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July 3, 2025

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Subject: San Joaquin River Basin, Lower San Joaquin River, CA Project
Compensatory Mitigation Plan, Supplemental Environmental Impact Report,
SCH No. 2010012027, San Joaquin and Sacramento Counties

Dear Omar Al-Hindi:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Supplemental Environmental Impact Report (SEIR) from San Joaquin County Area Flood Control Agency (SJAFCFA) for the San Joaquin River Basin, Lower San Joaquin River, CA Project Compensatory Mitigation Plan (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response to the associated Lower San Joaquin River Reach TS-30_L Levee Improvement Project SEIR.

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, we appreciate 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 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.

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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 (LSA) 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.

PROJECT DESCRIPTION SUMMARY

Proponent: San Joaquin County Area Flood Control Agency

Objective: The objective of the Project is to update the Lower San Joaquin River Project's mitigation strategy with the development of the Lower San Joaquin River Compensatory Mitigation Plan to evaluate additional compensatory mitigation opportunities in San Joaquin and Sacramento counties. Up to six on-site and off-site habitat mitigation sites will be created instead of purchase of mitigation bank credits due to lack of availability in the Project area.

The overall Lower San Joaquin River Project includes 23 miles of levee improvements and two closure structures. Levee improvements include cutoff walls, deep soil mixing, a new levee, levee geometry improvements, and erosion protection for the purpose of reducing flood risk to the City of Stockton. Levees impacted are along the San Joaquin River, Calaveras River, Fourteenmile Slough, Tenmile Slough, French Camp Slough, Mosher Slough, and Duck Creek.

Primary Project activities at the mitigation sites include vegetation clearing, grading, fill, enhancement/creation of riparian and wetland habitats, and creation of levee setbacks.

Location: The six proposed mitigation sites are located in Sacramento County (one) and San Joaquin County. The six proposed mitigation sites are Fourteen Mile Slough Pump Station, In-River Parcel, On-River Parcel, Calaveras River Parcels, Manteca Parcel, and Van Buskirk Park. The locations are in "Figure 2. Map showing overview of the Proposed Action area and mitigation parcel locations" on page 8 of the San Joaquin River Basin, Lower San Joaquin River, California Project Compensatory Mitigation Plan SEIR.

Fourteen Mile Slough Pump Station is bordered by White Slough to the north and east, near City of Stockton, San Joaquin County, at approximately Latitude 38.010314, Longitude -121.375420.

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In-River Parcel is an island on the San Joaquin River, Sacramento County, approximately Latitude 38.0502695, Longitude -121.698918.

On-River Parcel is on the San Joaquin River, composed of segments of Spud Island and Hog Island, San Joaquin County. Spud Island is located at approximately Latitude 38.002489, Longitude -121.453352. Hog Island is located at approximately Latitude 38.005274, Longitude -121.448482.

Calaveras River Parcels are located along the Calaveras River in the City of Stockton, San Joaquin County, between Pacific Avenue and extending just beyond North Sutter Street. The center of the reach is located at approximately Latitude 37.991460, Longitude -121.303679.

Manteca Parcel is adjacent to the San Joaquin River and bounded by Dredger Cut to the north. It is near City of Manteca, in San Joaquin County, approximately Latitude 37.7648712, Longitude -121.283251.

Van Buskirk Park is located along the San Joaquin River to the west and French Camp Slough to the south, in the City of Stockton, San Joaquin County. The center of the reach is located at approximately Latitude 37.921428, Longitude -121.318085.

Timeframe: The completion dates range from 2026 to 2033.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in “take” of plants or animals listed under CESA or the Native Plant Protection Act (NPPA), either during construction or over the life of the Project. Under CESA, “take” means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (Fish & G. Code, § 86). CDFW’s issuance of an ITP is subject to CEQA and to facilitate permit issuance, any project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit.

Candidate species for listing under CESA are afforded the same legal protections as CESA-listed species while under review (Fish and Game Code § 2608). Candidate species which may occur within the Project area include, but are not limited to, western burrowing owl (*Athene cunicularia*), white sturgeon (*Acipenser medirostris*), Crotch’s bumble bee (*Bombus crotchii*).

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CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065.) In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, does not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Fully Protected Species

Fully protected species, such as white-tailed kite (*Elanus leucurus*) may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species;
- Live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code § 2081.15). Project proponents should consult with CDFW early in the project planning process.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests 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). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting river, lakes or streams and associated riparian

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habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through horizontal directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the SEIR and complied with its responsibilities as a responsible agency under CEQA.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist SJAFCA 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 document.

I. Project Description and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish Wildlife Service (USFWS)?

COMMENT 1: Riparian Brush Rabbit Habitat Quantification and Avoidance and Minimization

Issue: Riparian brush rabbit (*Sylvilagus bachmani*) and their habitat has the potential to be impacted by the Project. The mitigation parcels in the Manteca area are located within the range of riparian brush rabbit.

Specific impact: The SEIR states that 139 acres of riparian habitat will be impacted. However, there is no estimate of how much riparian brush rabbit habitat is expected to be impacted.

Why impact would occur: Although the 139 acres of riparian habitat will be mitigated by purchase of mitigation credits or creation of habitat at up to six mitigation parcels, no riparian brush rabbit credits currently exist and replacement of trees does not recreate riparian brush rabbit habitat.

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Evidence impact would be significant: Riparian brush rabbit is designated as a CESA endangered species and impacts to the species and its habitat would be considered a significant impact. The Project's alignment passes through an area containing the only known populations of the riparian brush rabbit in the Legal Delta. Riparian brush rabbit is endemic to the Central Valley of California and considered the most sensitive mammal in the state (Larsen 1993). The current population is approximately one percent of the historic population, primarily as a result of habitat destruction, fragmentation, and degradation. Approximately 90 percent of the Central Valley riparian forests that once existed have been eliminated. The species is also threatened by modification of riparian habitat through dams, diversions, and flood control activities as well as from rodenticides (Larsen 1993). Based on the foregoing, Project impacts would potentially restrict the range of riparian brush rabbit.

Vegetation removal for Project activities may impact riparian brush rabbit as they require dense ground cover for breeding (Larsen 1993). Additionally, vegetation clearing can cause habitat loss, fragmentation, and create edge effects that permeate far beyond the Project site (Harris 1988, Murcia 1995). An important issue for riparian brush rabbit is the availability of refugia from floods. Refugia sites must be above the level of inundation for catastrophic floods and must contain wild rose, native and non-native blackberry vines, and/or willows for cover as well as enough forage (forbs and grasses) to sustain populations of riparian brush rabbit for several weeks until floodwaters have receded.

Another consideration is the disturbance construction noise represents to riparian brush rabbit. When the ambient noise level is above baseline conditions, the ability to discern predators is reduced. Construction noise will increase the noise level above baseline conditions and could increase the predation risk to riparian brush rabbit..

Recommended Mitigation Measures: CDFW recommends that the SEIR identify how many acres of riparian brush rabbit habitat will be impacted during construction of levees and mitigation parcels. should assume presence of riparian brush rabbit. Impacts to riparian brush rabbit should be fully mitigated to offset the impacts to riparian brush rabbit and their habitat so that the impact is less-than-significant. CDFW recommends early consultation to discuss how to design and implement the Project to avoid take of riparian brush rabbit.

CDFW recommends adding the following avoidance, minimization, and mitigation measures to Appendix F (General Best Management Practices), page 18 in the SEIR Appendices:

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- Work Window. Avoid clearing riparian vegetation January through mid-June to avoid inadvertent take of kits. Work as close to the 10 AM to 4 PM window as possible, as rabbits are most active during morning and dusk hours;
- Exclusion Fencing. A buffer area shall include foraging areas adjacent to cover and be fenced to preclude riparian brush rabbit from entering the construction area; and
- Decontamination and Reporting. Due to the spread of rabbit hemorrhagic disease (RVHD2), sanitize boots and equipment with 10 percent bleach solution when working in potential riparian brush rabbit habitat and use gloves if handling live animals or carcasses. All observed morbidities/mortalities of any rabbit species shall be immediately reported to CDFW. More information about rabbit hemorrhagic disease can be found at <https://wildlife.ca.gov/Conservation/Laboratories/WildlifeHealth/Monitoring#55671861-rabbit-hemorrhagic-disease>.

Flood Refugia. If possible, design flood refugia into the restoration portions of the Project that are in potential riparian brush rabbit habitat. The Project design shall ensure that it does not create blockages to riparian brush rabbit dispersal along the Project alignment or prevent adequate gene flow between existing populations of riparian brush rabbit.

- Compensatory Mitigation. Compensatory mitigation shall focus on protecting, creating, and enhancing corridors between known populations of riparian brush rabbit. On-site, in-kind mitigation is preferred, followed by off-site, in-kind mitigation. If on-site restoration is not possible, a conservation easement can be put on riparian brush rabbit habitat off-site. The conservation easement shall be put on land of equal or greater conservation value as the Project site, include a management plan, and provide an endowment to manage the easement in perpetuity. The management plan should be developed prior to acquisition of the mitigation land. The conservation easement shall be placed on riparian brush rabbit habitat within San Joaquin County and within the range of the South Delta riparian brush rabbit habitat.

CDFW strongly recommends identifying riparian brush rabbit mitigation prior to Project implementation to avoid Project delays.

COMMENT 2: Burrowing Owl Avoidance and Minimization

Section: SEIR 3.11, Table 19, Appendix F (General Best Management Practices) in the SEIR Appendices, Pages 85, 18

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Issue: Table 19 in the SEIR shows burrowing owl as a State Species of Special Concern. Burrowing owl is a candidate species for CESA listing. Therefore, the mitigation measure in Appendix F may not adequately mitigate impacts to burrowing owl to less-than-significant.

Specific impact: Mitigation Measure 3.6-6 (Burrowing Owl Preconstruction Surveys) is not sufficiently protective to burrowing owl. It is not clear if one preconstruction survey or multiple preconstruction surveys are proposed to locate burrowing owl. A 250-foot buffer is not large enough. Eviction outside of nesting season is proposed, which would be considered take of burrowing owl.

Why impact would occur: Mitigation Measure 3.6-6 (Burrowing Owl Preconstruction Surveys) includes a survey for burrowing owl, however the one preconstruction survey required by Mitigation Measure 3.6-6 is inconsistent with the surveys recommended in the *Department of Fish and Game [currently CDFW] Staff Report on Burrowing Owl Mitigation (2012)* (CDFW 2012 Staff Report), which requires at least four surveys. The buffer distance in Mitigation Measure 3.6-6 of 250 feet (page 27 of Appendix F) may be too small to fully avoid impacts to burrowing owl, especially during the nesting season. Mitigation Measure 3.6-6 states that within a buffer “no new activity will be permissible” (page 27), suggesting that ongoing activities may impact any detected owls. Finally, Mitigation Measure 3.6-6 contemplates passive relocation (page 27). CDFW does not consider passive relocation to be a take avoidance measure because the long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under CESA and Fish and Game Code section 3503.5.

Evidence impact would be significant: The Project may impact nesting or wintering burrowing owl utilizing burrows or burrow surrogates on or within up to 500 meters (1,640 feet) of the Project site. The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Burrowing owl is a candidate species for CESA listing because the species’ population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; human disturbance; and eradication of California ground squirrels resulting in a loss of suitable burrows required by burrowing owl for nesting, protection from predators, and shelter (Shuford and Gardali 2008; CDFW 2012 Staff Report). Preliminary analyses of regional patterns for breeding populations of burrowing owl have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has

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experienced breeding range retraction (CDFW 2012 Staff Report). Burrowing owl have been extirpated from 16 percent of their former range and are at risk of being extirpated from another 13 percent of their range in the State (CDFW 2024). Therefore, if burrowing owl are wintering or nesting on or within 500 meters (1,640 feet) of the Project site, the Project may result in a substantial reduction in the number of a CESA candidate species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines sections 15065, subdivision (a)(1) and 15380.

Recommended Mitigation Measures: To reduce potential impacts to burrowing owl to less than significant and comply with CESA and Fish and Game Code section 3503 et seq., CDFW recommends including the below mitigation measures in the SEIR appendices:

- *Burrowing Owl Habitat Assessment and Surveys.* *A qualified biologist shall conduct a habitat assessment and surveys, if habitat is present, for wintering burrowing owl prior to construction if construction starts during the burrowing wintering season (September 1 to January 31). Surveys for breeding burrowing owl shall be conducted during the breeding season if construction starts during the breeding season, February 1 to August 31. The habitat assessment and surveys shall follow the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012) methodology (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) and the qualified biologist shall prepare a report documenting the survey results, and submit the report to CDFW, and obtain CDFW's written approval of the report prior to Project construction. The habitat assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur annually for the duration of the Project, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Surveys for either non-breeding or breeding burrowing owl shall be spread over four visits during the nonbreeding and breeding season (September 1 to January 31 and February 1 to August 31, respectively). Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to, a final survey within 24 hours prior to ground disturbance. If the habitat assessment does not identify suitable habitat and surveys are not conducted, an additional habitat assessment should be conducted within 14 days prior to construction. If new refugia are present, surveys should be conducted as described above, unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the above methodology. The Project shall immediately notify CDFW if burrowing owl is*

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detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities.

If burrowing owl is detected, it shall be avoided by 500 meters (1,640 feet), unless otherwise approved in writing by CDFW, and monitored by a qualified biologist to ensure avoidance. If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a CESA take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project site detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project site within the past three years and habitat has not had any substantial change that would make it no longer suitable. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted.

- *Cap Pipes and Hoses: To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.*

COMMENT 3: Burrowing Owl Mitigation

Appendix F should include mitigation of permanent impacts to burrowing owl habitat (for nesting, foraging, and wintering habitat) to reduce impacts to burrowing owl to less-than-significant. Mitigation lands for burrowing owl should include presence of burrows, burrow surrogates, presence of fossorial mammal dens, well-drained soils, abundant and available prey within close proximity to burrows, as well as foraging, wintering, and dispersal areas. The mitigation areas for burrowing owls should be currently occupied by owls and approved by CDFW prior to the start of Project-related activities.

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COMMENT 4: Crotch's Bumble Bee Avoidance and Minimization

Issue: Crotch's bumble bee is a candidate species under CESA (CEQA Guidelines, §15380, subds. (c)(1)). The Project area is within the current known range of Crotch's bumble bee and suitable nesting habitat for the species may be present in the Project area. The SEIR should consider the impact of Project activities on Crotch's bumble bee in the Project area. Unauthorized take of Crotch's bumble bee pursuant to CESA is a violation of California Fish and Game Code section 2080 et seq.

Evidence impact would be significant: Project activities, such as vegetation removal or ground-disturbing activities could result in permanent and/or temporary loss of floral resources for Crotch's bumble bee and other native pollinator species, loss of bumble bee nesting habitat, crushing, or filling of active bumble bee colonies and hibernating cavities, and reduced reproductive success. Bumble bees are critically important because they pollinate a wide range of plants over the lifecycles of their colonies, which typically live longer than most native solitary bee species.

Recommended Mitigation Measures: To reduce impacts to less-than-significant, CDFW recommends including the following mitigation measures in the SEIR:

- *Habitat Assessment. A habitat assessment shall be conducted within areas of all Project components by a qualified entomologist knowledgeable with the life history and ecological requirements of Crotch's bumble bee. The habitat assessment shall include all suitable nesting, overwintering, and foraging habitats within the Project area and surrounding areas. Potential nest habitat (February through October) could include that of other *Bombus* species such as bare ground, thatched grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other *Bombus* species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment shall be conducted during the peak bloom period for floral resources on which Crotch's bumble bee feed. Further guidance on habitat surveys can be found within Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (<https://wildlife.ca.gov/Conservation/CESA>).*
- *Bumble Bee Surveys. Based on results of the habitat assessment, bumble bee surveys shall be conducted within suitable Crotch's bumble bee habitat by a qualified entomologist familiar with the behavior and life history of the species. If CESA candidate bumble bees will be captured or handled, surveyors shall obtain any necessary handling permits such as a 2081(a) Memorandum of Understanding from CDFW. Surveys shall be conducted during the colony active period or gyne flight season (generally, April 1 to October 31). The survey shall occur at least two hours after sunrise (greater*

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than 60°F and less than 90°F with no rain) or two hours before sunset and the survey area shall include all suitable habitat within each of the Project component areas and a surrounding 100-foot buffer area. The survey duration shall be appropriate to the size of the Project site and buffer area based on the metric of a minimum of one person hour of searching per three acres of suitable habitat; this will be an approximately 0.5-hour survey for an average sized Project site. Bumble bees move nest sites each year; therefore, surveys shall be conducted each year that Project work activities will occur. Further guidance on presence surveys can be found within Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (<https://wildlife.ca.gov/Conservation/CESA>).

- *Avoidance of Nesting Colonies. Inactive small mammal burrows and thatched/bunch grasses shall be avoided whenever feasible. If an inactive burrow may be disturbed by Project activities, it shall be resurveyed for Crotch's bumble bee presence within seven days prior to the scheduled disturbance. If Crotch's bumble bee has been detected during surveys, the qualified entomologist shall identify the location of all nests in or adjacent to the Project site. If nests are identified, 15-meter no-disturbance buffer zones shall be established around nests to reduce the risk of disturbance or accidental take. If Project activities may result in disturbance or potential take, the qualified entomologist shall expand the buffer zone as necessary to prevent disturbance or take.*

If Project impacts to Crotch's bumble bee cannot be completely avoided, CDFW recommends the Project proponent apply for CESA take authorization under an ITP.

If the Project will result in permanent impacts to suitable Crotch's bumblebee habitat, CDFW recommends that the SEIR include compensatory mitigation for the habitat loss. Bumble bee floral resources should be mitigated at a 3:1 ratio for permanent impacts in the absence of information regarding the compensatory mitigation site. Floral resources should be replaced as close to their original location as is feasible. If active Crotch's bumble bee nests have been identified and floral resources cannot be replaced within 200 meters of their original location, floral resources should be planted in the most centrally available location relative to identified nests. This location should be no more than 1.5-km from any identified nest. Replaced floral resources may be split into multiple patches to meet distance requirements for multiple nests. The SEIR should state that mitigation lands will be protected in perpetuity under a conservation easement with an endowment established for long-term management of the lands.

II. Editorial Comments

1. Page 17 of the SEIR says purchase of mitigation bank credits should be approved through United States Army Corps of Engineers, United States Fish and Wildlife

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Service, and/or National Marine Fisheries Service. California Department of Fish and Wildlife must also approve of the mitigation bank.

2. Table 21 (Projected LSJR Project effects to special-status species and their habitats) on page 89 – consider adding a row to the table for riparian brush rabbit habitat.

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 (CNDDDB). 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>.

ENVIRONMENTAL DOCUMENT FILING FEES


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 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.)

CONCLUSION

CDFW appreciates the opportunity to comment on the SEIR to assist SJAFCA in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ben Huffer, Senior Environmental Scientist at Benjamin.Huffer@wildlife.ca.gov; or Andrea Boertien, Environmental Scientist, at Andrea.Boertien@wildlife.ca.gov or (707) 317-0388.

Sincerely,

DocuSigned by:

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Erin Chappell
Regional Manager
Bay Delta Region

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ec: Office of Land Use and Climate Innovation (SCH No. 2010012027)
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REFERENCES

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