approximately 50-acre recharge facility known as the Paregien Basin. The new groundwater recharge basin would include a new turnout connection from Deep Creek. The Project would also include approximately 350 feet of pipeline connecting the new turnout to the proposed basin. The pipeline connection from the proposed recharge basin to Deep Creek will be located on the south side of the existing West Pond.

The proposed turnout would be developed with a capacity for approximately 20 cubic feet per second (cfs). The turnout facility would consist of cast-in-place concrete structure, control gate(s), trash rack, and related appurtenances from the west bank of Deep Creek to divert to the proposed basin. The turnout structure would connect to an inlet pipeline approximately 350 linear feet (LF) from Deep Creek into the proposed

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

Paregien Basin. The turnout structure would have a maximum excavation depth of 15 feet below ground surface for establishing proper compaction under the structure and pipeline. All excavation material would be balanced on site.

Construction would include equipment mobilization, excavation of earthwork for the recharge basin and construction of basin perimeter berms. The Project site would contain temporary staging areas for construction equipment and material storage during the construction effort. Basin construction would include performance testing (i.e. compaction testing) and demobilization. Excavation material would be used on site for berm construction along the perimeter of the basin. New berm construction would not exceed six feet in height, measured from the exterior toe to the top of new berm. The maximum depth of ground disturbance for the basin would be as much as nine (9) feet.

The Project is anticipated to recharge approximately 1,260 acre-feet (AF) on an average annual basis. However, the site is capable of recharging more in wet years when surplus water is available for longer durations. According to the MND, the 1,260 AF estimate is derived based on an estimated recharge rate of 0.5 AF per acre across the approximately 50 acres of wetted area for an estimated duration of 50 days, which is an approximate average of historical water availability on the Kaweah system. Typical surplus surface water availability is generally between March and June. However, in very wet years, water could be diverted for recharge whenever excess supply is available, which could occur from January to September or October.

Proponent: Exeter Irrigation District

Location: The Project is located directly south of Highway 198, northeast of the City of Farmersville in Tulare County, California. The Project site is located on Assessor's Parcel Numbers 111-025-010 and -025. The centroid of the Project site is 36° 19' 31.72" N, 119° 11' 29.88" W.

Timeframe: None given.

COMMENTS AND RECOMMENDATIONS

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

Based on a review of the Project description, a review of California Natural Diversity Database (CNDDB) records (CDFW 2026), and a review of aerial imagery of the Project and surrounding habitat, several special-status species could potentially be impacted by Project activities including but not limited to the State threatened and federal

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State candidate for listing burrowing owl (*Athene cunicularia*) and Crotch's bumble bee (*Bombus crotchii*); the federally proposed threatened and State species of special concern western spadefoot (*Spea hammondii*) and northwestern pond turtle (*Actinemys marmorata*); the State species of special concern American badger (*Taxidea taxus*), pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops perotis californicus*), western red bat (*Lasiurus blossevillii*), and Northern California legless lizard (*Anniella pulchra*); and the California Rare Plant Rank 1B.2 spiny-sepaled button-celery (*Eryngium spinosepalum*). Other species of birds, amphibians, reptiles, mammals, fish, invertebrates, and plants also compose the local ecosystem.

The Project site is located across Highway 198 from the Kaweah Oaks Preserve, which is owned and managed by the Sequoia Riverlands Trust and Four Creeks Land Trust for the benefit and preservation of native habitat including Valley sacaton grassland and Great Valley oak riparian forest. These special status habitats occur adjacent to the Project area and along Deep Creek (CDFW 2026). Surface and groundwater dependent ecosystems, including riparian, wetland, and oak woodland habitats are present along Deep Creek and other areas within the Project boundary.

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 and features capable of supporting species. A lack of an occurrence record in the CNDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist 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 are present at or near the Project area.

CDFW recommends that the following modifications and/or edits be incorporated into the MND, including proposed avoidance, minimization, and compensatory measures, prior to its adoption by the District

COMMENT 1: San Joaquin Kit Fox (SJKF)

> **Issues and Impacts**: Multiple SJKF occurrences are documented within the immediate vicinity of the Project boundary (CDFW 2026). Table 4-10 of the MND states that SJKF are absent because no suitable habitat was observed within the Project site. However, the Project site includes grassland and ruderal habitat which SJKF are known to inhabit (ESPN 2026). The MND acknowledges the potential for the Project to temporarily disturb and permanently alter grassland and other habitat considered suitable habitat for special status species including SJKF, and to directly impact individuals if present during construction activities.

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

SJKF den in rights-of-way, agricultural and fallow/ruderal habitat, dry stream channels, and canal levees, etc., and populations can fluctuate over time. SJKF are also capable of occupying urban environments (Cypher and Frost 1999). SJKF may be attracted to Project areas due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. SJKF will forage in fallow and agricultural fields and utilize streams and canals as dispersal corridors. Absence in any one year is not necessarily a reliable predictor of future SJKF potential to occur on a site. Habitat loss resulting from land conversion to agricultural, urban, and industrial development is the primary threat to SJKF, and the Project area is in the vicinity of areas of medium suitability for SJKF habitat (Cypher et al. 2013). As a result, there is potential for SJKF to occupy all suitable habitat within the Project boundary and surrounding area. Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with construction include habitat loss, den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Recommended Mitigation Measure 1: SJKF Surveys and Minimization
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 recommends assessing potential project related impacts to SJKF by conducting den surveys. Specifically, CDFW advises conducting den surveys in all areas of potentially suitable habitat no less than 14 days and no more than 30 days prior to beginning of ground-disturbing activities. If suitable dens are found, den avoidance buffers CDFW recommends that avoidance be implemented by following the United States Fish and Wildlife Service (USFWS) (2011) *Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance*.

Recommended Mitigation Measure 2: SJKF Take Authorization
SJKF activity, den detection, or detection of individuals warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to any ground-disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b).

COMMENT 2: Swainson's Hawk (SWHA)

Issues and Impacts: The Project is within the geographic range of SWHA. SWHA occurrences are documented within the Project vicinity (CDFW 2026) and suitable nesting and foraging habitat occur within the Project site. The MND acknowledges the potential for the Project to impact suitable perching and nesting trees, and nesting SWHA. For nesting SWHA, Mitigation Measure BIO-3c states that a biologist would determine appropriate setback distances in consultation with CDFW. Without appropriate avoidance and minimization measures for SWHA, potential significant

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

impacts that may result from Project activities include nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code.

SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat in the San Joaquin Valley limits their local distribution and abundance (CDFW 2016). Approval of the Project may lead to subsequent ground-disturbing activities that involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment and loss of foraging habitat, significantly impacting local nesting SWHA.

Recommended Mitigation Measure 3: Focused SWHA Surveys
CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) prior to Project implementation. Mitigation Measure BIO-3b states that surveys will be conducted according to SWHA TAC 2000 guidelines within a ½-mile survey distance from the construction area for SWHA. The SWHA TAC survey protocol includes early season surveys to assist the Project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities.

Recommended Mitigation Measure 4: SWHA Pre-Activity Surveys and No-Disturbance Buffer
If ground-disturbing activities are to take place during the nesting season of March 1 through August 31, CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation. CDFW recommends that a minimum no-disturbance buffer of ½-mile be delineated around active nests 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.

Recommended Mitigation Measure 5: SWHA Nest Tree Mitigation
CDFW recommends that the removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity to reduce impacts resulting from the loss of nesting habitat.

Recommended Mitigation Measure 6: SWHA Take Authorization
CDFW recommends that in the event an active SWHA nest is detected and maintaining a ½-mile 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

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

authorization through the acquisition of an ITP pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA.

COMMENT 3: Western Burrowing Owl (BUOW)

Issues and Impacts: The California Fish and Game Commission (FGC) approved 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).

BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used by BUOW year-round for nesting and cover. BUOW may also occur in agricultural areas, ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat in the area (Gervais et al. 2008). The MND acknowledges that habitat both in the Project site and the Project vicinity supports suitable habitat for BUOW (CDFW 2026). Potentially significant impacts to nesting and non-nesting BUOW can occur as a result of ground-impacting activity, such as grading and flooding within active and fallow agricultural areas, and as a result of noise, vibration, and other disturbance caused by equipment and crews. Potential impacts associated with Project activities and land conversion include habitat loss, burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. In addition, and as described in the “Staff Report on Burrowing Owl Mitigation” (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Mitigation Measure 7: BUOW Surveys
Where suitable habitat is present on or in the vicinity of the Project area, CDFW recommends that a qualified biologist conduct focused surveys following *2012 Staff Report on Burrowing Owl Mitigation* (2012 Staff Report)(CDFG 2012). Please note that the 2012 Staff Report necessitates multiple surveys prior to the initiation of the Project. CDFW advises that surveys include a minimum 500-foot survey radius around the Project area.

Recommended Mitigation Measure 8: BUOW Avoidance Buffers
Should a BUOW or known BUOW den (active or inactive) be detected, either during pre-construction surveys or Project activities, CDFW recommends that no disturbance buffers, as outlined in the 2012 Staff Report, be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

Recommended Mitigation Measure 9: 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.

COMMENT 4: Crotch's Bumble Bee (CBB)

Issues and Impacts: CBB are known to occur in the Project area (CDFW 2026). The MND acknowledges the Project is within the known range for CBB, and a review of aerial imagery shows that the Project area supports suitable habitat for the species such as grasslands and upland scrub. CBB primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, underneath brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014, Hatfield et al. 2015). Overwintering sites for CBB mated queens include soft, disturbed soil (Goulson 2010) or leaf litter or other debris (Williams et al. 2014). Without appropriate avoidance and minimization measures for CBB, potentially significant impacts from ground- and vegetation-disturbing Project activities include direct mortality, loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, and reduced health and vigor of eggs, young and/or queens.

Recommended Mitigation Measure 10: CBB Surveys and Avoidance
CDFW recommends that a qualified biologist conduct a habitat assessment for CBB that documents foraging resources and potential nesting sites, including small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs. In areas of suitable habitat, CDFW recommends that qualified biologist conduct a bumble bee survey using a protocol developed according to the CDFW (2023) *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* to identify bumble bees and potential nesting sites during the vegetation blooming period prior to activities at Project sites.

Recommended Mitigation Measure 11: CBB Avoidance Buffer
If CBB is detected, 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. 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.

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

Recommended Mitigation Measure 12: CBB Take Authorization
If avoidance of take of any CBB is not feasible, take authorization though acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA.

COMMENT 5: Special-Status Bat Species

Issues and Impacts: Habitat features are present that have the potential to support pallid bat, western mastiff bat, and western red bat. Western mastiff bat and pallid bat are known to roost in buildings, caves, tunnels, cliffs, crevices, and trees. (Lewis 1994). Western red bat is highly associated with riparian habitat (Peirson et al. 2006). Project activities have the potential to affect habitat upon which special-status bat species depend for successful breeding and have the potential to impact individuals and local populations. Without appropriate avoidance and minimization measures for special-status bat species, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project activities include habitat loss, inadvertent entrapment, roost abandonment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Recommended Mitigation Measure 13: Bat Surveys
Where suitable habitat is present, CDFW recommends assessing presence/absence of special-status bat roosts by conducting surveys during the appropriate seasonal period of bat activity. CDFW recommends methods such as through evening emergence surveys or bat detectors to determine whether bats are present.

Recommended Mitigation Measure 14: Bat Roost Disturbance Minimization and Avoidance
If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and that a qualified biologist who is experienced with bats monitor the roost for signs of disturbance to bats from Project activity. If a bat roost is identified and work is planned to occur during the breeding season, CDFW recommends that no disturbance to maternity roosts occurs and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

COMMENT 6: Northwestern Pond Turtle (NWPT)

Issues and Impacts: NWPT occur in the Project area (CDFW 2026), and a review of aerial imagery shows habitats that NWPT utilize for nesting, overwintering, dispersal, and basking, including streams, ponded areas, irrigation canals, and riparian and upland habitats. NWPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016). Noise, vegetation removal, movement of workers, construction and ground disturbance as a result of Project

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

activities have the potential to significantly impact NWPT populations. Without appropriate avoidance and minimization measures for NWPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

Recommended Mitigation Measure 15: NWPT Surveys
CDFW recommends that a qualified biologist conduct focused surveys for NWPT within 10 days prior to Project implementation, and that focused surveys for nests occur during the egg-laying season of March through August.

Recommended Mitigation Measure 16: NWPT Avoidance and Minimization
CDFW recommends that any NWPT nests that are discovered remain undisturbed with a no-disturbance buffer maintained around the nest until the eggs have hatched and neonates are no longer in the nest or Project areas. If NWPT individuals are discovered at the site during surveys or Project activities, CDFW recommends that they be allowed to move out of the area of their own volition without disturbance.

COMMENT 7: Western Spadefoot (WESP)

The Project site is within the known geographic range of western spadefoot (WESP). WESP occurs primarily in grasslands, oak woodlands, and coastal sage scrub. Some populations persist for a few years in orchard or vineyard habitats. These habitat features are present within the Project vicinity. To evaluate potential impacts to WESP, CDFW recommends conducting the following evaluation of the Project Area and implementing the following mitigation measures.

Recommended Mitigation Measure 17: WESP Surveys and Avoidance
CDFW recommends that a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support WESP.

Recommended Mitigation Measure 18: **Preconstruction Survey for WESP**. Prior to the start of work, a qualified biologist shall conduct focused surveys with installation of exclusion fencing for western spadefoot and their requisite habitat features if suitable WESP habitat is present within the Project site.

Recommended Mitigation Measure 19: WESP Avoidance
If WESP burrows, cracks, loose soil areas or other refugia are found to be used by WESP during focused surveys, avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around these resources, including all potential breeding habitat, which can include agricultural sumps and irrigation ditches in addition to any areas that pool water for only a few

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

weeks. Avoidance of potential breeding habitat should occur even when dry, since post-metamorphic WESP juveniles have a unique adaptation to the drying of their temporary breeding pools; they utilize the dried pond bottom as a refuge, burying themselves in the dessication cracks and damp soil beneath the surface crust (Baumberger et al., 2020). If any lifestage of WESP are observed on the Project site, Project activities in their immediate vicinity should cease, allowing individuals to leave the Project site on their own accord.

COMMENT 8: Other State Species of Special Concern (SSSC)

Issues and Impacts: American badger and Northern California legless lizard are known to inhabit grassland and upland shrub areas with friable soils (Williams 1986, Thomson et al. 2016). These species have been documented to occur in the vicinity of the Project, which supports requisite habitat elements for these species (CDFW 2026). The MND acknowledges suitable habitat for these species occurs within the Project site. Habitat loss threatens these species (Williams 1986, Thomson et al. 2016), and habitat within and adjacent to the Project represents some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Without appropriate avoidance and minimization measures for these species, potentially significant impacts associated with ground disturbance include habitat loss, nest/den/burrow abandonment, which may result in reduced health or vigor of eggs and/or young, and direct mortality.

Recommended Mitigation Measure 20: SSSC Surveys
CDFW recommends that a qualified biologist conduct focused surveys for the species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.

Recommended Mitigation Measure 21: SSSC Avoidance
Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around dens of mammals like the American badger as well as the entrances of burrows that can provide refuge for small mammals, reptiles, and amphibians. CDFW also recommends that if these species are found, Project activities in their immediate vicinity cease, allowing individuals to leave the Project site on their own accord

COMMENT 9: Special-Status Plants

Issues and Impacts: Special-status plant species meeting the definition of rare or endangered under CEQA section 15380 are known to occur in the vicinity of the Project and surrounding area, including the Spiny-sepaled button-celery which are documented within the Project vicinity (CDFW 2026).

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

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

Spiny-sepaled button-celery, and many other special-status plant species are threatened by grazing and agricultural, urban, and energy development. Many historical occurrences of these species are presumed extirpated (CNPS 2019). Though new populations have recently been discovered, impacts to existing populations have the potential to significantly impact populations of plant species.

Recommended Mitigation Measure 22: Special-Status Plant Surveys
CDFW recommends that individual Project sites be surveyed for special-status plants by a qualified botanist following the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

Recommended Mitigation Measure 23: Special-Status Plant Avoidance
CDFW recommends that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW may be warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 24: Listed Plant Species Take Authorization
If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization through acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b)is necessary to comply with CESA.

COMMENT 10: Wetland and Riparian Habitats

I**ssues and Impacts**: The MND acknowledged riparian habitat in the eastern section of the Project site. CDFW is concerned that Project activities may have the potential to result in temporary and permanent impacts to aquatic and riparian habitat and associated species through habitat conversion, grading, fill, deep ripping, groundwater pumping, and reducing the amount of surface flow in active stream channels and downstream, as well as reducing the amount of subsurface flow from percolation.

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

Recommended Mitigation Measure 25: Stream and Wetland Mapping
CDFW recommends that formal stream mapping and wetland delineation be conducted by a qualified biologist or hydrologist, as warranted, to determine the baseline location, extent, and condition of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that while there is overlap, State and Federal definitions of wetlands differ, and complete stream mapping commonly differs from delineations used by the United States (U.S.) Army Corps of Engineers specifically to identify the extent of Waters of the U.S. Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area, and that stream mapping include the full lateral extent of all streams including floodplains, if present, within the Project area. CDFW advises that site map(s) depicting the extent of any activities that may affect wetlands, lakes, or streams be included with any Project site evaluations, to clearly identify areas where stream/riparian and wetland habitats could be impacted from Project activities.

Recommended Mitigation Measure 26: Stream and Wetland Habitat Mitigation
CDFW recommends that the potential direct and indirect impacts to stream/riparian and wetland habitat be analyzed according to each Project activity. Based on those potential impacts, CDFW recommends that the MND include measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat (i.e., biotic and abiotic features) take into account the effects to stream function and hydrology from riparian habitat loss or damage, as well as potential effects from the loss of riparian habitat to special-status species already identified herein. CDFW recommends that losses to stream and wetland habitats be offset with corresponding riparian and wetland habitat restoration incorporating native vegetation to replace the value to fish and wildlife provided by the habitats lost from Project implementation. If on-site restoration to replace habitats is not feasible, CDFW recommends offsite mitigation by restoring or enhancing in-kind riparian or wetland habitat and providing for the long-term management and protection of the mitigation area, to ensure its persistence.

Editorial Comments and/or Suggestions

Mitigation Measure Numbering Clarification: The numbering of the biological Mitigation Measures in Section 3 of the MND is different from the Mitigation Measures in the SCH Summary Form. CDFW recommends changing either the SCH Summary Form or the MND so that the numbering of the Mitigation Measures are consistent.

Western Spadefoot: Be advised the California Fish and Game Commission (Commission) posted a Notice of Receipt of CESA Petition on for western spadefoot to list northern and southern populations of western spadefoot as threatened or endangered. The Notice of Receipt of Petition was posted on October 6, 2025.

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

https://fgc.ca.gov/CESA?utm_medium=email&utm_source=govdelivery#1088155-western-spadefoot

Potential candidacy or listing of western spadefoot may require additional measures to avoid take, or if avoidance of take of any western spadefoot or active western spadefoot burrow is not feasible, require take authorization via an ITP, pursuant to Fish and Game Code section 2081, subdivision (b).

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally proposed or listed species including, but not limited to, western spadefoot, NWPT, and SJKF. Take under FESA is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

Stream Hydrology: The MND does not clearly in describe whether the Project will result in reduced surface flow in streams for the purpose of groundwater recharge and storage. CDFW is concerned that the proposed Project may result in direct and cumulative adverse impacts to the fish and wildlife and other public trust resources supported by Deep Creek and associated riparian habitats, and that any proposed reduction in surface flow will affect the sustainability of the riparian woodland and aquatic habitats within these streams. CDFW recommends that the MND be amended and recirculated with a hydrologic study or other information that identifies and analyzes the impacts of surface and subsurface water reduction on the riparian woodland and aquatic habitats associated with these streams and the species supported by these habitats, and includes appropriate measures to avoid, minimize, and mitigate potential biological impacts due to surface flow reduction.

Water Rights: The MND does not specify whether the Project diverts unallocated surface flow for the purpose of 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 recommends that the MND include a detailed description of the water rights and water entitlements that would pertain to the Project and address any applications or change petitions that the District will be filing. 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 sensitive species and their habitats, it is advised that required consultation with CDFW occur well in advance of the SWRCB water right application process.

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

Lake and Streambed Alteration: Project activities that have the potential to substantially change the bed, bank, and channel of streams and associated riparian and wetland habitat that 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. 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, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. Additional information on notification requirements is available through the Central Region LSA Program at (559) 243-4593 or R4LSA@wildlife.ca.gov and the CDFW website: https://wildlife.ca.gov/Conservation/LSA.

Nesting birds:

CDFW encourages that Project implementation occur during the bird non-nesting season; however, if Project activities must occur during the breeding season (i.e., February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

To evaluate Project-related impacts to 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 by the Project are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends that a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends that the work causing that change cease and that CDFW be consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

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.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that 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 (CNDDB). The CNDDB field survey form can be obtained at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the District 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. A Mitigation and Monitoring Program (MMRP) (Attachment 1) is included to assist the District with incorporating the recommended mitigation measures provided above. If you have questions regarding this letter, please contact Annette Tenneboe, Senior Environmental Scientist (Specialist), at (559) 580-3202 or by email at Annette.Tenneboe@wildlife.ca.gov.

Sincerely,

DocuSigned by:
FA83F09FE08945A...
Julie A. Vance
Regional Manager

Attachment 1 - MMRP

ec:

State Clearinghouse
Land Use and Climate Innovation
State.Clearinghouse@lci.ca.gov

Briza Sholars
Provost & Pritchard
bsholars@ppeng.com

Annette Tenneboe
California Department of Fish and Wildlife
Annette.Tenneboe@wildlife.ca.gov

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

REFERENCES

Baumberger, Katherine A., Adam R. Backlin, Elizabeth A. Gallegos, Cynthia J. Hitchcock, and Robert N. Fisher. 2020. Mitigation Ponds Offer Drought Resiliency for Western Spadefoot (*Spea hammondii*) Populations. Bulletin, Southern California Academy of Sciences, 119(1) 6-17. https://doi.org/10.3160/0038-3872-119.1.6

California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline

California Department of Fish and Wildlife (CDFW). 2016. Five Year Status Review for Swainson's Hawk (*Buteo swainsoni*). California Department of Fish and Wildlife. April 11, 2016.

CDFW. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. California Department of Fish and Wildlife. March 20, 2018.

CDFW. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. California Department of Fish and Wildlife. June 6, 2023. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline

CDFW. 2026. Biogeographic Information and Observation System (BIOS). https://www.wildlife.ca.gov/Data/BIOS. Accessed 11 January 2026.

California Native Plant Society (CNPS). 2019. Inventory of Rare and Endangered Plants of California (online edition, v8-03 0.39). Website http://www.rareplants.cnps.org .

Cypher, B. and N. Frost. 1999. Condition of San Joaquin kit foxes in urban and exurban habitats. Journal of Wildlife Management 63: 930–938.

Cypher, B.L., S.E. Phillips, and P.A. Kelly. 2013. Quantity and distribution of suitable habitat for endangered San Joaquin kit foxes: conservation implications. Canid Biology & Conservation 16(7): 25-31.

Endangered Species Recovery Program (ESPN). 2026. San Joaquin Kit Fox Species Profile. Accessed 15 January 2026.

Gervais, J. A., D. K. Rosenberg, and L. A. Comrack. 2008. Burrowing Owl (*Athene cunicularia*) *In* California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California (W. D. Shuford and T. Gardali, editors).

Docusign Envelope ID: 2287163F-D299-4E65-AFA6-0FC5F9F68E2C

Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Goulson, D. 2010. Bumblebees: behaviour, ecology, and conservation. Oxford University Press, New York. 317pp.

Hatfield, R., S. Jepsen, R. Thorp, L. Richardson. and S. Colla. 2015. Bombus crotchii. The IUCN Red List of Threatened Species. http://dx.doi.org/10.2305/IUCN.UK.2015--2.RLTS.T44937582A46440211.en. Accessed 15 January 2026.

Lewis, S. E. 1994. Night roosting ecology of pallid bats (*Antrozous pallidus*) in Oregon. The American Midland Naturalist, Vol. 132, pp. 219-226.

Pierson, E.D., W.E. Rainey, and C. Corben. 2006. Distribution and status of Western red bats (*Lasiurus blossevillii*) in California. Calif. Dept. Fish and Game, Habitat Conservation Planning Branch, Species Conservation and Recovery Program Report 2006-04, Sacramento, CA. 45 pp.

Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline

Thomson, R. C., A. N. Wright, and H. B. Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press.

United States Fish and Wildlife Service (USFWS). 2011. Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. United States Fish and Wildlife Service. January 2011.

Williams, D. F. 1986. Mammalian species of special concern in California. Calif. Dept. Fish and Game, Sacramento. Admin. Rep. 86-1. 112pp.

Williams, P. H., R. W. Thorp, L. L. Richardson, and S .R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp