

Appendix H

Comments Received on Draft Program EIR

Letter 1

From: Ashley S. Goldlist <AGoldlist@co.slo.ca.us>
Sent: Friday, June 3, 2022 4:45 PM
To: PL_pasoplanting <PL_pasoplanting@co.slo.ca.us>
Subject: Paso Basin Land Use Management Area Planting Ordinance

Good Morning,

The SLO County Air Pollution Control District does not have any comments on the Paso Basin Land Use management Area Planting Ordinance. We appreciate the opportunity to review.

1

Thank you,

Ashley Goldlist | *Air Quality Specialist*
SLO County Air Pollution Control District
3433 Roberto Court, SLO 93401
805-781-5983 • SLOCleanAir.org



Letter 2

From: Laurie Gage, EPCWD Administrator <lg@epcwd.org>
Sent: Wednesday, June 8, 2022 4:58 PM
To: Kylie Hensley <khensley@co.slo.ca.us>
Cc: lr@epcwd.org <lr@epcwd.org>; dm_epcwd.org <dm@epcwd.org>; Airlin Singewald <asingewald@co.slo.ca.us>
Subject: [EXT]comments on Draft PEIR

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Hi Kylie,

The Estrella-El Pomar-Creston Water District would like the attached comments, originally formulated in November 2021, to be included now as comments for the Draft PEIR for the Paso Basin Land Use Planting Ordinance.

Thank you again for the opportunity to comment.

Laurie Gage
District Administrator
Estrella-El Pomar-Creston Water District
lg@epcwd.org



Estrella-El Pomar-Creston Water District

P.O. Box 1499
Paso Robles, CA 93447
805-354-5158

www.epcwd.org info@epcwd.org

November 22, 2021

Department of Planning and Building
ATTN: Planting Ordinance/Kylie Hensley
976 Osos Street, Room 300
San Luis Obispo, CA 93408

At a special meeting on November 22, 2021, The Board of Directors of the Estrella-El Pomar-Creston Water District (EPCWD) voted to submit the following comments on the Public Review Draft of the Paso Basin Land Use Planting Ordinance (Planting Ordinance).

1. The Sustainable Groundwater Management Act (SGMA) is the appropriate regulatory agent to balance the Paso Robles Groundwater Basin.

This planting ordinance creates an additional regulatory requirement for farmers over the Paso Robles Groundwater Basin and aims to circumvent SGMA. If it is approved, farmers will be bound to satisfy two regulatory structures and different boundaries.

2

Recommendation: Allow SGMA to serve its purpose in establishing local control over bringing the Basin to sustainable levels.

2. The County must recognize who is growing what crop(s), in what quantity, and where.

The new Planting Ordinance as proposed would, in effect, establish a baseline “annual water demand” for each parcel. As of the date the new Planting Ordinance becomes effective, each parcel in the Basin would receive a baseline “annual water demand credit” for the existing crop(s) in production. This is the de facto method the Offset/WNND Ordinances currently uses. It is understood and works.

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Recommendation: This is a sound approach and would allow the County and landowners to agree on the existing land use.

3. Parameters allowing farmers to continue their agricultural operations unimpeded into the future are not clearly explained.

As part of normal and routine agricultural operations, landowners may find it necessary to make changes in crops and or reconfigure planted acreage within a parcel. These operations may include but are not limited to activities such as replanting, crop rotation, grafting, interplanting, irrigation installation, soil preparation, and rehabilitation of existing permanent crops. If changes to farming practices in the parcel’s annual water demand do not result in a net increase in the annual water demand, then farmers may proceed with their operational changes without County involvement.

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Recommendation: These normal and routine operations should be exempted from the County’s new Planting Ordinance. Normal operations should be able to continue without County involvement.

4
(cont).

4. The proposed Planting Ordinance should recognize lands NOT in crop production at the time the Planting Ordinance becomes effective.

Landowners whose lands are not in crop production at the time of the effective date of the Planting Ordinance would be allowed to “look back” and provide evidence that previous crop production has taken place in the six years prior to the effective date of the Planting Ordinance. This would allow the landowner to establish baseline water demands for lands previously irrigated.

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Recommendation: The Planting Ordinance should recognize the principle expressed above and provide for a six-year “look back”. Language in the Planting Ordinance should establish “look back” criteria and methodology.

5. Termination date of the proposed Planting Ordinance is excessive.

With an expiration date in 2045, this ordinance prevents new or expanded crop production for 23 years without regard to changes in our water resiliency that may be brought about through implementation of our groundwater sustainability plan. Many things can happen over the next 23 years and the Planting Ordinance may become obsolete before its expiration.

6

Recommendation: The new Planting Ordinance should sunset five years from date of adoption and should provide for five-year extension(s) if approved by the County.

6. The current 5AFY Planting Exemption should not be increased to 25AFY.

The current Urgency/WNND Ordinances provides for an exemption for planting new crops with annual water demands of a maximum of 5AFY. The proposed Planting Ordinance would increase pumping from 5 acre-feet per year (AFY) to 25 AFY without a permit for an estimated 4,800 property owners in the Basin. This could increase the demand on our Basin by 96,000 AFY, an obvious undesirable effect that could trigger management of our Basin by the California Department of Water Resources.

7

Recommendation: Keep the Exemption Planting carve-out at the current level of 5AFY.

7. The Planting Ordinance should address “new or expanded” plantings.

The purpose of the Planting Ordinance is to prevent any planting that may result in increased demand on groundwater pumping. The two existing Offset/WNND Ordinances currently restrict new net planting increases.

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Recommendation: The Planting Ordinance should prohibit plantings where the established annual water demand of a parcel exceeds the parcel’s established baseline annual water demand credit.

8. The Planting Ordinance contains confusing and unclear terms and definitions.

The planting ordinance uses the term “site” and assigns an arbitrary definition to the word. This is a special construct present in the proposed new Planting Ordinance. It’s not clear why it is included and to what purpose it serves. Sites create an extra level of complexity. Sites can be easily de-constructed by changes in property Title. Sites can discriminate on how parcels are treated based on ownership.

9

Recommendation: The term “site” should be eliminated from the Planting Ordinance and the Planting Ordinance should instead focus on parcels.

9. The Dry Cropland section of the Planting Ordinance should be better defined and constructed.

Recommendation: This section of the draft Planting Ordinance should be rewritten to provide clarity.

10

10. Giving County Planning and Building Department staff authority to conduct annual inspections of farms and ranches is an unacceptable request.

Section E. Procedures allows County staff to “conduct annual site inspections for sites with an approved planting permit or exemption verification...to monitor the planting status before and after confirmation of final planting.” Considering this permission lasts for 23 years, this new authority is a breach of trust and an unreasonable expectation.

11

Recommendation: Remove language stating that annual site inspections will be conducted.

11. Language with regards to well construction permitting is contradictory and should be edited.

We are concerned that that Planting Ordinance implies that permitting for well construction will be subject to a discretionary permit under the new ordinance. In addition, the language in the Planting Ordinance is contradictory to the existing County Code.

12

Recommendation: This section should be edited for clarity and consistency with existing County Code.

We offer our sincere thanks for the opportunity to comment and your careful consideration of our concerns.

Sincerely,



Dana Merrill
President, Board of Directors
Estrella-El Pomar-Creston Water District

Letter 3

June 24, 2022

Respectfully submitted to the;
San Luis Obispo County Planning & Building

Subject: Draft Program Environment Impact Report for the
Paso Robles Land Use Management Area Planting Ordinance

As a property owner in Templeton, I have been following this issue for years, and I am surprised on how long this has taken since the County Commission voted to move forward with this new Planting Ordinance. The new proposed plan is a good and fair plan that takes into account the small property owners in the County that have fallen under this previous restriction for the last number of years.

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I received notice of this Environmental Impact Report and did my best to read as much as I could, and that I could understand, of the volumes of narrative that have been created for this purpose. It is overwhelming how much effort that has been put forth in reviewing the supposed impact of this proposed regulation.

2

The County Commission has voted and instructed the Department of Planning to move forward with this new regulation, and it seems to me as I read this report, that those that prepared this report want to sway the County Commissioners to change their existing decision. That is not what was asked for from the Council.

Great liberties were taken in this assessment of the number of property owners that would, all-of-a sudden, take advantage of this new exception and plant acres and acres of new crops and use huge amount of water from our existing water table resources. These numbers of supposed new crops that would be undertaken because of this change, is a huge overstatement of the possible implications of the change.

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The minor exemption for farms to plant irrigated crops with the new proposed requirement would not amount to any number near what is stated in this report. These are small property owners that have this desire to plant a small number of crops for their own use and purposes. They have been denied this opportunity for years. And there are many of these property owners that use their land for grazing and will continue to do so. This change does not allow for any major commercial type planting! All this does is give the small property owner the ability to do something with their land for their own use, but that has been denied them over the past few years.

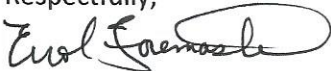
The large property and farming entities in the County are the ones that are behind pushing the viewpoint that this change will have a huge dramatic impact on our water resources. They are the ones that want to have access to all the water, and do not want to give the little farmer any break.

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I plead with the Commission to continue and move forward with the changes to the Planting Ordinance as has been directed by previous Council Meetings and get this set into place to take effect later this year. Please follow through and give the small property owners the ability to work their land for their own personal use and enjoyment.

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Respectfully,



Errol Foremaster
Templeton Property Owner



June 27, 2022

Comments by the San Luis Obispo Chapter of the California Native Plant Society on Draft Program Environmental Impact Report SCH#2021080222

Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance

CNPS Mission, Introductory Statement, and Project Description

The Mission of the California Native Plant Society (CNPS) is to protect CA's native plants and their natural habitats, today and into the future, through science, education, stewardship, gardening and advocacy. The CNPS 2022-2026 Strategic Plan includes goals and strategies enabling its Chapters to engage in advocacy for conservation purposes.

1

As stated by CDFW in their comment letter on the Notice of Preparation: "The County proposes to adopt the Paso Basin Land Use Management Area Planting Ordinance consisting of amendments to the County Land Use Ordinance (Title 22) and Agriculture and Conservation and Open Space Elements of the County General Plan (LRP2021-00001) to require ministerial land use approval ("a planting permit") until 2045 for new or expanded planting of irrigated crops irrigated with water from groundwater wells located within the Paso Basin Land Use Management Area with a two-tier framework."

2

Page 1-1 of the DPEIR states: "If this PEIR is certified by the lead agency's (County) decision-makers, the County would be able to issue ministerial planting permits for water neutral crop plantings if such plantings meet the requirement presented in Section 2.5, *Project Characteristics*. Certification of the PEIR would also result in exemption of new or expanded crop plantings with an estimated total water demand of 25 AFY or less per site, including existing crops. No subsequent activities that would be allowed by the proposed ordinance would require discretionary permits from the County. **Therefore, additional CEQA clearance would not be required for individual requests to allow plantings once the proposed ordinance is effective.**"

The California Native Plant Society (CNPS) expresses its concern regarding the Planting Ordinance's impacts on the increasingly degraded condition of riparian and wetland ecosystems in the Paso Robles Basin. Historically many springs existed within the basin, and some wells had continued artesian flow to wetlands.

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Continued over exploitation of groundwater has lessened the availability of water being discharged to streams and lessened the length of the season in which there is channel flow.

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CNPS finds the analysis of impacts by the Draft Program Environmental Impact Report (DPEIR) to be largely correct and thorough. We note that the Biological Resources Section identifies Significant and Unavoidable adverse effects on (1) candidate, sensitive or special status species; (2) sensitive habitats, including riparian habitats; and (3) wildlife movement. The following is a point-by-point analysis of the document. We thank the County for this opportunity.

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Comment on Impacts on Biological Resources

CNPS concurs with the DPEIR that an expanded footprint of irrigated agriculture into lands that were formerly grassland or native habitat will have an impact that might not be mitigated, given the protection given under law that exempts production agriculture from expansion provided no listed species would be affected.

6

We are especially concerned about riparian habitats. We reiterate what CDFW has indicated in their comment letter on the NOP: "Project activities have the potential to result in temporary and permanent impacts to these features through groundwater pumping, habitat conversion, grading, fill, and related development. Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow."

7

Under the DPEIR, potential impacts are correctly identified as Significant and Unavoidable (Class I). The DPEIR includes only 3 mitigations for biological resources: (1) a 50 ft. setback for riparian and wetland areas, (2) monitoring of water use; and (3) a hydrology report showing non-interference with neighboring wells.

8

The PDPEIR states that any subsequent analysis would be considered by the next tier of studies under the Program part of the DPEIR. However, such analysis will be ministerial, out of the public eye and not subject to public input or scrutiny.

9

CNPS concurs with Section 4.3.4 of the DPEIR that "*There are no additional feasible mitigation measures available to reduce impacts to biological resources.*" However the 25 AFY additional parcel demand allowed under this ordinance is a functional gifting of a public resource under which additional conditions might be imposed by the County. **Thus CNPS suggests, for any parcel seeking the 25 AFY exemption, that mitigation be demonstrated for any impacted listed species that are identified under any project covered by the umbrella of the PEIR. CNPS draws**

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attention to section 1.2 of the DPEIR that states "Use of a PEIR provides the County (as the CEQA lead agency) with the opportunity to consider broad policy alternatives and program-wide mitigation measures and provides the County with greater flexibility to address environmental issues and/or cumulative impacts on a comprehensive basis."

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(cont.)

Comments on Project Objectives

The first listed objective is: *Continue to exercise the County's land use authority to regulate the planting of production agriculture irrigated from groundwater wells within the PBLUMA with ministerial permits not subject to CEQA review.*

This authority is proposed to be ministerial, which closes the granting of planting permits to public review. For example, there is a requirement under the Ordinance that if parcels are contiguous and under one ownership, they would be limited to a single exemption. This could be circumvented by registering each parcel to a different family member, which is a game played successfully in the Westlands Water District in the Central Valley. Removal from public review of what would be a selective approval process also raises the spectre of possible corruption of favoritism in the granting of exemptions.

11

Notwithstanding that CNPS opposes any additional 25 AFY exemptions, if the Ordinance was to include the parcel exemption, CNPS suggests that the Ordinance include language that voids an award of the 25 AFY exemption to any division of ownership within a parcel considered a single unit at the time the ordinance comes into effect.

•The second listed objective is: *Require new crop plantings that are to be irrigated from groundwater wells within the PBLUMA to be "water neutral," meaning new crops replace crops that are estimated to have had the same water demand and have been fallowed/removed within a certain time frame.*

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This is the heart of an offset ordinance, but as it is subject to the diminishment in effectiveness which is allowed under every Alternative but Alternative 4, it is meaningless.

•The third listed objective is: *Allowance of an exemption for farms to plant irrigated crops that were not able to under the existing agricultural offset requirements.*

13

This is the poison pill that voids both the second objective of moderating water demand and the requirements of SGMA.

•The fourth listed objective is: *Conserve groundwater resources in the PBLUMA for use by production agriculture in a manner that is equitable and consistent with groundwater rights.*

14

This objective fails to recognize that agriculture is not the only user of groundwater in the basin, although it already takes the 'lion's share'. Groundwater law is complicated, especially in regard to the regulation of the water itself, considered in law to be a 'commons', and, also in law, the right of individuals to pump from beneath their land. Therefore the phrase "*consistent with groundwater rights*" raises the issue of whose rights are we talking about. Urban users, fisheries, riparian health and listed species all hold values that might be defended in court. An individual's 'right' to pump will also be potentially diminished under SGMA.

14
(cont.)

•The fifth listed objective is: *Support and promote a healthy and competitive agricultural industry in the PBLUMA, whose products are recognized in national and international markets as being produced in San Luis Obispo County.*

This seems to be at odds with a planned aggravation of groundwater deficit problems allowed by this same ordinance, making production more expensive, lowering irrigation water quality due to mineralization of the deep waters of the basin, and pushing marginal operations into economic stress.

15

For example, The Los Angeles Times reported on June 12, 2022 reported that the the Central Valley's Community Alliance with Family Farmers noted that "*few agencies have been considering the effects on farmers that cultivate small acreages and typically have shallower wells..... that while larger farms are regularly drilling deeper wells, smaller farms with shallower wells have been going dry*".

The sixth objective is: *Encourage and facilitate smaller production agriculture operations.*

That smaller groundwater withdrawals will be required in the near future is beyond doubt, both due to depletion of supply and by the requirements of SGMA. However, because of the increased cost of irrigation due to deeper well requirements and possible production quality due to worsening water quality, it is likely that smaller farm operations will be forced to sell out to the largest farming operations. So we will see larger production agriculture operations, not smaller. (see L.A. Times quote above).

16

Comments on Project Alternatives

The current agricultural offset ordinance requires that any new groundwater-supplied irrigated crop plantings must be offset to the extent that there is no net loss to groundwater storage in the basin. The Sustainable Groundwater Management Act (SGMA) makes this a long-term requirement for the Paso Robles Groundwater Basin. The DPEIR states on p. ES-3:

17

The existing overdraft conditions in the Paso Robles Subbasin, which are projected to be 13,700 AFY in the Paso Robles Subbasin Groundwater Sustainability Plan (GSP), will be addressed through management actions implemented by the Groundwater Sustainability Agencies (GSAs). Such actions are separate from the proposed project and therefore are not subject to this PEIR.

CNPS is concerned that divorcing the impacts of this Ordinance from the ability of a Groundwater Sustainability Agency (GSA) to reach its conservation goals, as required by law, is a fundamental weakness of the Ordinance and analysis under the PEIR. This is particularly concerning as the County is a major member of the GSA and is displaying a potential conflict of interest.

18

The DPEIR makes an accurate analysis of project alternatives, showing that continuation of the existing 25 AFY so-called 'de-minimus' exemption will have adverse impacts. This impact is allowed under the proposed ordinance, Alternative 2 (continuation of existing ordinance) and partially in Alternative 3 (for parts of the Basin not under 'severe decline') would contribute a further groundwater demand of 396 AFY under Alternative 3, and an astounding 13,360 AFY under Alternative 2. This clearly antithetical to the goals of SGMA, that require not just well water level stabilization, but well water level recovery.

19

Alternative 1 allows the existing ordinance to expire, removes any regulations on irrigated crop acreage, and appears to rely on the Paso Basin Groundwater Sustainability Plan as the means of controlling groundwater extractions. As SGMA requires that groundwater stabilization be achieved by 2040, and the DPEIR shows this Alternative would increase demand each and every year by a further 666-1,306 AFY, this clearly would tax basin resources so severely that future storage capacity would be impacted.

20

CNPS concurs that Alternative 4 is the environmentally superior alternative, as it removes the 25 AFY exemption and requires full offsets throughout the basin, resulting in no increase in overall irrigated cropland, ground disturbance, accessory infrastructure, or vehicle trips, and therefore fewer impacts to biological resources. Even this does nothing to decrease existing deficit pumping, which will probably require a reduction in irrigated demand to satisfy SGMA requirements.

21

Comment on proposed changes to the Conservation and Open Space Element of the General Plan.

The DPEIR on page 2-14 notes that the Existing Water Resources Policy 1.14 is to *avoid a net increase in use in groundwater basins certified at Level of Severity II or III for water supply*, would be changed to instead *limit a net increase in water use except where the new increase is the result of actions to promote the agricultural use of the supply in a manner that is equitable and consistent with groundwater rights.*

22

This contradicts the expected requirements of SGMA, not just for Paso Robles but for the entire inland portion of the county. CNPS finds this proposed change in the General Plan to be unacceptable, raising the power of agricultural users over those of all other competing users of the resource.

Summary of CNPS Concerns regarding the Proposed Ordinance and its analysis under the DPEIR.

(1) The Ordinance aggravates the deteriorating groundwater conditions in the Paso Robles Basin, and is antithetical to the intent of SGMA

(2) The Ordinance makes no accommodation of likely changes necessitated by irrigation reductions that will probably be required under SGMA.

(3) Of the Alternative Projects analyzed by the DPEIR, only Alternative 4 does not aggravate demands, but even that does not address to the manage a reduction of the demand by irrigated agriculture.

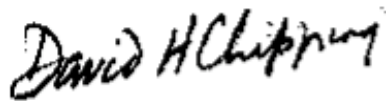
(4) The Ordinance does not attempt to condition additional 25 AFY exemptions to protecting natural resources, nor does the DPEIR discuss the concept of moving beyond CEQA agricultural exemptions

(5) CNPS strongly objects to proposed changes of Existing Water Resources Policy 1.14

(6) CNPS objects to using a PEIR to cover ministerial projects away from the eyes of the public, especially when impacts to surface water resources may be both adverse and cumulative in time of drought.

23

CNPS thanks you for this opportunity to comment.



David Chipping: Conservation Chair.

SLO Chapter of the California Native Plant Society

Contact: dchippin@calpoly.edu (805) 528-0914

Letter 5



Santa Ynez Band of Chumash Indians Tribal Elders' Council

P.O. Box 517 ♦ Santa Ynez ♦ CA ♦ 93460

Phone: (805)688-7997 ♦ Fax: (805)688-9578 ♦ Email: elders@santaynezchumash.org

June 27, 2022

San Luis Obispo County
Department of Planning & Building
976 Osos St., Rm 200
San Luis Obispo, CA 93408-2040

Att.: Kylie Hensley, Planner III

Re: Paso Basin Land Use Management Area Planting Ordinance

Dear Ms. Hensley:

Thank you for contacting the Tribal Elders' Council for the Santa Ynez Band of Chumash Indians.

At this time, the Elders' Council requests no further consultation on this project; however, if supplementary literature reveals additional information, or if the scope of the work changes, we kindly ask to be notified.

If you decide to have the presence of a Native American monitor in place during ground disturbance to assure that any cultural items unearthed be identified as quickly as possible, please contact our office or Chumash of the project area.

Thank you for remembering that at one time our ancestors walked this sacred land.

Sincerely Yours,

Crystal Mendoza

Crystal Mendoza
Administrative Assistant | Cultural Resource Management
Santa Ynez Band of Chumash Indians | Tribal Hall
(805) 325-5537

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cmendoza@santaynezchumash-nsn.gov

Letter 6



SLO County of San Luis Obispo
976 Osos Street Room 20
San Luis Obispo, CA 93408

July 5, 2022

TO: Kylie Hensley
Sent Via email: khensley@co.slo.ca.us

RE: Draft Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance Draft Program Environmental Impact Report (PEIR)

The PBLUMA Planting Ordinance is evaluated with a Program EIR (PEIR). The purpose of a PEIR is, among other things, “administrative efficiency.” (Per the CEQA Guidelines, “...Program EIRs can be used to evaluate a series of connected actions, such as adoption and implementation of regulations or land use plans, in one environmental document. Section 15168 of the CEQA Guidelines governs the preparation and later use of program EIRs. ...[P]rogram EIRs are particularly useful in addressing big picture alternatives and cumulative impacts. When a program EIR is sufficiently detailed, later activities may be approved on the basis of that document without conducting further environmental review.”ⁱ)

1

Under the umbrella of a PEIR, the legislative intent was that environmental impacts were to be fully reviewed and mitigated under CEQA, including the site-specific projects “under the scope” of the PEIR, and that cumulative impacts undergo a careful review. The PEIR should not minimize or ignore potentially significant impacts that may be associated with site-specific projects.

If additional site-specific analysis is needed, a CEQA “tiering” process is described in section 15152. Tiering analyzes impacts of PEIR projects that were not adequately analyzed in the PEIR.

The PBLUMA PEIR identifies 16 Class 1 impacts, even with an insufficient basis of site-specific information. This cries out for mandatory focused site-specific EIRs. CEQA requires that impacts be mitigated to the greatest extent feasible even though the impacts might still be Class 1 after mitigation. The PBLUMA PEIR can be used to simplify the preparation of environmental documents on later activitiesⁱⁱ in the program but it cannot be used to circumvent analysis of site-specific impacts identified as Class 1 and other potential impacts that must be mitigated under CEQA. CEQA language at 15168 (c) is clear. Later activities must be examined to determine whether an additional environmental document must be prepared. Permits for 25 afy to supply irrigated acreage in a critically overdrafted basin must undergo additional analysis.

2

The language in the PBLUMA Planting Ordinance must be revised to require the preparation of a tiered EIR for the ministerial permits. If, as the PEIR states, “Mitigation measures that would require County staff to exercise subjective judgement would be infeasible and are therefore not included in this document,” the only alternative is preparation of an additional site-specific EIR.

3

The changes proposed in the PBLUMA Planting Ordinance should correctly be proposed as a Conditional Use Permits rather than ministerial permits.

4

The environmental impacts cited in the proposed Planting Ordinance are astonishing in their scope and severity. A focused EIR must be required to identify and mitigate impacts cited as Class 1.

Impact AQ-2. The proposed planting ordinance would generate criteria pollutants that would exceed applicable SLOAPCD thresholds. Impacts would be significant and unavoidable (Class I).

Impact BIO-1: The proposed planting ordinance would potentially result in substantial adverse impacts on special status plant and animal species, either directly or through habitat modifications. Impacts would be significant and unavoidable (Class I).

Impact BIO-2: The proposed planting ordinance may result in substantial adverse impacts on sensitive habitats, including riparian and wetland habitats. Impacts would be significant and unavoidable (Class I).

Impact BIO-4. The proposed planting ordinance may substantially interfere with wildlife movement, including fish migration and/or impede the use of a native wildlife nursery. Impacts would be significant and unavoidable (Class I).

Impact CUL-1. The proposed planting ordinance could result in potentially significant impacts to historical resources either directly and/or indirectly, as well as impacts to historical settings from introduction of a new land use (i.e., agriculture). Impacts would be significant and unavoidable (Class I).

Impact CUL-2. The proposed planting ordinance could result in potentially significant and unavoidable impacts to archeological resources (Class I).

Impact GEO-4. The proposed planting ordinance has the potential to impact paleontological resources through ground-disturbing activities. Impacts would be significant and unavoidable (Class I).

Impact GHG-1. The proposed planting ordinance would generate greenhouse gas emissions in excess of the significant thresholds. Impacts would be significant and unavoidable (Class I).

Impact GHG-2: The proposed planting ordinance would be potentially inconsistent with applicable plans, policies, and regulations designed to reduce GHG emissions. Impacts would be significant and unavoidable (Class I).

Impact HYD-2. The proposed planting ordinance would result in a combination of decreasing water levels and increasing pollutant amounts throughout the PBLUMA that may degrade surface or groundwater quality. Impacts would be significant and unavoidable (Class I).

Impact HYD-3. The proposed planting ordinance would decrease groundwater supplies such that sustainable groundwater management of the Paso Robles Subbasin would be impeded. Impacts would be significant and unavoidable (Class I).

Impact HYD-5. The proposed planting ordinance may result in water quality impacts within the Paso Robles Subbasin that conflict with goals reducing water quality pollution, achieving water quality objectives, and maintaining beneficial uses identified in the Basin Plan. Impacts would be significant and unavoidable (Class I).

Impact HYD-6. Increased groundwater extraction allowed by the proposed planting ordinance would conflict with the GSP's goal of sustainable groundwater management and with the GSP's projections for groundwater extraction within the Paso Robles Subbasin. Impacts would be significant and unavoidable (Class I).

Impact LU-1: The proposed planting ordinance would result in potential General Plan policy inconsistencies regarding air quality, groundwater, biological resources, greenhouse gas emissions, cultural, tribal cultural, and paleontological resources. Impacts would be significant and unavoidable (Class I).

Impact TCR-1. The proposed planting ordinance includes activities that may involve surface excavation, which has the potential to impact previously unidentified tribal cultural resources. Impacts would be significant and unavoidable (Class I).

Impact UTIL-2. Implementation of the proposed planting ordinance would increase water use and exacerbate overdraft conditions within the PBLUMA. Impacts would be significant and unavoidable (Class I).

5

Specifically, regarding BIO-1,2, and 4, a permit for site-specific projects will require a focused EIR to survey for threatened and endangered species, and sensitive habitats. There is no Habitat Conservation Plan that covers the area proposed for the Planting Ordinance, therefore, an Incidental Take Permit would be required if endangered species are present on the site.

6

Class 1 impacts to Basin Hydrology have the potential to permanently, irreversibly impact over 15,000 residents who live over the Paso Basin and rely entirely on groundwater for their water supply. Residents could find themselves with no water at all or water that continues to be degraded by increased TDS and pollutants (nitrates). There are no alternatives for the residents who rely on the Paso Basin for their water supply. Allowing increased irrigated acreage in a basin that is in serious overdraft and is experiencing exponentially declining water storage is unconscionable. Under the Planting Ordinance, ongoing depletion of a critical groundwater basin would remain a Class 1 impact, one that no Statement of Overriding Consideration could realistically justify.

7

Irrigated ag operations are already facing mandatory cuts in pumping to stop the depletion of the Basin and balance the Basin by 2040. Increasing irrigated acreage under the Planting Ordinance could be devastating for current operations and the local economy. The Planting Ordinance should be reworked as a CUP process or discarded.

8

A suitable interim Alternative to the Planting Ordinance would be to extend the current 1:1 offset program until at least 2030 or until DWR has approved a GSP and monitoring and data collection protocols are in place to ensure that Basin depletion has been stopped and sufficient data has been collected to determine what impacts might result from increased irrigated acreage.

9

Thank you for your consideration of our comments,

Susan Harvey, Chair
Conservation Committee
Sierra Club Santa Lucia Chapter
P.O. Box 15755
San Luis Obispo, CA 93406
805-543-8717

sierraclub8@gmail.com

ⁱ OPR https://opr.ca.gov/ceqa/docs/20171127_Comprehensive_CEQA_Guidelines_Package_Nov_2017.pdf p. 13

ⁱⁱ § 15168. Program EIR (c)(1); (d)(1)



July 5, 2022

VIA EMAIL

Ms. Kylie Hensley, Planner
County of San Luis Obispo
976 Osos Street Room 200
San Luis Obispo, CA 93408
khensley@co.slo.ca.us

Dear Ms. Hensley:

PASO BASIN LAND USE PLANTING ORDINANCE (State Clearinghouse NO. 2021080222)

Thank you for requesting comment from the California Geologic Energy Management Division (CalGEM) regarding the above project. CalGEM provides the following information for your consideration:

- There are approximately one hundred-sixty or more plugged and abandoned oil and gas prospect wells located throughout the Paso Basin Land Use Management Area. These wells, most of which are labeled as "Dry Hole" in CalGEM records, have the potential to be impacted by development activities. The approximate locations and records for these wells can be viewed at:
<https://www.conservation.ca.gov/calgem/Pages/WellFinder.aspx> | 1
- Public Resources Code section 3208.1 establishes well re-abandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. CalGEM statutes and regulations are available here: <https://www.conservation.ca.gov/index/Documents/CALGEM-SR-1%20Web%20Copy.pdf> | 2
- CalGEM categorically advises against building over, or in any way impeding access to plugged and abandoned oil wells. | 3
- Please contact CalGEM for recommendations and comment regarding proposed development in areas where plugged and abandoned oil wells are located. | 4

Sincerely,

Miguel Cabrera

Miguel Cabrera,
Northern District Deputy

ZN:jj:ks

cc: chrono, CSWR, pasoplanting@co.slo.ca.us

Letter 8

From: Patricia Wilmore <pwilmore@pasowine.com>

Sent: Wednesday, July 6, 2022 12:45 PM

To: Kylie Hensley <khensley@co.slo.ca.us>

Cc: Airlin Singewald <asingewald@co.slo.ca.us>

Subject: [EXT]Paso Robles Wine Country Alliance comments on the Draft Program Environmental Report (PEIR) for the Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Hello Kylie,

Please find the PRWCA comments attached.

Thank you,
Patricia

Patricia Wilmore
Government Affairs Coordinator
Paso Robles Wine Country Alliance
Cell. 805-434-8336

San Luis Obispo County Department of Planning and Building
ATTN: Kylie Hensley
RE: Draft Program Environmental Impact Report (PEIR) for the Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance

The Paso Robles Wine Country Alliance, some 600 members strong including a significant number of growers and vineyard managers who farm over the Paso Basin, offers the following comments on the PEIR noted above.

2

In general, we are concerned about the numerous negative impacts this ordinance will have, including 16 Class 1 impacts. Among the alternatives listed, only Alternative 2 makes any attempt to align with the implementation of the Groundwater Sustainability Plan (GSP) into which the County has already invested significant time and money. The GSP is designed to be our guiding principle in Basin management; however, the Planting Ordinance ignores the principles in the GSP and goes about trying to use county land use authority in a way that, in fact, further depletes the Basin.

3

Continuing the existing agricultural offset requirements until 2026 anticipates that GSP implementation will be underway at that time which will likely be the case, according to the County's own Groundwater Sustainability Director. We look forward to having programs in place that will guide us to sustainability and bring funds and new water sources to support Basin management. Such implementation will also address an objective of the planting ordinance, i.e., encourage and facilitate smaller agriculture operations.

4

The impact of allowing a 25 acre-feet exemption per year (AFY) clearly represents a significant increase in groundwater use, further depleting the Basin. It seems illogical that the County, as the Groundwater Sustainability Agency (GSA) for the Basin, would develop a GSP then adopt an ordinance that contradicts the goals of its own GSP.

5

The introduction of mitigation measures and new requirements as listed in the PEIR for normal and customary agricultural operations changes the fundamental relationship between the County and agriculture. Further, it is our understanding that the proposed ordinance would apply to all planting, including replanting of existing farmland. This is a departure from the current agricultural offset requirements that will have substantial effects as our farmers have built business plans and future programs based on the existing Agricultural Offset Program.

6

The Draft PEIR failed to discuss the significant economic impacts that will result from the proposed Planting Ordinance, including the direct cost of implementing mitigation measures and the potential loss of existing farmland due to the increased pumping as allowed by the 25 AFY exemption. Further, the lack of an economic analysis does not address the fact that our members, among others, have made decisions based on the current rules but with the knowledge that the GSP will eventually phase in and that will mean a shift in rules and requirements.

7

Adopting a new ordinance which introduces a whole set of new regulations and mitigations is too consequential for farmers and will result in inefficiency and disincentives to the hundreds of businesses currently invested in the success of agriculture in our County. The more desirable outcome, and the one that aligns with the GSP, is to extend the current ordinance to 2026 and rely on the GSP to guide us to sustainability for the Paso Basin.

8

Letter 9



COUNTY OF SAN LUIS OBISPO

DEPARTMENT OF AGRICULTURE / WEIGHTS & MEASURES

Martin Settevendemie, Agricultural Commissioner / Sealer of Weights & Measures

DATE: July 6, 2022
TO: Kylie Hensley, Project Manager
FROM: Ian N. Landreth, Department of Agriculture / Weights & Measures
SUBJECT: Paso Basin Land Use Management Area Planting Ordinance- LRP2021-00001 (3328)

Comments

Thank you for the opportunity to comment on the proposed Paso Basin Land Use Management Area Planting Ordinance Draft Environmental Impact Report (DEIR). The following comments are based on current departmental policy to conserve agricultural resources and to provide for public health, safety and welfare while mitigating negative impacts of development to agriculture.

1. 4.1.1 - Setting - Agriculture and Forestry Resources. The department has concerns with the methodology used to evaluate the impacts the proposed planting ordinance would have on Williamson Act contracted land. The DEIR states it is too speculative to estimate the number of sites under Williamson Act contracts that have not maintained their qualifying irrigated agricultural use. At a minimum, the DEIR should identify a sample size of Williamson Act contracted land based on an array of qualifying contract criteria that can be extrapolated to provide additional analysis to evaluate the potential impacts of the proposed ordinance on contracted lands.
2. 4.13 - Utilities and Service Systems - Impact UTIL-2; Appendix B. The impact analysis states that sites with new or expanded crop plantings that demand a total of 25 AFY or less per site would be exempt from a planting permit. Appendix B of the DEIR quantifies this would result in an unavoidable additional annual groundwater extraction of approximately 450 AFY, for a total increase of 9,900 AFY by 2045 to an already critically over drafted Paso Robles Subbasin. The additional demand on the basin could result in both water quality and water accessibility issues. As groundwater levels decrease, existing agricultural operations could be impacted due to a lack of available groundwater, increased pumping costs, and/or a decrease in water quality leading to reductions in plant growth and yield, as groundwater is pumped from deeper levels of the basin.

If you have questions, please call 805-781-5914.

County of San Luis Obispo Agricultural Liaison Advisory Board

2156 Sierra Way, Suite A, San Luis Obispo, CA 93401



**Agricultural Liaison
Advisory Board (ALAB)**

Positions/Members/Terms

CHAIR: Dan Rodrigues
VICE CHAIR: Lisen Bonnier

- District One: Peschong Appt.
Craig Pritchard (1/25)
- District Two: Gibson Appt.
Lisen Bonnier (1/23)
- District Three: Ortiz-Legg Appt.
Tom Ikeda (1/23)
- District Four: Compton Appt.
Daniel Chavez (1/23)
- District Five: Arnold Appt.
Jerry Diefenderfer (1/25)
- Ag. Finance Rep.
Mark Pearce (8/22)
- Cattlemen Rep.
Seth Scribner
- Coastal San Luis RCD Rep.
Jean-Pierre Wolff (8/22)
- Direct Marketing/Organic Rep.
vacant
- Environmental Rep.
Camilla Posson (1/23)
- Farm Bureau Rep.
Randy Diffenbaugh
- Nursery Rep.
Butch Yamashita (4/24)
- Upper Salinas-Las Tablas RCD Rep.
Mary Bianchi (4/23)
- Vegetable Rep.
Claire Wineman (4/24)
- Wine Grape Rep.
Dan Rodrigues (4/24)
- Strawberry Rep.
vacant
- County Agricultural Commissioner
Marty Settevendemie
Ex-Officio
- U.C. Coop. Extension, Farm Advisor
Mark Battany

DATE: July 6, 2022

TO: San Luis Obispo County Department of Planning and Building and the San Luis Obispo County Board of Supervisors

SUBJECT: ALAB Comments on the Paso Basin Land Use Planting Ordinance Draft Program EIR

To Kylie Hensley, Department of Planning and Building, and Honorable Supervisors,

On June 27, 2022, the San Luis Obispo County Agricultural Liaison Advisory Board (ALAB) voted unanimously to submit the following comments on the Draft Program Environmental Impact Report (Draft PEIR) for the Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance. In our comments we will reiterate certain important points raised in the ALAB comment letter dated November 23, 2021 regarding the Public Review Draft of the Paso Basin Land Use Planting Ordinance, as well as raise points more specific to the Draft PEIR.

1

We understand this Ordinance is attempting to provide relief for some property owners and farmers who face restrictions under the current Agricultural Offset program in San Luis Obispo County Code Title 8 and Title 22; however, ALAB has serious concerns about the entirety of this Ordinance and its implications countywide, including the implementation of the mitigation measures presented in the Draft PEIR.

2

This process is duplicative of the Sustainable Groundwater Management Act (SGMA) and local development of the Paso Robles Subbasin Groundwater Sustainability Plan (GSP), which remains the better vehicle for considering and addressing local needs and circumstances without creating new requirements that have potential countywide implications. We further recognize the need for an extension of the current offset program to serve as a stopgap measure before the GSP can be

3

implemented. For these reasons and others in this letter, ALAB supports Alternative 2: Continuation of Existing Agricultural Offset Requirements Through 2025, although in a separate motion ALAB voted unanimously to recommend the Board of Supervisors extend the existing Agricultural Offset requirements through 2027. Overall, ALAB believes that the Ordinance and mitigation measures required in the Draft

4

PEIR as currently drafted would create more problems than it would solve in the short and long term, both in the Paso Basin and Countywide.

4
(cont.)

The following comments are more specific to the Draft PEIR:

1. We are concerned that the Ordinance could potentially induce growth and impact the conversion of lands to non-agricultural use if agricultural uses are not sustainable due to high costs of doing business and limitations on the types and means of agricultural activities. The Draft PEIR failed to discuss the significant economic impacts that will result from the Ordinance, including the direct cost of implementing mitigation measures and the potential loss of existing farm ground because of increased groundwater pumping.

5

2. We are concerned about the fundamental change in direction in the relationship between the County and agriculture, both in the Paso Basin in the context of this Ordinance and mitigation measures, as well as the potentially precedential implications Countywide. More specifically, we are very concerned with the introduction of new requirements and mitigation measures for normal and customary agricultural operations, which will continue to change the fundamental relationship between County Land Use and agriculture. The mitigation measures listed create a new era of increased regulations, potentially Countywide. For example, Mitigation Measure (MM) Air Quality (AQ)-1 is not just related to construction-is this intended to be in perpetuity? What are the unintended consequences of creating impermeable surfaces on other types of resources?

6

3. We are concerned with the introduction of MM BIO-1 Riparian and Wetland Habitat Setback through the County's land use authority. Currently, the Inland Land Use Ordinance Section 22.10.140 – Setbacks is specific to buildings, which have different physical and biological characteristics. We are concerned with evolving definitions of "riparian vegetation and wetland areas" and the feasibility for implementing this requirement depending on the site. There was also discussion at ALAB regarding food safety concerns with the introduction of this specific requirement.

7

4. We would like further clarification on whether a planting permit for replanting established plantings would be needed and if such a water-neutral replanting would be considered a new planting. We are concerned if subsequent changes in acreage or crop type, even if there are no increases in water use, would trigger the mitigation measures/development standards. We strongly oppose the Ordinance treating the replanting of existing crops as new plantings subject to the Ordinance, which would fundamentally change the relationship between County government and agriculture and create significant interference in the efficient implementation of normal, customary, and efficient agricultural operations (which would also have negative environmental consequences).

8

5. We understand that CEQA requires the disclosure of potential impacts. However, in several places the document makes general characterizations that are not necessarily supported by fact. In many locations, the impacts, especially cumulative impacts, are described as "would have a considerable contribution...". Given the speculative nature of these statements, we encourage the document to state that they "may have a considerable contribution." For example, the discussion of the Cumulative Impacts for Transportation achieves a better balance of disclosure and the multiple variables involved that should be reflected throughout the discussion of potential impacts if the Draft PEIR does proceed.

9

6. Mitigation Measure Greenhouse Gas Emissions 1 (MM GHG-1 Carbon Sequestration): We are concerned with the potentially narrow interpretation and implementation of this proposed measure. Does this consider or allow for offsets due to carpool, vanpool, vehicle emissions advancements,

10

purchase of offsets, or other mitigation opportunities now and in the future? Is this a one-time mitigation or an annual requirement?

10
(cont.)

7. We are concerned with the dangerous precedent implied in Impact LU-1 that normal and customary agricultural activities “would result in potential General Plan inconsistencies...” and be potentially detrimental to the environment. We do not agree with this characterization or change in direction.

11

8. Mitigation Measure Utilities and Service Systems 1-Well Metering and Reporting (MM UTIL-1). We are concerned with creating a new requirement through the County’s land use jurisdiction and an additional layer of regulation and annual burden and cost. We believe this is better addressed locally through SGMA.

12

9. Mitigation Measure Utilities and Service Systems 2-Hydrology Report (MM UTIL-2). Like MM UTIL-1, we believe this is better addressed through SGMA, or as is temporarily the case, through the County’s well permitting process in response to the California Executive Order, rather than through the County’s land use authority.

13

These comments represent the collective input that ALAB members have compiled from the agricultural community and the commodities and organizations we represent.

We know our farmers and ranchers will play a critically important role in getting the Paso Robles Subbasin into balance, and ALAB will continue to offer input to help guide your policy decisions. We implore you to recognize the current and long-term need for this County to pursue new water sources, and to work more closely with State and Federal leaders in developing critical water infrastructure.

14

Thank you for your consideration.

Sincerely,



Dan Rodrigues
ALAB Chair
dan@vinaquest.com



July 6, 2022

County of San Luis Obispo
 Department of Planning and Building
 Attention: Planting Ordinance/Kylie Hensley
 976 Osos Street, Room 300
 San Luis Obispo, CA 93408
pasoplanting@co.slo.ca.us

Re: Draft Program Environmental Impact Report (Draft PEIR) for the Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance

Dear Department of Planning and Building:

The Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties represents over 170 growers, shippers, farm labor contractors, and supporting agribusinesses. Our members grow diverse field and nursery crops such as broccoli, strawberries, wine grapes, vegetable transplants, flowers, and tree fruit.

1

We support the San Luis Obispo County Agricultural Liaison Advisory Board’s (ALAB) letter dated July 6, 2022 and adamantly oppose the countywide, precedential regulatory expansion included in the draft Ordinance and PEIR mitigation measures. Furthermore, we are concerned with the unintended consequences this Ordinance and its implementation may have on other basins and agriculturalists in San Luis Obispo County, as detailed in the ALAB letter. We share ALAB’s serious concerns about the entirety of this Ordinance and its implications countywide, including the implementation of the mitigation measures presented in the Draft PEIR.

2

3

The original offset program was meant to be a temporary, stopgap measure and predated the adoption of the Sustainable Groundwater Management Act (SGMA). Certain provisions were later applied to other parts of the County, including Nipomo. We are concerned with the introduction of a new regulatory structure for the County, the long-term timeframe of the Ordinance, and unprecedented introduction of new mitigation measures for standard agricultural activities, which compels us to consider long-term, countywide effects of the Ordinance.

4

We believe the Groundwater Sustainability Plan (GSP) process, as required by the Sustainable Groundwater Management Act (SGMA), remains the appropriate and efficient regulatory vehicle to address the local needs specific to the Paso Robles Basin—not the County’s land use authority, which has countywide implications and will have many unintended consequences.

5

We appreciate the opportunity to comment and urge the County to consider the long-term, precedential implications of trying to address a specific and local set of circumstances better addressed via SGMA.

6

Sincerely,

Claire Wineman
 President

Letter 12

Mail: P.O. Box 1014
San Luis Obispo, CA 93406
Office: 1012 Pacific St., Ste B-1
San Luis Obispo, CA 93401



Phone: (805) 544-1777
Email: info@ecoslo.org
Online: www.ECOSLO.org

Protecting and preserving San Luis Obispo County's natural environment since 1971

To Whom It May Concern,

As a representative of the Environmental Center of San Luis Obispo (ECOSLO), I am writing in regards to the Draft Program Environmental Impact Report (DPEIR) SCH#2021080222 for the Paso Basin Land Use Management Area Planting Ordinance. ECOSLO remains gravely concerned about the Planting Ordinance's impacts on the worsening condition of riparian and wetland ecosystems in the Paso Robles Basin, which we hope to convey within the following comment.

1

ECOSLO finds the analysis of impacts by the DPEIR to be accurate and well-documented. We want to particularly highlight Section 4.3.4 of the DPEIR, which states that *"Implementation of the proposed ordinance would result in significant regional impacts to aquatic and terrestrial special status species; riparian, wetland, and/or other sensitive natural communities; and wildlife movement through facilitating further groundwater depletion and the conversion of natural habitats to agricultural use."* Furthermore, while the section outlines Mitigation Measure BIO-1, it acknowledges that BIO-1 cannot be guaranteed to stop significant impacts and that beyond BIO-1 *"There are no additional feasible mitigation measures available to reduce impacts to biological resources."*

2

When examining the Project Alternatives, ECOSLO concurs with the DPEIR's findings that Alternative 4 is the environmentally superior alternative as it eliminates the 25 acre-feet per year (AFY) exemption and requires full offsets throughout the basin, resulting in no increase in overall irrigated cropland, ground disturbance, accessory infrastructure, or vehicle trips, and therefore fewer impacts to biological resources. ECOSLO is particularly supportive of Alternative 4's removal of the 25 AFY exemption, as we find this to be the most objectionable aspect of the proposed Planting Ordinance. However, we believe that even Alternativer 4 is flawed as it does nothing to reduce existing deficit pumping, which likely requires a reduction of the demand by irrigated agriculture.

3

While the analysis within the DPEIR is by and large correct and thorough, it does little to alleviate ECOSLO's position that the Planting Ordinance will aggravate the worsening groundwater conditions in the Paso Robles Basin. ECOSLO strongly encourages San Luis Obispo County to move forward with Alternative 4 as it is the environmentally superior alternative, while taking additional actions to address the need for a reduction of the demand by irrigated agriculture. We hope that the County takes these concerns into account and thank you for your time and attention to this matter.

4

Regards,

Grant Helete, Community Organizer
ECOSLO - Environmental Center of San Luis Obispo



SAN LUIS OBISPO COUNTY FARM BUREAU

4875 MORABITO PLACE, SAN LUIS OBISPO, CALIFORNIA 93401
PHONE (805) 543-3654 SLOFARMBUREAU.ORG

July 6, 2022

San Luis Obispo County Department of Planning and Building
ATTN: Planting Ordinance/Kylie Hensley
976 Osos Street, Room 300
San Luis Obispo, CA 93408

By email to: khensley@co.slo.ca.us and pasoplanting@co.slo.ca.us

RE: Comments on Draft Program Environmental Impact Report for the Paso Basin Land Use Management Area Planting Ordinance

Dear Kylie Hensley:

On behalf of our 700 San Luis Obispo County Farm Bureau member families and businesses, I write today to offer comments on the Draft Program Environmental Impact Report (PEIR) for the Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance (found in Appendix C of the PEIR and hereinafter referred to as the Project or Ordinance). Since 1922, SLO County Farm Bureau has been the largest agricultural advocacy organization in our county. Our diverse membership includes farms and ranches of all sizes and commodities, and our comments here reflect concerns of all our members.

1

As also indicated in comments on this Ordinance submitted by the SLO County Agricultural Liaison Advisory Board – which includes appointed representatives of each Supervisorial District and the top commodities in SLO County – this Ordinance is indisputably bad for agriculture. It might help a handful of property owners, but it does so at the expense of the vast majority of growers in the Paso Basin, and the mitigation measures it introduces set a dangerous precedent for new regulations on all farmers and ranchers in SLO County. Farm Bureau did not support the creation of the original Agricultural Offset Urgency Ordinance in August of 2013, but an extension of the existing ordinance is substantially better for agriculture than the Pandora’s Box of new regulation opened by this new Paso Basin Land Use Planting Ordinance.

2

This Ordinance creates more problems for agriculture in Paso Robles and the broader San Luis Obispo County agriculture industry than it solves. Groundwater Sustainability Plans (GSP) developed and administered by local Groundwater Sustainability Agencies (GSA) are the appropriate governmental venue to manage groundwater. Though this PEIR attempts to obfuscate the Project’s impact, the unprecedented new regulatory requirements solely attributable to this new ordinance fundamentally changes the relationship San Luis Obispo County government has with agriculture. Through its omission of readily available facts, contradictory reasoning, and absence of economic analysis, it appears this PEIR was in search of ways to avoid the correct finding that the Ordinance is reasonably likely to create Significant and Unavoidable Class I Impacts to agriculture resources.

3

Impacts of Additional Pumping and Current Prohibition on Irrigation Wells

The PEIR estimates the “reasonable potential increase in groundwater use that would be allowed by the proposed ordinance for the entire PBULMA is a 450-AFY annual increase, totaling a 9,900-AFY increase by January 31, 2045,” (page 6 of Appendix B of the PEIR). The PEIR further acknowledges such an increase will require the drilling of new wells. From page 4.13-13 of the PEIR:

4

“The annual increase in groundwater use would likely require the construction and use of additional groundwater infrastructure. The proposed ordinance is anticipated to result in the construction of new groundwater wells, pumps, and distribution pipelines and agriculture

ponds/reservoirs for irrigation of new plantings. According to projections detailed in Appendix B, an estimated 88 new groundwater irrigation wells, 88 new groundwater well pumps, and 12 new agriculture ponds/reservoirs would indirectly result from the proposed planting ordinance through January 31, 2045.”

The crux of the PEIR’s incorrect determination that the project does not create significant and unavoidable Class I Impacts to agriculture resources due to increased pumping is that existing growers will simply be able to drill deeper wells to compensate. From page 4.1-12 of the PEIR:

*“Growers may also need to **install deeper water wells** to be able to use groundwater. However, drawdown of groundwater in the PBLUMA and/or installing deeper wells would not directly convert farmland to non-agricultural use, and the planting ordinance would not result in a net decrease in the total acreage of planted crops. Therefore, the proposed ordinance would not convert farmland to non-agricultural use, and impacts to Farmland would be less than significant.”*

The PEIR recognizes the importance of Governor Newsom’s March 2022 Executive Order on the permitting of new irrigation wells in critically overdrafted groundwater basins. From page 4.8-10 of the PEIR:

“Due to the recent enactment of this Executive Order, it is too speculative to discuss how or whether the GSAs will be able to make the required GSP consistency findings for new wells subject to the Executive Order.”

This is patently false. The PEIR was published on May 20, 2022. At the April 27, 2022 Paso Basin Cooperative Committee meeting – 23 days before the PEIR was published – the County of San Luis Obispo stated its policy on permitting new wells in the portion of the Paso Robles Subbasin governed by its GSA¹. (The Paso Robles Subbasin is substantially the same area as the PBLUMA.) During that April 27 meeting, San Luis Obispo County Groundwater Sustainability Director Blaine Reely explained the County GSA’s new policy on the Executive Order, stating:

“What the County’s response to that is. ...Our interpretation of the Executive Order would preclude us from providing - from the County’s GSA in this basin - for providing approval for a new non-exempt well to be drilled or altered in the Basin while this Executive Order’s in effect,”

The PEIR failed to account for this significant policy decision restricting new irrigation wells, despite the issue being publicly noticed on the agenda of the April 27 Paso Basin Cooperative Committee. As the PEIR states on page 1-3, “The County of San Luis Obispo” – rather than a particular department – is the lead agency for the project. The County cannot reasonably claim to have overlooked this critically important policy decision which was publicly announced 23 days prior to the publishing of the PEIR. This is a prime example of how the PEIR willfully excluded clear and publicly available evidence that the Project is reasonably likely to create Significant and Unavoidable Class I Impacts to agriculture resources. As existing farmers will likely have wells go dry and not be allowed to drill deeper wells, the Ordinance will likely convert farmland to non-agricultural use, and negative impacts to farmland will be significant. If farmers can no longer irrigate their crops, they will be forced to convert farmland to non-agricultural use.

While other GSAs in the Paso Robles Subbasin may not have issued their policy decision on the same timeline, the County GSA controls the largest portion of both the PBLUMA and the Paso Robles Subbasin by far (see Figure 2-1 “Paso Basin Land Use Management Area (PBLUMA)” and Figure 2-2

¹ April 27, 2022 Paso Basin Cooperative Committee Meeting – Agenda Item 9 - Video of discussion is available at: <https://www.slocounty.ca.gov/Departments/Groundwater-Sustainability/Forms-Documents/Paso-Robles-Groundwater-Basin/Agendas-Minutes/2022.aspx>

“Paso Robles Subbasin GSA” in the PEIR), meaning its policy decision to not allow growers to install deeper wells eliminates the ability of existing growers located in the County GSA to “dig deeper wells” to compensate for the Project’s allowance for new 25 AFY crop plantings.

Thus, the PEIR failed to correctly conclude the significant and unavoidable negative impact the Project will have on agricultural resources. The Project will lead to more wells going dry, and even if existing growers could afford the cost to drill a new well, current County GSA policy prohibits many of them from doing so.

Impacts to Smaller Agriculture Operations

The Project contradicts its stated goal to “Encourage and facilitate smaller production agriculture operations” (page ES-3). Notably, nowhere in the PEIR or the Public Review Draft of the Ordinance itself (Appendix C of the PEIR) is “smaller production operations” defined. How many acres of irrigated crops makes someone a large farmer? Absent this important definition, it will be assumed this refers to someone growing crops that require up to 25 AFY of water. The PEIR succumbs to the ambiguous notion of “helping small farmers” without any analysis of how the Project affects existing small farmers.

Smaller production agricultural operations already exist in the PBLUMA. From page 5 of Appendix B of the PEIR, the estimated number of existing sites in the PBLUMA using 0-25 AFY of irrigation is 385. The PEIR failed to quantify how many of these 385 existing smaller growers are currently operating in parts of the PBLUMA not under the jurisdiction of the County GSA (and thus potentially allowed to install deeper irrigation wells). Declining groundwater levels resulting from the Project disproportionately impact these smaller growers, as the cost of digging a deeper well to compensate for impacts of the Project is a more significant economic burden for smaller operations than it is on larger operations. For those 385 existing growing sites that are located within parts of the PBLUMA under the County’s GSA, they are today (and likely for the foreseeable future) prohibited by the County from getting a new well to compensate for the increased groundwater withdrawal created by the Ordinance. The Project has Significant and Unavoidable Class I Impacts to agriculture resources, particularly existing smaller operations.

Creation of Costly New Mitigation Measures for Growers

The PEIR failed to consider the significant impact to agricultural resources specifically attributable to the Ordinance’s unprecedented new mitigation measures imposed for routine farming practices like a water-neutral replanting of existing crops. The PEIR’s explanation of which mitigation measures the Ordinance creates under “Exempted” plantings and “Planting Permits” was ambiguous. Farm Bureau had to contact the Planning and Building Department to attempt to unravel the actual applicability of the new mitigation measures.

In a July 1, 2022 email, County Planning and Building staff Kylie Hensley explained which mitigation measures (listed on ES-9 through ES-16 of the PEIR) apply to either the 25 AFY “exempted” plantings, and which apply to someone seeking a water neutral planting permit (“Planting Permit”). This distinction is especially important, as one of the stated goals of the ordinance is to not affect existing crop production in the PBLUMA. From page ES-3 of the PEIR:

“It is important to note the proposed ordinance would only regulate new and expanded crop production land uses irrigated from groundwater wells within the PBLUMA. The ordinance would not allow new or expanded plantings not authorized by a planting permit or within the 25-AFY exemption. Existing crop production irrigated from groundwater wells within the PBLUMA would not be affected by the proposed ordinance. ...”

Through the new mitigation measures it creates, the Project significantly hinders the agricultural industry in the PBLUMA. A layman’s reading of the Ordinance would almost certainly misinterpret the misleading wording “... the proposed ordinance would only regulate new and expanded crop production land uses irrigated from groundwater wells within the PBLUMA.” As revealed by the County’s July 1

email, “new crop production” means the routine replanting of existing agricultural crops that are water neutral. Farm Bureau asked, “Will the act of an on-site water neutral replanting (e.g. removing 100 acres of winegrapes and planting 100 acres of new wine grapes) in the PBLUMA make someone subject to the new ordinance?” the answer from County staff was “Yes.”

The Ordinance unequivocally shackles current growers with costly and burdensome new regulations. The Ordinance imposes three new regulations that do not exist in the current Agricultural Offset Program, and five new regulations on 25 AFY “exempt” plantings that do not exist in the current program for 5 AFY.

Mitigation Measure - AQ-1 Construction Emissions Reduction

County staff said mitigation measure “AQ-1 Construction Emissions Reduction” applies to both Exempted plantings and Planting Permits. They added that this measure applies “only for sites that have been uncultivated for 10+ years before application date.” It is unclear where the 10-year timeframe comes from or the logic behind it. An existing farmer who stops irrigating for 6 years, then uses the 4.5 years allowed to finish planting, plus any additional extensions allowed because of a local drought emergency declaration, will now be in the “10+ year” category and be subject to a costly dust suppressant program or pay to have the “road” paved. The PEIR failed to include any analysis of the cost for farmers in the PBLUMA to implement Mitigation Measure AQ-1 Construction Emissions Reduction. From page ES-9 of the PEIR:

AQ-1 Construction Emissions Reduction. Prior to adoption of the planting ordinance, the County of San Luis Obispo shall amend the ordinance to include the following Condition of Approvals in Section 22.30.205 of Title 8 of the San Luis Obispo County Code:

- *Construction equipment used for the development of individual agricultural sites shall be Tier 4 unless the attainment of such equipment proves infeasible.*
- *For unpaved roadways associated with the agricultural sites, individual projects shall implement one of the following:*
 - i) *For the life of the project, pave and maintain the roads, driveways, and/or parking areas; or*
 - ii) *For the life of the project, maintain the unpaved roads, driveways, and/or parking area with a dust suppressant (consistent with the San Luis Obispo Air Pollution Control District [SLOAPCD] Approved Dust Suppressant section of the SLOAPCD’s CEQA Handbook), such that fugitive dust emissions do not exceed the APCD 20% opacity limit for greater than 3 minutes in any 60-minute period (APCD Rule 401) or prompt nuisance violations (APCD Rule 402). To improve the dust suppressant’s long-term efficacy, the planting permit applicant or property owners utilizing an exemption shall also implement and maintain design standards to ensure vehicles that use the on-site unpaved road are physically limited (e.g., speed bumps) to a posted speed limit of 15 mph or less.*

Mitigation Measure - BIO-1 Riparian and Wetland Habitat Setback

County staff said mitigation measure “BIO-1 Riparian and Wetland Habitat Setback” applies to both Exempted plantings and Planting Permits. Additionally, staff said “for water neutral permits, planting areas could shift closer to sensitive resources.” It is unclear what physical distance “closer,” and suggests that County staff will be required to use discretion to determine where routine water-neutral replanting of crops can occur. This implied discretionary process contradicts the stated intent of the Ordinance (as found on page 2-8 of the PEIR and elsewhere) to allow for ministerial, rather than discretionary permits. From page ES-10 of the PEIR:

BIO-1 Riparian and Wetland Habitat Setback. Prior to adoption of the planting ordinance, the County of San Luis Obispo shall amend the ordinance to include the following planting requirement in Section 22.30.205 of Title 22 of the San Luis Obispo County Code:

- *Proposed planting plans for planting permits and 25-AFY exemptions shall be required to include a setback of at least 50 feet from the proposed planting areas to the edge of riparian vegetation and wetland areas.*

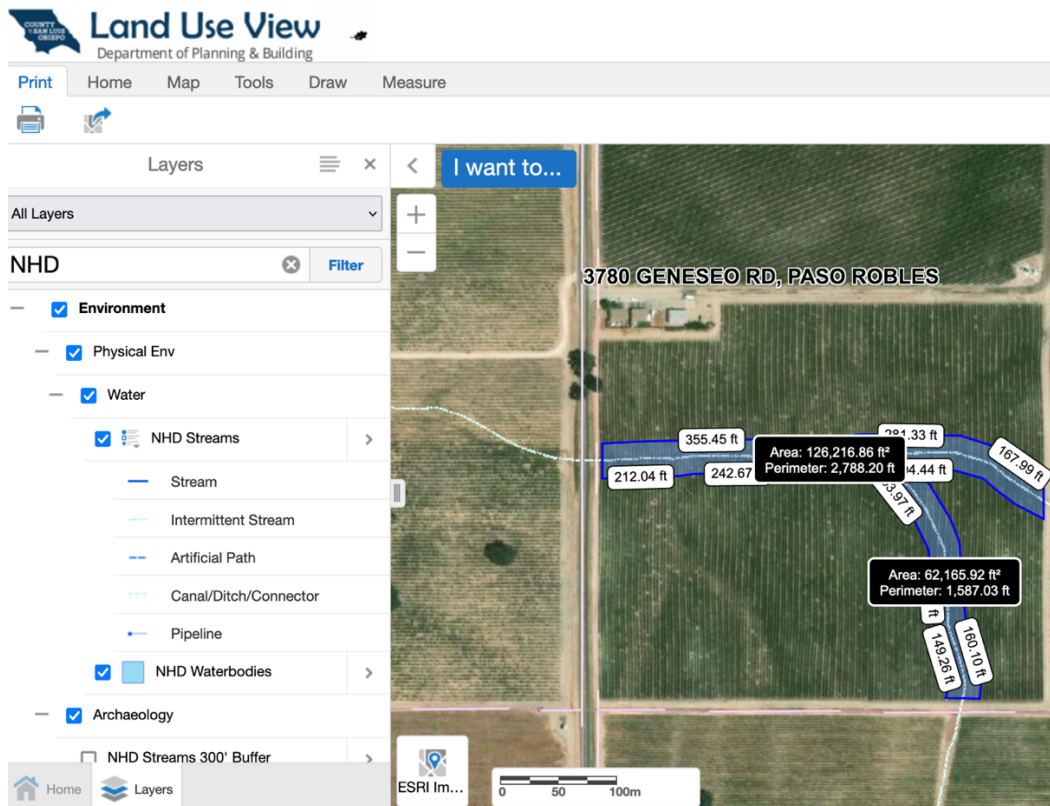
County staff confirmed this mitigation measure is "a new requirement not included in the existing ag offset ordinance or in other sections of the County Code." The PEIR failed to consider the Significant and

Unavoidable Class I Impacts to agriculture resources the Ordinance will create through this new Riparian and Wetland Habitat Setback mitigation measure.

Farm Bureau asked County staff, “What map will the County use to determine where exactly ‘the edge of riparian vegetation and wetland areas’ is located?” The response was: “It is the applicant's responsibility to include streams, riparian vegetation, and wetland areas in their submitted planting plans. Planning staff will reference the NHD Streams and USFWS layers (available in LandUseView for reference) to evaluate proposed planting plans. If proposed planting may be within the 50' buffer, staff may request the applicant hire a biologist to delineate the boundary.”

The ambiguity surrounding the County’s implementation of this mitigation measure (e.g. how much “closer” the County will allow water neutral replantings to occur, and the lack of a concrete definition of what constitutes a riparian area, stream or wetland) precludes Farm Bureau from calculating the total number of acres taken out of agricultural production in the PBLUMA because of the 50-foot Riparian and Wetland Habitat Setback mitigation measure. However, even a cursory review of identified NHD Streams through the County’s LandUseView mapping webpage shows the loss of prime farmland will number in the hundreds - if not thousands - of acres.²

To illustrate the Significant and Unavoidable Class I Impacts to agriculture resources in the PBLUMA, we looked at just NHD Streams (classified as “StreamRiver Intermittent” on this particular property) located on a 30.8 acre block of irrigated wine grapes located at 3780 Geneseo Road in Paso Robles. The mitigation measure’s requirement for a 50-foot setback from this stream removes approximately 188,381 square feet, or 4.3 acres of prime farmland from production. That is, when this block of winegrapes has to be replanted (which will almost certainly happen for every established vineyard in the PBLUMA, as 20 years is generally the maximum productive life expectancy absent disease or other factors requiring earlier replanting) the Ordinance will create a loss of at least 4.3 acres. The image below shows the loss of farmland resulting from the new riparian setback in blue.



² SLO County LandUseView Mapping Webpage
https://gis.slocounty.ca.gov/Html5Viewer/Index.html?configBase=/Geocortex/Essentials/REST/sites/PL_LandUseView/viewers/PL_LandUseView/virtualdirectory/Resources/Config/Default

To quantify what the annual economic impact of this loss to a grower would be, we used the latest available Crop Report statistics from the SLO County Department of Agriculture/Weights and Measures.³ Looking at the most common varietal of winegrapes, Cabernet Sauvignon, the average value per ton is \$1,500 with an average yield of 3.237 tons per acre, meaning a single acre of winegrapes has a gross value of \$4,855 per acre. Multiplied by the 4.3 acres removed from production by the mitigation measure, the impact to this 30.8 acre block of winegrapes is \$20,878 per year. How is this not a significant impact to agricultural resources? A more complete analysis of the Ordinance would surely show tens of millions of dollars of annual revenue loss to growers in the PBLUMA. Additionally, the PEIR failed to quantify the cost for a grower to “hire a biologist to delineate the boundary.” This cost likely costs more than \$1,000. Another example of how the PEIR did not attempt to quantify the actual negative consequences to growers of the Ordinance.

Mitigation Measure – GHG-1 Carbon Sequestration

The impact to agricultural resources from mitigation measure “GHG-1 Carbon Sequestration” is less significant than the aforementioned mitigation measures as, according to an email from County staff, it only applies to “exempted” 25 AFY plantings. While this is preferable to having the mitigation apply to routine water-neutral replanting of crops, neither the PEIR or County staff explain why this particular mitigation measure is limited to the 25 AFY exempted category.

Our Farm Bureau members are greatly concerned about the potential for this new regulation to creep into other routine agricultural activities in the County. We disagree that any agricultural operators (those falling under the 25-AFY exemptions or otherwise) should be mandated to sequester carbon and/or reduce GHG emissions. Does the County or the State require people driving a car or flying on an airplane to mitigate their carbon footprint? This is another example of how the Ordinance creates more problems for agriculture than it solves. The PEIR failed to consider the economic impact of the cost to implement the mitigation measure’s new conservation practices mandate. Composting, for example, may not even be a legal option for growers of fruits and vegetables regulated under the federal Food Safety Modernization Act’s Produce Safety Rule due to the food safety risks it can create. Furthermore, asking the County Planning and Building Department to be the final decision-maker about what specific practices are sufficient to comply with this mitigation measure is unfair to staff, creates a bad precedent for all SLO County agriculture, and shows again that the Ordinance will require discretionary decisions by staff, in contradiction of the stated goal for the Ordinance to issue ministerial permits.

After benefitting from years of successful, voluntary, collaborative programs to help farmers sequester carbon through the California Department of Food and Agriculture’s Healthy Soils Program and other efforts, San Luis Obispo County is about to mandate carbon sequestration practices in a County Land Use Ordinance. We support working together to help all of our growers continue to improve the sustainability of their farms to meet climate change challenges, but this is an ill-advised way to achieve it. County Planning and Building staff are not equipped to make a determination about conservation practices, and they shouldn’t have to be. A brief and ambiguous explanation of the mitigation measure is listed on pages ES-12 and ES-13 of the PEIR:

GHG-1 Carbon Sequestration. Prior to adoption of the planting ordinance, the County of San Luis Obispo shall amend the ordinance to include the following planting requirement in Section 22.30.205 of Title 22 of the San Luis Obispo County Code:

- *The applicants of 25-AFY exemptions shall include conservation practices (e.g., cover cropping, composting) to sequester carbon and/or reduce GHG emissions by at least 0.15 MT CO₂e per acre of planting area (1:1 offset) as estimated by COMET-Planner according to the CDFCA Healthy Soils Program guidelines, to be implemented prior to final planting.*

Mitigation Measure - UTIL-1 Well Metering and Reporting

³ “2020 Crop Report” from the San Luis Obispo County Department of Agriculture/Weights and Measures <https://www.slocounty.ca.gov/Departments/Agriculture-Weights-and-Measures/All-Forms-Documents/Information/Crop-Report/Crop-Report-Current/Crop-Report-2020.pdf>

For the first time in our County’s history, the County is going to require farmers to report their monthly water usage. County staff said mitigation measure “UTIL-1 Well Metering and Reporting” applies to both Exempted plantings and Planting Permits. While the current Agricultural Offset Program does require growers to install a well meter as part of their water-neutral replanting permit, never before has the County mandated this reporting. While on its face this may not seem like a significant burden, this will add to the dozens of other reports government now requires of our farmers, which will exacerbate the trend we see in the PBLUMA, SLO County, the Central Coast Regional Water Board jurisdiction area, California, and across the country, of farm consolidation and the death of small family farms. Larger farming operations will have another competitive edge over smaller farms, as they have additional staff and resources to comply with this new regulatory reporting requirement created by the Ordinance. This again conflicts with the Ordinance’s stated goal to help smaller farming operations “compete against larger concerns” (page ES-7 of the PEIR).

11

The PEIR again failed to quantify the cost for farmers to comply with this new requirement, and as a farm may use multiple wells per site, this is a significant new burden that negatively affects the already limited staffing resources of growers, especially on smaller farms. The measure is described on pages ES-15 and ES-16 of the PEIR:

UTIL-1 Well Metering and Reporting. *Prior to adoption of the planting ordinance, the County of San Luis Obispo shall amend the ordinance to include the following Condition of Approval in Section 22.30.205 of Title 8 of the San Luis Obispo County Code:*

- *The planting permit applicant shall install well meter(s) in accordance with County standards to measure all groundwater used to irrigate plantings allowed by a planting permit or exemption under this section prior to beginning irrigation of the new or expanded plantings. The property owner or responsible party designated by the property owner must read the water meter and record the water usage on or near the first day of the month with a date-stamped photo or other date verification method, maintain monthly meter records, and submit an annual report of groundwater usage to the County of San Luis Obispo, Department of Planning & Building. The metered groundwater use for irrigation shall not exceed the estimated annual water demand based on the methodology in Section G, subject to the enforcement provisions of Chapter 22.74.*

12

Mitigation Measure - UTIL-2 Hydrology Report

County staff said mitigation measure “UTIL-2 Hydrology Report” applies only to 25 AFY exempted plantings. The PEIR failed to quantify the economic burden this puts on growers, and does not contemplate the actual ability of a hydrology report to make a determination that the proposed water use will not negatively impact nearby growers given the Ordinance’s ambiguous description of the mitigation measure. The PEIR does not give hydrologists a specific reference for what constitutes a “nearby well.” Without a definition of “nearby,” growers are being forced to shop around for a hydrologist willing to interpret what this actually means and accept the potential legal liability. The fact that the terminology used here by the County seems to have been co-opted from Governor Newsom’s March 2022 Executive Order does not change its ambiguity and the burden that places on growers. The PEIR fails to consider the cost for growers to hire a hydrologist, which has been reported by Farm Bureau members to cost a minimum of \$5,000 for a similar service recently required under the Governor’s Executive Order for getting a new irrigation well permitted by the County. From page ES-16 of the PEIR:

UTIL-2 Hydrology Report. *Prior to adoption of the planting ordinance, the County of San Luis Obispo shall amend the ordinance to include the following Condition of Approval in Section 22.30.205 of Title 8 of the San Luis Obispo County Code:*

- *As part of the planting permit application, the planting permit applicant shall submit a hydrology report to the County of San Luis Obispo. The hydrology report shall verify that the proposed water use on site will not negatively impact nearby wells not owned by the planting permit applicant.*

13

In conclusion, while the Project allows for limited new agricultural plantings (expanding the exempted allowable water usage from 5 AFY to 25 AFY), it jeopardizes existing agriculture through its increased restriction on routine agriculture practices. This contradicts the Ordinance’s stated goal to “Support and

14

promote a healthy and competitive agricultural industry in the PBLUMA, whose products are recognized in national and international markets as being produced in San Luis Obispo County,” (page ES-3 of the PEIR).

The 22-year lifespan of this Ordinance heightens the impact it will have on existing growers in the PBLUMA and opens the door for the County to extend mitigation measures and land use restrictions in other basins in SLO County. While it allows some new plantings, the combined cumulative burden on the Basin’s groundwater resources will surely leave many of these property owners in a worse position when inevitable cutbacks come from the GSP process.

Thank you for your attention to the identified deficiencies with the Draft PEIR. Please contact me if you have any questions.

Sincerely,



Brent Burchett, Executive Director
San Luis Obispo County Farm Bureau

Attachment (1):

July 1_2022 email from County Planning - Questions on Paso Basin Planting Ordinance.pdf

Subject: Re: [EXT]Questions on Paso Basin Planting Ordinance
Date: Friday, July 1, 2022 at 12:01:57 PM Pacific Daylight Time
From: Kylie Hensley <khensley@co.slo.ca.us>
To: Brent Burchett <bburchett@slofarmbureau.org>
CC: Airlin Singewald <asingewald@co.slo.ca.us>

Hi Brent,

Please see responses to your questions below in blue.

Best,
Kylie

From: Brent Burchett <bburchett@slofarmbureau.org>
Sent: Friday, June 24, 2022 12:06 PM
To: Airlin Singewald <asingewald@co.slo.ca.us>
Cc: Kylie Hensley <khensley@co.slo.ca.us>
Subject: [EXT]Questions on Paso Basin Planting Ordinance

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Hi Airlin - Working on comments on the Paso Basin Land Use Ordinance, and I have six questions I hope you can help with. Very much appreciated - Brent

I went back and looked at the Public Review Draft from November 2021. On page 4 of 14 Section 2/ Existing Crops paragraph. My first question is on the general applicability of the new proposed ordinance. In that paragraph, it says "Subsequent changes in crop type or acreage shall be subject to this section."

1. Will the act of an on-site water neutral replanting (e.g. removing 100 acres of winegrapes and planting 100 acres of new winegrapes) in the PBLUMA make someone subject to the new ordinance? I presume it does, but just wanted to confirm.

Yes.

Next question is on the proposed mitigation measures listed in the PEIR. I understand that the Board of Supervisors could ultimately come up with a "Statement of Overriding Considerations" and choose to not implement any of these mitigation measures. (Please correct me if my understanding is wrong).

2. Which mitigation measures will be required for someone seeking the 25 AFY Exemption,

and which are required for someone seeking a water neutral Planting Permit

AQ-1 Construction Emissions Reduction **Both, only for sites that have been uncultivated for 10+ years before application date.**

BIO-1 Riparian and Wetland Habitat Setback **Both (for water neutral permits, planting areas could shift closer to sensitive resources)**

GHG-1 Carbon Sequestration **25-AFY Exemptions Only**

UTIL-1 Well Metering and Reporting **Both**

UTIL-2 Hydrology Report **25-AFY Exemptions Only**

3. Specific to "UTIL-1 Well Metering and Reporting" and the "UTIL-2 Hydrology Report," which provisions are new? That is, which parts are not already required under the existing Ag Offset Program.

- Installation of a well meter (I believe this is already required) **Correct, already required for on-site offsets, but not 5-AFY exemptions or replanting exemptions. Under new ordinance would be required for 25-AFY exemptions and replantings.**

-Record the water usage on or near the first day of the month with a date-stamped photo or other date verification method, maintain monthly meter records, and submit an annual report of groundwater usage to the County of San Luis Obispo, Department of Planning & Building. (I believe this is new) **Correct, new requirement.**

4. Specific to "UTIL-2 Hydrology Report," is this requirement for a hydrology report new? (I understand we now have a hydrogeologist letter requirement under the Governor's March 2022 Executive Order for drilling new wells.) **Yes, this is a new requirement not included in the existing ag offset ordinance. The hydrology report would be required for all 25-AFY exemption applications, even those that do not require drilling a new well.**

5. Specific to "BIO-1 Riparian and Wetland Habitat Setback," is this requirement to "include a setback of at least 50 feet from the proposed planting areas to the edge of riparian vegetation and wetland areas" new? (New as in it is not currently required in the Ag Offset Program or anywhere else in SLO County Code.) **Yes, this is a new requirement not included in the existing ag offset ordinance or in other sections of the County Code.**

6. What map will the County use to determine where exactly "the edge of riparian vegetation and wetland areas" is located?

It is the applicant's responsibility to include streams, riparian vegetation, and wetland areas in their submitted planting plans. Planning staff will reference the NHD Streams and USFWS layers (available in [LandUseView](#) for reference) to evaluate proposed planting plans. If proposed planting may be within the 50' buffer, staff may request the applicant hire a biologist to delineate the boundary.

Brent Burchett
Executive Director
San Luis Obispo County Farm Bureau
4875 Morabito Place, San Luis Obispo, CA 93401
(805) 543-3654 | bburchett@slofarmbureau.org

Letter 14



Date: 7/6/2022

To: Kylie Hensley, Department of Planning and Building, 976 Osos St Rm. 300, San Luis Obispo, CA 93408

From: The Healthy Communities Work Group

RE: Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance

COALITION PARTNERS:

- Bike SLO County
- Cal Poly State University
- Caltrans
- City of San Luis Obispo
- Community Action Partnership of SLO County
- First 5 San Luis Obispo County
- Independent Living Resource Center, Inc.
- People’s Self-Help Housing
- Rideshare – Safe Routes to School
- Smart Share Housing Solutions
- SLO Council of Governments
- SLO County Departments:
 - Air Pollution Control District
 - Board of Supervisors
 - Health Commission
 - Public Health
 - Environmental Health
- SLO County YIMBY
- SLO Legal Assistance Foundation

Dear Kylie Hensley,

The Healthy Communities Work Group (HCWG) is a collaboration between public health officials, local planning and transportation officials, community-based organizations, academia, and community members, working to improve health through community design. We provide research and evidence-based recommendations from a health perspective on proposed land use projects, ordinance and general plan amendments, and special projects.

1

HCWG has reviewed the Draft Program Environmental Impact Report (Draft PEIR) for the proposed Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance to be in effect for a total of 22 years. Proposed amendments will require planting permits and new crop plantings to be “water neutral.” HCWG supports the intention of San Luis Obispo County’s ordinance to encourage sustainable use of natural resources and smaller production agriculture. These agriculture practices are aligned with HCWG’s vision of a food system that is equitable and environmentally sustainable for all residents.

2

RESOURCES:

- [Data Dashboard, SLO Health Counts](#)
- [Community Health Improvement Plan](#)
- [Building Healthy Communities Checklist](#)

However, HCWG has concerns about whether the proposed ordinance update will achieve the intended results. Agricultural users that use less than 25 AFY for irrigation would be exempt from water neutrality requirements. According to the Draft PEIR, cumulative water impacts are therefore expected to surpass sustainable yields identified in the *Paso Robles Subbasin Groundwater Sustainability Plan*.¹ Cumulative impacts from agricultural and non-agricultural operations may result in an overdraft of groundwater extraction.

3

HCWG is further concerned about the potential community health impacts of the ordinance as proposed. The Draft PEIR cites “significant and unavoidable” degradation to groundwater storage and quality as extraction for expanded agriculture increases. Listed contaminants that may affect water quality include nitrate, pesticides, and other pollutants of concern. Contaminated water poses a health and safety risk for the communities that are accessing groundwater for municipal and domestic water purposes.

4

According to the PEIR, this ordinance has the potential to reduce water supply and quality in a community where water scarcity is already a major concern. These impacts to water supply and quality may disproportionately affect communities that are economically disadvantaged, such as Shandon, where water treatment would dramatically increase the cost of water. HCWG

5

supports Alternative 4, which would reduce most ordinance related impacts to a less than significant level, including those to hydrology and water quality

Thank you for the opportunity to review this project.



Kealoha Ghiglia, REHS
Chair, Healthy Communities Work Group

¹. County of San Luis Obispo. (2019). Paso Robles subbasin groundwater sustainability agencies. <https://www.prcity.com/DocumentCenter/View/28176/Paso-Robles-Subbasin-Groundwater-Sustainability-Plan>

MONTEREY COUNTY

HOUSING AND COMMUNITY DEVELOPMENT

Erik V. Lundquist, AICP, Director



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1441 Schilling Pl. South, 2nd Floor (831)755-5025
Salinas, California 93901 www.co.monterey.ca.us

6 July 2022

SENT VIA EMAIL ONLY
khensley@co.slo.ca.us

Kylie Hensley, Planner
County of San Luis Obispo
976 Osos Street, Room 200
San Luis Obispo, CA 93408

Subject: Notice of Availability (NOA) of a Draft Program Environmental Impact Report (PEIR) for the Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance (SCH#2021080222)

Dear Kylie,

The County of Monterey appreciates the opportunity to provide comments on the County of San Luis Obispo Draft PEIR analyzing potential impacts of new and expanded irrigated crop plantings throughout the PBLUMA under the proposed ordinance.

1

County of Monterey agrees with the identified significant and unavoidable environmental effects disclosed in the Draft PEIR for the proposed project and for the five alternatives. Given the County of Monterey location downstream of the Salinas River from the PBLUMA, resources in the County of Monterey would be adversely affected by the proposed Planting Ordinance. Findings of the PEIR show that the proposed ordinance would exacerbate the annual overdraft condition of the Paso Robles Subbasin within the Salinas Valley Groundwater Basin (SVGB), as defined by the Department of Water Resources (DWR). Resource impacts give no deference to the administrative boundary between the Counties of San Luis Obispo and Monterey as the management boundary between the Paso Robles and the Salinas Valley-Upper Valley Aquifer Subbasins, respectively. Although the County of Monterey is not a Responsible Agency under this ordinance, the County does not support the ordinance, as proposed.

2

While potential impacts that could substantially degrade surface or groundwater quality are difficult to quantify due to the inability to predict both, with any certainty, the increases of potential pesticide and fertilizer, and with any accuracy, the changes in groundwater levels that would occur because of the proposed Planting Ordinance, it is not sufficient to forgo analysis and conclude that “it can be reasonably expected that impacts to groundwater quality would occur, and the scale of impacts would in general be linked to the scale of agricultural uses allowed under the proposed 25-AFY exemptions” (Impact HYD-2, pp. 4.8-20 – 21). PRC §21002 finds and declares that a public agency should not approve a project as proposed if there are feasible alternatives or feasible mitigation measures that would substantially lessen the significant environmental effects of such project, and that the intent of CEQA procedures are to assist public agencies in systematically identifying both the significant effects of a

3

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proposed project and the feasible alternatives or feasible mitigation measures that will avoid or substantially lessen such significant effects. Further, findings by the lead agency (County of San Luis Obispo) for a statement of overriding consideration shall be supported by substantial evidence in the record (Section 15093 of the CEQA Guidelines). Pursuant to PRC §21081, necessary findings with respect to each significant effect must include at least one of the following: 1) the project has been changed to avoid and/or substantially reduce the magnitude of the impact; 2) changes to the project are within another agency's jurisdiction and such changes have been or should be adopted by that other agency; or 3) specific economic, social, technological, or other considerations make infeasible identified alternatives or mitigation measures.

4
(cont.)

5

The County of Monterey requests the Final PEIR provide analysis through modeling a contemplated range of reasonable potential impacts to groundwater resources based on given assumptions, similar to analysis provided in Appendix B for Groundwater Use and Acreage Estimation. Given the conclusion that estimated reasonable potential increase in water use from ministerial approval of new or increased (to 25 AFY) agricultural operations up to 9,900 AFY by 2045 (22 year horizon) would cause significant and unavoidable impacts to hydrology and water quality (Impact HYD-2), the Final PEIR should factor these estimations in calculating a baseline for pollutant concentrations of nitrate, pesticides, fertilizers, other agricultural contaminants, and constituents of concern. With understanding of impact analysis from the calculated baseline, mitigations can be identified that could substantially lessen the significant and avoidable effects to groundwater quality (PRC §21002, PRC §21081, and Section 15093 of the CEQA Guidelines). Mitigation measures can define prescriptive requirements that reduce adverse impacts to groundwater resources can be developed for application of a ministerial permit issued without discretionary review.

6

Notwithstanding analysis through modeling a contemplated range of reasonable potential impacts to groundwater quality based on given assumptions, the County of Monterey has a vested interest in encouraging the County of San Luis Obispo to adopt Alternative 4: No Exemptions, that would eliminate significant and unavoidable impacts to nine environmental issue areas when compared to the proposed project, while meeting all but Objective 3 of the six project objectives. Given that significant overdraft of the Paso Robles Subbasin of approximately 13,700 Acre-Feet per year is already occurring on an annual basis, the County of Monterey respectfully disagrees that Alternative 4 would not meet Objective 5. Based on the finding under Agricultural Resources that compared to existing baseline conditions, as with the proposed project, Alternative 4 would result in less than significant impacts to Agricultural Resources (Draft PEIR Section 6.5.2 – Impact Analysis, p. 6-28), there is no reason that Alternative 4 would not support and promote a healthy and competitive agricultural industry in the PBLUMA (Draft PEIR Section 2.6 – Project Objectives, p. 2-15).

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In summary, the County of Monterey respectfully requests the County of San Luis Obispo staff:

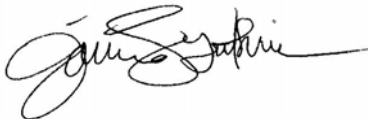
- Identify mitigation measures that avoid or lessen the potential cumulatively considerable impacts from reasonably foreseeable effects that implementation of the ordinance may have on the shared groundwater resources (PRC §21081);
- Provide substantial evidence in the record to support a statement of overriding consideration with regard to significant effect on groundwater quality (Section 15093 of the CEQA Guidelines); and
- Recommend the Board of Supervisors adopt Alternative 4: No Exemptions, despite not

8

meeting Objective 3 allowing exemption for farms to plant irrigated crops that were not able to under the existing agricultural offset requirements, due to the proposed project exacerbating the existing significant overdraft condition of the Paso Robles Subbasin without systematically identifying feasible mitigations for the increased effects (PRC §21002).

Efforts to reduce overdraft of the Paso Robles Subbasin through management of future irrigated crops within the PBLUMA is greatly appreciated, and the County of Monterey encourages collaboration with the County of San Luis Obispo to avoid and/or mitigate foreseeable impacts to shared resources.

Sincerely,



Jaime Scott Guthrie, AICP, Planner
Phone: (831) 796-6414
Email: guthriejs@co.monterey.ca.us

Cc: Emily Gardner, Salinas Valley Basin Groundwater Sustainability Agency
Donna Myers, Salinas Valley Basin Groundwater Sustainability Agency
Henry Gonzalez, Monterey County Office of the Agricultural Commissioner
Jose Chang, Monterey County Office of the Agricultural Commissioner
Nadia Garcia, Monterey County Office of the Agricultural Commissioner
Erik V. Lundquist, Director of Housing and Community Development, County of Monterey
Monterey
Craig Spencer, Chief of Planning, County of Monterey
Melanie Beretti, Principal Planner, Advanced Planning, County of Monterey



SHANDON-SAN JUAN WATER DISTRICT SHANDON-SAN JUAN GSA

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Department of Planning and Building
ATTN: Planting Ordinance/Kylie Hensley
976 Osos Street, Room 300
San Luis Obispo, CA 93408
khensley@co.slo.ca.us

Shandon-San Juan Groundwater Sustainability Agency Comments on 2022 Paso Basin management area Planting Ordinance EIR

The Shandon-San Juan Groundwater Sustainability Agency (SSJGSA) is dedicated to sustainably protecting the groundwater resource in the Paso Robles Groundwater Basin (Basin). The SSJGSA is fully invested in working with its partner GSAs in the Basin implementing the Paso Robles Groundwater Sustainability Plan (GSP) for the Basin. We count on our partner GSAs to be as fully dedicated to protecting the Basin and GSP implementation.

1

The SSJGSA strongly supports the existing land use ordinance and its continued maintenance of water neutrality as the GSP comes into effect. The SSJGSA recommends rejecting the proposed Planting Ordinance as written and for the SLO County Board of Supervisors (BOS) to maintain the water neutral aspects of the current Ordinance until the BOS, acting in concert with their partner GSAs, can implement the GSP to supplant the ordinance. This means that the BOS should not adopt Alternative 2 with its arbitrary sunset but should ensure that the ordinance continues until it is satisfied that the implementation of the GSP adequately protects water neutrality and prevent groundwater sustainability from being even more difficult to achieve.

2

The proposed Ordinance does not protect the groundwater resource. The Ordinance appears to be an attempt to circumvent SGMA and will decrease the likelihood of achieving our shared sustainability goal in the face of falling ground water levels. This directly conflicts with Governor Newsome’s Executive Order N-7-22. It also contravenes the years of working together to address the use of groundwater in the Basin by creating a significant new use. The SLO County Board of Supervisors has done a great job protecting the groundwater resource in the Basin by implementing the Urgency Ordinance followed by additions to Title 19 and 22 of the County Code of which this proposed ordinance is the latest iteration. Unfortunately, this proposed revision undoes much of the good the previous versions created.

3

The EIR created 5 Alternatives. None of these alternatives simply continue the existing offset language *as is* for a long enough period that we can be assured that there will be net water neutrality until the GSP is fully implemented. All the alternatives either create unmitigable environmental impacts, fail to provide long term solutions or add new terms and conditions that many will find unacceptable. The unlisted and preferred alternative would be to continue and extend the water neutral requirements found in the existing ordinance. Only that simple extension will allow the BOS, acting as the GSA for their portion of the Paso basin, in concert with their partner

4

GSAAs, to successfully continue to monitor and manage the Basin under SGMA. SGMA and our GSP guide the GSAAs in an open and public process to protect the groundwater resource guaranteeing dependable and sustainable access to that resource to all those who depend upon it.

Alternative 2 assumes that there will be a 1% growth in water use resulting in an additional 13,360 acre feet of water use. This number reflects a disaster in achieving our sustainability goals, will exacerbate the economic impact of having to remove crops as a result of increased pumping curtailments and violates our commitment to our GSP. But the assumptions grossly underestimate the impact of sunseting the existing ordinance. It should be apparent that there will be a race to the pumphouse by landowners throughout the basin to secure the right to the maximum number of irrigated acres possible. This is certain because, when cutbacks become necessary, it will allow the landowner to cutback artificially inflated acreage, thereby protecting the original irrigated acreage.

Alternative 4 includes new language to expand the impact of County actions to the entire County, which is a significant change, and adds the phrase *“limit a net increase in water use except where the new increase is the result of actions to promote the agricultural use of the supply in a manner that is equitable and consistent with groundwater rights.”* The concept of someone at the County will be empowered to decide what is equitable and consistent with groundwater rights is unacceptably vague and places authority over landowner rights in the hands of persons who should not have that authority.

To make matters worse, the proposed Ordinance creates whole new layers of unwarranted bureaucratic tampering with farming practices when all that is needed is to continue to control the amount of extraction at levels that protect the resource using the current Ordinance. The government should not be dictating and controlling which crops a farmer chooses to grow. Landowners should not have to apply to their County Government for standard farming practices. This is an unwarranted intrusion of Big Government into private industry. Emissions reduction, riparian and wetland habitat setback and carbon sequestration do not belong in a simple water neutral Ag irrigation ordinance. These issues are already addressed by existing Codes and regulations when and where appropriate.

The EIR lists, among numerous negative impacts from the proposed Ordinance, 16 Class I impacts. The EIR defines Class I Impacts as *“Significant and Unavoidable (Class I). An impact that cannot be reduced to below the threshold level given reasonably available and feasible mitigation measures. Such an impact requires a Statement of Overriding Considerations to be issued if the project is approved per Section 15093 of the CEQA Guidelines”*. The largest impacts and those hardest to mitigate arise from allowing significant expansion of groundwater extraction from the Basin. Since there is no necessity for this action, approving this Ordinance and ignoring those unmitigable impacts would be not only ill-advised, but unlawful.

The EIR misconstrues the magnitude of the impacts of the Ordinance on SGMA and the Paso Basin GSP for both groundwater in storage and water quality. These impacts would be devastating to sustainable groundwater management under our GSP and SGMA.

Thank you for considering our comments,

Willy Cunha
President of the Board of Directors
Shandon-San Juan Groundwater Sustainability Agency



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
CHARLTON H. BONHAM, Director



July 7, 2022

Kylie Hensley
County of San Luis Obispo Department of Planning & Building
976 Osos Street, Room 200
San Luis Obispo, California 93408-2040
khensley@co.slo.ca.us

**Subject: Paso Basin Land Use Planting Ordinance (Project)
Draft Program Environmental Impact Report
State Clearinghouse No. 2021080222**

Dear Ms. Hensley:

The California Department of Fish and Wildlife (CDFW) received a draft Program Environmental Impact Report (DPEIR) from the County of San Luis Obispo Department of Planning and Building (County) 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 Fish and Game Code. We appreciate the County granting an extension of the comment period to CDFW, and allowing for CDFW to submit its comments on July 7, 2022.

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

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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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.), related authorization as provided by the Fish and Game Code will be required.

1 (cont.)

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

PROJECT DESCRIPTION SUMMARY

Proponent: The County

Description: The County is proposing a new ordinance framework that would allow the County to continue exercising its land use authority to regulate planting of production agriculture irrigated from groundwater wells within the Paso Basin Land Use Management Area (PBLUMA) (consisting of 313,661 acres in northeastern San Luis Obispo County) after the termination date of the existing agricultural offset requirements. The new ordinance would allow an exemption for farms to plant irrigated crops that were not able to be planted under the existing agricultural offset requirements. The proposed ordinance would require a planting permit or exemption verification for new or expanded planting of crops irrigated from groundwater wells within the PBLUMA. Issuance of planting permits allowed under the proposed ordinance would be considered ministerial and would not require discretionary actions or further CEQA review. The proposed ordinance would be in effect from January 31, 2023, to January 31, 2045, for a total of 22 years.

2

Under the planting ordinance new crop plantings replacing previous crops that do not result in an overall increase in estimated groundwater demand would be eligible for a ministerial planting permit. The ordinance would exempt new or expanded crop plantings with an estimated total water demand of 25 acre-feet per year (AFY) or less per site. The County estimates that approximately 240 acres of previously uncultivated land would be affected by the ordinance per year, for a total of 5,280 acres affected by

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January 31, 2045. This would equate to an annual increase in groundwater use of approximately 450 AFY, for a total increase of 9,900 AFY by January 31, 2045.

Objectives: The proposed Project would take effect when the County’s existing agricultural offset requirements expire and would remain in effect until January 31, 2045. Objectives include:

- Continue to exercise the County’s land use authority to regulate the planting of production agriculture irrigated from groundwater wells within the PBLUMA with ministerial permits not subject to the CEQA review.
- Require new crop plantings that are to be irrigated from groundwater wells within the PBLUMA to be “water neutral” meaning new crops replace crops that are estimated to have had the same water demand and have been fallowed/removed within a certain time frame.
- Allowance of an exemption for farms to plant irrigated crops that were not able to under the existing agricultural offset requirements.
- Conserve groundwater resources in the PBLUMA for use by production agriculture in a manner that is equitable and consistent with groundwater rights.
- Encourage and facilitate smaller production agriculture operations.

2 (cont.)

Location: The PBLUMA includes 313,661 acres located within the Shandon-Carrizo (North), El Pomar-Estrella, Salinas River, Las Pilitas, Los Padres (North), Adelaida, and Nacimiento Sub Areas of the North County Planning Area and includes the communities of Shandon, San Miguel, Creston, and Whitley Gardens.

Timeframe: The PBLUMA Planting Ordinance would expire in 2045.

COMMENTS AND RECOMMENDATIONS

CDFW previously commented on the Notice of Preparation for the Project in a letter (“NOP letter”) dated September 17, 2021 (enclosed) that provided recommendations for many listed plant and wildlife species and concerns for Project impacts to waterways/waterbodies, groundwater, and the ecosystems supported by these features. The DPEIR does not include an analysis of impacts to each biological resource and therefore does not include or address the prior CDFW recommendations; CDFW maintains the same recommendations for advised survey methods and mitigation measures. In addition, CDFW has the following recommendations regarding the analysis of Project impacts and specific mitigation measures for inclusion in the DPEIR.

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I. DPEIR Impacts and Mitigation Measures

Impact BIO-1 and Mitigation Measures UTIL-1 and UTIL-2

The DPEIR concludes (Table ES-1, page ES-11) that impacts to special status species would be significant and unavoidable, and the discussion for Impact BIO-1 summarizes that with protections for species by County, State, and federal policies and regulations as outlined in the DPEIR, and implementation of Mitigation Measures UTIL-1 and UTIL-2, impacts would be reduced to the greatest extent feasible, and no additional feasible mitigation measures are available to reduce impacts to special status species. The DPEIR states that it would not be possible to perform site-specific analyses of impacts, based on the individual sites that could participate in the ordinance, but the DPEIR does not include an analysis for each special status species that could be significantly affected by implementing the Project (i.e., the ordinance).

Impact BIO-1 (Section 4.3.3, page 4.3-14) states that implementation of the planting ordinance could potentially result in substantial adverse impacts on special status plant and animal species, either directly or through habitat modifications, and such biological impacts would be significant and unavoidable requiring a statement of overriding consideration. The DPEIR (Section 4.3.3, page 4.3-15) states that direct impacts to special status species could include injury or mortality during plowing/discing to convert natural areas to agriculture fields and for construction of accessory infrastructure. Potential impacts from habitat modification and loss could result in direct mortality or indirect impacts through substantially altering foraging and breeding behaviors, resulting in injury to individual special status plants and animals.

The DPEIR (page 4.3-15) states that converting current natural areas to irrigated crop fields, construction of accessory infrastructure, and associated projected groundwater extraction within the PBLUMA could result in substantial adverse impacts to special status species and their habitats. Mitigation Measures UTIL-1 and UTIL-2 address amendments to the proposed ordinance to include well metering and reporting, and hydrology reporting, respectively; the DPEIR does not specify how well metering and hydrology reporting would reduce impacts to special status species. CDFW recommends that an analysis of Project-wide impacts to the special status species with potential to be significantly affected by the Project be included in the DPEIR, to clearly describe how well meter installation and monitoring in addition to a hydrology report intended to reduce impacts from Project development to offsite wells would avoid, minimize, or mitigate impacts to the special status species addressed in the NOP letter or herein. The Initial Study described that potentially significant impacts including the loss of species habitats caused by pumping would be assessed further in the DEIR. The description of a significant impact in this context is not clearly provided, and the levels of pumping likely to result in significant impacts over the Project-wide area or any part is not discussed in the DPEIR, including how well monitoring and hydrology

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monitoring would identify those impacts and potentially be used to inform decisions targeted at reducing impacts to special status species.

As described in the NOP letter, any activity undertaken as a result of the Project that cannot avoid the take of a State listed species would require take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081, subdivision (b). CDFW strongly recommends that the DPEIR include requirements for acquiring an ITP from CDFW for any unavoidable take of CESA-listed species.

4 (cont.)

Impact BIO-2 and Mitigation Measure BIO-1

Impact BIO-2 states that the Project may result in substantial adverse impacts on sensitive habitats including riparian and wetland habitats. Mitigation Measure BIO-1 Riparian and Wetland Habitat Setback would require a setback of at least 50 feet from the proposed planting areas to the edge of riparian vegetation and wetland areas. The DPEIR concludes that impacts would still be significant and unavoidable, requiring a statement of overriding considerations. Because Project activities have the potential to result in significant impacts to riparian, wetland features (which may include groundwater dependent ecosystems), CDFW is concerned that Mitigation Measure BIO-1 is not sufficient to prevent impacts to these habitats.

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It is not clear how riparian or wetland habitat areas (not limited to specific vegetation) would be identified and mapped in order to be avoided. CDFW continues to recommend implementation of the NOP letter Recommended Mitigation Measure 53: Stream and Wetland Mapping, Mitigation Measure 54: Stream and Wetland Habitat Mitigation, and Recommended Mitigation Measure 55: Groundwater Dependent Ecosystem Monitoring and Mitigation.

Impact BIO-4

Impact BIO-4 states that the proposed planting ordinance may substantially interfere with wildlife movement, including fish migration and/or impede the use of a native wildlife nursery. Project implementation may impact wildlife movement of special-status species, including CESA-listed species. The DPEIR states (page 4.3-18) that, "...within the PBLUMA, the State Route 46 corridor is a part of the San Joaquin kit fox range that connects core and satellite populations specifically between the Central Valley and Camp Roberts/Salinas Valley. Increase in land conversion to agricultural use would further fragment linkages between core and satellite populations within the range of the San Joaquin kit fox due to lack of suitable habitat, presence of predators (red fox [*Vulpes vulpes*] and domestic dogs [*Canis familiaris*]), and inundation of dens during irrigation".

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The DPEIR concludes that following compliance with the General Plan and other local, State, and federal regulatory frameworks, there are no other feasible mitigation measures for this biological impact, and this potential impact is significant and unavoidable, requiring a Statement of Overriding Consideration. It is not clear what other potential avoidance, minimization, or mitigation options may have been considered to reduce these impacts. It is also not clear the extent to which the Project could result in the reduction or functional elimination of a corridor or linkage used by a species such as San Joaquin kit fox (*Vulpes macrotis mutica*). The DPEIR also does not elaborate on the implications of the Project reducing or eliminating animal movements between subpopulations, including but not limited to the effects of limited dispersal, genetic exchange, and the potential for cut-off or isolated areas to persist with viable population numbers over time. CDFW recommends that the DPEIR include more detail regarding the extent of Project changes to habitats, either directly or through increased well use, to describe impacts in terms of any significance thresholds and to describe how avoidance or minimization measures, such as through protecting specific corridor areas, were analyzed. CDFW also recommends that the DPEIR address the implications for listed species.

6 (cont.)

General Plan Conservation and Open Space Element

The PDEIR states that the County's General Plan Conservation and Open Space Element (COSE) outlines goals and policies that include protecting special status species, protecting and enhancing native habitat, and preserving wetland and aquatic habitats (including fisheries). The DPEIR states that biological impacts (BIO-1, BIO-2, BIO-4) to special status species, wetland and riparian habitat, and fisheries would be significant and unavoidable. CDFW recommends that the DPEIR evaluate and describe how the Project complies or conflicts with the goals and policies of the COSE. For example, DPEIR page 4.3-18 states that fragmentation of habitats and isolation of regional wildlife populations could occur due to the ordinance. This appears to conflict with Policy BR 1.1 *Development Impacts to Corridors*, which requires restoration of important wildlife corridors if avoidance is not feasible for discretionary permits. If future Project-related activities will not be subject to discretionary actions and further CEQA review, then it appears necessary for the DPEIR to explain how it complies or conflicts with the COSE, because environmental impacts of exempt Project activities are expected to be accounted for in the PEIR (Executive Summary, page ES-2, paragraph 4). CDFW recommends that additional explanation be included in the DPEIR regarding the potential for minimization of impacts to biological resources according to the goals and requirements of COSE policy.

7

II. Impacts to Steelhead and Aquatic Ecosystems

In addition to the NOP letter comments regarding special status species, CDFW has the following specific comments and recommendations regarding the federal listed as

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threatened and State species of special concern South-Central California Coast Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss*).

Issues and Impacts

DPEIR Section 4.3.4, Cumulative Impacts, states that implementation of the proposed ordinance would result in significant regional impacts to aquatic species, riparian, and wetland habitat through facilitating further groundwater depletion and the conversion of habitat loss and decreased migration corridors as a result of conversion of natural habitat to agricultural use. The DPEIR also concludes significant impacts from Project activities would occur for special status aquatic species including steelhead trout. However, the biological and cumulative impact analysis section does not include an analysis of the potential impacts specific to aquatic species and habitats, including steelhead.

The National Marine Fisheries Service recovery plan for South-Central California Coast DPS identifies the Salinas River, including Nacimiento and San Antonio Rivers, as a Core 1 recovery stream. This designation identifies the Salinas River as one of the highest priority watersheds for recovery of steelhead within this DPS, and that critical recovery actions include alleviating threats to instream flows and impediments to fish passage.

The South-Central California Coast DPS includes steelhead populations in streams from the Pajaro River (inclusive) to (but not including) the Santa Maria River. In the mid-1960s, CDFW estimated that the DPS included 27,750 spawning steelhead, of which an estimated 500 spawned in the Salinas Basin. Five major streams (Pajaro River, Salinas River, Carmel River, Little Sur River, and Big Sur River) supported 4,750 spawners in the mid-1960s but support fewer than 500 in recent years with recent surveys in the Salinas River, primarily in the Arroyo Seco tributary, indicating that run averages may be much smaller. South-Central California Coast steelhead is regarded by the State as imperiled as it is vulnerable to extirpation and recovery of these populations is a high priority for steelhead management.

Habitat conditions for steelhead in the Salinas Basin are distinct from most other streams in the South-Central California Coast DPS of winter steelhead. The Salinas River drains an inland valley separated from the ocean by the coastal mountains. The Salinas tributaries that support steelhead drain the eastern side of the coast range, whereas most of the other streams are on the west side of the coast range and drain directly to the ocean. The geographic orientation of the Salinas Valley experiences a different micro-climate than other watersheds in the DPS and influences steelhead habitat conditions, including stream temperature during the summer rearing periods and the duration and frequency of streamflow conditions suitable for migration. Steelhead in the Salinas River may experience a greater number of years when access to the ocean

8 (cont.)

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is not possible due to low streamflow in comparison to other coastal streams in the region. Migration of adults from the ocean may begin later in the season, and seaward migration of juveniles may be truncated in the spring as compared to the other coastal drainages. Any changes to the flow volume of the Salinas River and its tributaries associated with the proposed Project could worsen conditions for steelhead and other fisheries.

Analysis Recommendations

CDFW recommends that the DPEIR include an analysis of impacts to anadromous fisheries, specifically South-Central California Coast DPS steelhead, based on the Project-related depletion of surface flows to the Salinas River and its tributaries. CDFW recommends that the DPEIR include requirements to identify, evaluate, and monitor all aquatic ecosystems and fish and wildlife resources therein that would be affected by Project activities and develop a plan to offset losses caused by changes in hydrology associated with the Project. CDFW recommends that any DPEIR determination that impacts will be significant and unavoidable include an explanation of both the avoidance and minimization contemplated but not incorporated, and the implications of significant impacts to steelhead and related to river and stream habitats for steelhead and associated aquatic resources.

8 (cont.)

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 CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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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 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).

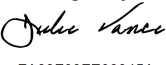
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CDFW appreciates the opportunity to comment on the Project to assist the County in identifying and mitigating the Project's impacts on biological resources. If you have questions regarding this letter, please contact Annette Tenneboe, Senior Environmental Scientist (Specialist), at (559) 580-3202 or by email at Annette.Tenneboe@wildlife.ca.gov.

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Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Enclosure: NOP letter

cc: Office of Planning and Research, State Clearinghouse, Sacramento

ec: Annette Tenneboe
Kristine Atkinson
California Department of Fish and Wildlife

Airlin Singewald; pasoplanning@co.slo.ca.us
County of San Luis Obispo

Leilani Takano; Leilani_Takano@fws.gov
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CHARLTON H. BONHAM, Director



September 17, 2021

Kyle Hensley, Planner
County of San Luis Obispo
976 Osos Street Room 200
San Luis Obispo, California 93408
khensley@co.slo.ca.us

**Subject: Paso Basin Land Use Planting Ordinance (Project)
Notice of Preparation (NOP)
State Clearinghouse No. 2021080222**

Dear Mr. Hensley:

The California Department of Fish and Wildlife (CDFW) received a NOP for an Environmental Impact Report (EIR) from the County of San Luis Obispo (County) for the above-referenced Project pursuant 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 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 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.

CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take.

PROJECT DESCRIPTION SUMMARY

Proponent: County of San Luis Obispo

Description: The County proposes to adopt the Paso Basin Land Use Management Area Planting Ordinance consisting of amendments to the County Land Use Ordinance (Title 22) and Agriculture and Conservation and Open Space Elements of the County General Plan (LRP2021-00001) to require ministerial land use approval ("a planting permit") until 2045 for new or expanded planting of irrigated crops irrigated with water from groundwater wells located within the Paso Basin Land Use Management Area with a two-tier framework. Tier 1 would authorize plantings estimated to allow up to 25 acre-feet per year (AFY) of total groundwater use for crop irrigation per site, including existing crop plantings. Tier 2 would authorize plantings estimated to maintain neutral groundwater use on site based on a 6-year rolling lookback period from the application date. New or expanded plantings not falling within Tier 1 or Tier 2 would not be allowed. The estimated water use for crop irrigation is to be based on crop-specific water duty factors (AFY/acre) and crop acreage. The ordinance would only regulate new or expanded planting of irrigated crops using groundwater from the Paso Basin Land Use Management Area. Existing uses of groundwater from this area for irrigated crop plantings would be allowed to continue their existing water uses.

Project Goal: The goals of the Project are to 1) allow farms to plant irrigated crops that they have not been able to under the Agricultural Offset Requirements and 2) to continue to exercise the County's land use authority to regulate planting of irrigated crops utilizing groundwater from within the Paso Basin Land Use Management Area.

Location: The Paso Basin Land Use Management Area includes 313,661 acres located within the Shandon-Carrizo (North), El Pomar-Estrella, Salinas River, Las

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Pilitas, Los Padres (North), Adelaida, and Nacimiento Sub Areas of the North County Planning Area and includes the communities of Shandon, San Miguel, Creston, and Whitley Gardens.

Timeframe: Paso Basin Land Use Management Area Planting Ordinance would expire in 2045.

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, 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 (CNDDDB) records, a review of aerial photographs of the Project boundary and surrounding habitat, several special-status species could potentially be impacted by Project activities. The Salinas River watershed and associated riparian and oak woodland habitats are present within the Project boundary.

In particular, CDFW is concerned regarding potential impacts for special status species and habitats known to occupy the Project area, including the State threatened and federal endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State and federal endangered giant kangaroo rat (*Dipodomys ingens*) and least Bell's vireo (*Vireo bellii pusillus*); the State threatened Nelson's antelope squirrel (*Ammospermophilus nelsoni*), Swainson's hawk (*Buteo swainsoni*), bank swallow (*Riparia riparia*), and tricolored blackbird (*Agelaius tricolor*); the State and federal endangered and State fully-protected blunt-nosed leopard lizard (*Gambelia sila*); the State and federal threatened California tiger salamander (*Ambystoma californiense* pop.1); the federal threatened and State species of special concern California red-legged frog (*Rana draytonii*); the State rare and federal threatened Camatta Canyon amole (*Chlorogalum purpureum* var. *reductum*); the federal threatened and California Rare Plant Rank (CRPR) 1B.1 Santa Lucia purple amole (*Chlorogalum purpureum* var. *purpureum*); the CRPR 1B.1 Kellogg's horkelia (*Horkelia cuneata* var. *sericea*), dwarf calycadenia (*Calycadenia villosa*), and mesa horkelia (*Horkelia cuneata* var. *puberula*); the CRPR 1B.2 woodland woollythreads (*Monolopia gracilens*), yellow-flowered eriastrum (*Eriastrum luteum*), San Luis Obispo owl's clover (*Castilleja densiflora obispoensis*), Lemmon's jewelflower (*Caulanthus lemmonii*), shining navarretia (*Navarretia nigelliformis radians*), Eastwood's larkspur (*Delphinium parryi* ssp. *eastwoodiae*), and Indian Valley spineflower (*Aristocapsa insignis*); the CRPR 1B.3 Brewer's spineflower (*Chorizanthe breweri*) and La Panza mariposa-lily (*Calochortus simulans*); and the State species of special concern Monterey hitch (*Lavinia exilcauda harengus*), burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), Townsend's big-eared bat (*Corynorhinus townsendii*), pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops*

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perotis californicus), western red bat (*Lasiurus blossevillii*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), Salinas pocket mouse (*Perognathus inornatus psammophilus*), San Joaquin pocket mouse (*Perognathus inornatus*), western pond turtle (*Emys marmorata*), western spadefoot (*Spea hammondi*), California glossy snake (*Arizona elegans occidentalis*), and Northern California legless lizard (*Anniella pulchra*). Suitable habitat for the rare and endemic crotch bumble bee (*Bombus crotchii*), and obscure bumble bee (*Bombus caliginosus*) also occurs in the Project vicinity.

The Salinas River supports the federal threatened and State species of special concern South-Central California Coast Steelhead (*Oncorhynchus mykiss*) (SCCCS) Distinct Population Segment (DPS) and the Salinas River is designated by the Federal Endangered Species Act (ESA) as critical habitat for the SCCCS DPS. Surface and ground water dependent ecosystems, including riparian, wetland, and oak woodland habitats, are present within the Salinas River watershed and other areas within the Project boundary.

Page 14 of the NOP (Timberland (e)), states that the Paso Basin Land Use Management Area Planting Ordinance would allow planting of irrigated crops on fallowed lands and lands historically uncultivated. Page 18 of the NOP (Biological Resources) states the proposed Planting Ordinance would allow for more groundwater pumping than under the existing ordinance and may result in the loss of habitat for candidate, sensitive, or special status species. CDFW requests that the EIR fully identify potential impacts to biological resources, including but not limited to the above-mentioned species and habitats. In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species and/or suitable habitat features may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, and to identify any Project-related impacts subject to CESA. CDFW recommends that the following be incorporated into the EIR.

I. Mitigation Measure or Alternative 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 United States Fish and Wildlife Service (USFWS)?

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COMMENT 1: San Joaquin Kit Fox (SJKF)

Issues and Impacts: SJKF have been documented within the Project boundary (CDFW 2021). Based on the information provided in the NOP, the Project has the potential to temporarily disturb and permanently alter suitable habitat for SJKF and directly impact individuals if present during ground disturbing and other activities.

Habitat loss resulting from land conversion to agricultural, urban, and industrial development is the primary threat to SJKF, and the Project area in San Luis Obispo County supports areas of high and medium suitability SJKF habitat (Cypher et al. 2013). 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; 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 Project impacts include habitat loss, den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality.

Recommended Mitigation Measure 1: SJKF Habitat Assessment

For all Project-specific components including construction and land conversion, CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for SJKF.

Recommended Mitigation Measure 2: SJKF Surveys and Minimization

CDFW recommends assessing presence or absence of SJKF by having qualified biologists conduct surveys of Project areas and a 500-foot buffer of Project areas to detect SJKF and their sign. CDFW also recommends following the “Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance” (2011) during Project implementation.

Recommended Mitigation Measure 3: SJKF Take Authorization

SJKF activity or detection 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).

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COMMENT 2: Giant Kangaroo Rat (GKR)

Issues and Impacts: GKR have been documented to occur in the eastern portion of the Project area (CDFW 2021). The NOP acknowledges the potential for the Project to disturb and permanently alter suitable habitat for special-status species, and to directly impact individuals and local populations if present. GKR inhabits sandy-loam soils located in grassland habitat with scattered shrubs and containing requisite habitat elements such as small mammal burrows. GKR could occupy or colonize undeveloped areas of suitable habitat within the Project boundary.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to GKR. Further, habitat fragmentation may accelerate the decline of this species. Little suitable intact habitat remains for these species (USFWS 1998, ESRP 2021a). Areas of suitable habitat within the Project vicinity represent some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. As a result, ground-disturbing activities and habitat conversion within the Project may have the potential to significantly impact local populations of GKR. Without appropriate avoidance and minimization measures for GKR, potential significant impacts from Project activities include loss of habitat, burrow collapse, inadvertent entrapment of individuals, reduced reproductive success such as reduced health or vigor of young, and direct mortality of individuals.

Recommended Mitigation Measure 4: GKR Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for GKR.

Recommended Mitigation Measure 5: GKR Surveys

In areas of suitable habitat, CDFW recommends that a qualified biologist conduct focused daytime visual surveys for GKR using line transects with 10- to 30-meter spacing of Project areas and a 50-foot buffer around those areas. Surveys should focus on the identification of their characteristic habitat types and burrow systems (burrow openings 50 to 55 mm in diameter) (CDFW 1990).

Recommended Mitigation Measure 6: GKR Avoidance

If suitable habitat is present and surveys are not feasible, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances until the completion of Project activities.

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Recommended Mitigation Measure 7: GKR Take Authorization

GKR detection or presence of characteristic habitat or burrow systems warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 3: San Joaquin Antelope Squirrel (SJAS)

Issues and Impacts: SJAS have been documented in areas of suitable habitat within the Project vicinity (CDFW 2021). Suitable SJAS habitat includes areas of grassland, upland scrub, and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJAS (ESRP 2020b). Areas of suitable habitat within the Project represent some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Ground-disturbing activities within the Project area may significantly impact local populations of SJAS. Without appropriate avoidance and minimization measures for SJAS, potential significant impacts include loss of habitat, burrow collapse, inadvertent entrapment of individuals, reduced reproductive success such as reduced health or vigor of young, and direct mortality of individuals.

Recommended Mitigation Measure 8: SJAS Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for SJAS.

Recommended Mitigation Measure 9: SJAS Surveys

In areas of suitable habitat, CDFW recommends that a qualified biologist conduct focused daytime visual surveys for SJAS using line transects with 10- to 30-meter spacing of Project areas and a 50-foot buffer. CDFW further advises that these surveys be conducted between April 1 and September 20, during daytime temperatures between 68° and 86° F (CDFG 1990), to maximize detectability.

Recommended Mitigation Measure 10: SJAS Avoidance

If suitable habitat is present and surveys are not feasible, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances until the completion of Project activities.

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Recommended Mitigation Measure 11: SJAS Take Authorization

SJAS detection or presence of characteristic habitat or burrow systems warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 4: Least Bell's Vireo (LBV)

Issues and Impacts: LBV occurrences have been documented within the Project area, including the vicinity of the Salinas River near Paso Robles, and suitable riparian habitat for nesting occurs in the Project vicinity (CDFW 2021). Suitable LBV habitat includes rivers and streams with dense riparian vegetation. Review of aerial imagery indicates that suitable habitat for LBV occurs within the Project area.

LBV were abundant and widespread in the United States until the 1950s (Grinnell and Miller 1944). By the 1960s, they were considered scarce (Monson 1960), and by 1980, there were fewer than 50 pairs remaining (Edwards 1980), although this number had increased to 2,500 by 2004 (Kus and Whitfield 2005). Breeding habitat loss resulting from urban development, water diversion, and spread of agricultural is the primary threat to LBV. The primary cause of decline for this species has been the loss and alteration of riparian woodland habitats (USFWS 2006). Fragmentation of their preferred habitat has also increased their exposure to brown-headed cowbird (*Molothrus ater*) parasitism (Kus and Whitefield 2005). Current threats to their preferred habitat include colonization by non-native plants and altered hydrology (diversion, channelization, etc.) (USFWS 2006). Little suitable habitat for LBV remains in San Luis Obispo County. Suitable nesting habitat is present within or adjacent to the Project site. Without appropriate avoidance and minimization measures, potential significant impacts associated with subsequent activities may include nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Recommended Mitigation Measure 12: LBV Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its immediate vicinity contains suitable habitat for LBV. Although LBV inhabit riparian woodlands, the species has also been found to benefit from non-riparian systems including brushy fields, second-growth forest or woodland, scrub oak, coastal chaparral, and mesquite brushlands (Kus and Miner 1989, Poulin et al. 2011).

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Recommended Mitigation Measure 13: Focused LBV Surveys

To reduce potential Project-related impacts to LBV, CDFW recommends that a qualified wildlife biologist conduct surveys following the survey methodology developed by USFWS (2001) prior to Project initiation, within the Project area and a ½-mile buffer around the Project area. In addition, if Project activities will take place during the typical breeding season (February 1 through September 15), CDFW recommends that additional preconstruction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project activities such as construction or habitat removal.

Recommended Mitigation Measure 14: LBV Buffers

If an active LBV nest is found during protocol or preconstruction surveys, CDFW recommends implementing a maintaining a minimum 500-foot no-disturbance buffer 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 site or parental care.

Recommended Mitigation Measure 15: LBV Nest Avoidance and Habitat Mitigation

In addition to avoiding occupied nest trees, CDFW recommends that impacts to known nest trees be avoided at all times of year. Regardless of nesting status, if potential or known LBV nesting habitat is removed, CDFW recommends it be replaced with appropriate native tree species, planted at a ratio of 3:1 (replaced to removed), in an area that will be protected in perpetuity, to offset impacts of the loss of potential nesting habitat.

Recommended Mitigation Measure 16: LBV Take Authorization

If a 500-foot no-disturbance nest buffer is not feasible, consultation with CDFW is warranted and acquisition of an ITP for LBV may be necessary prior to project implementation, to avoid unauthorized take, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 5: Swainson's Hawk (SWHA)

Issues and Impacts: The Project area is within the historic range of SWHA, and SWHA have been documented in areas of suitable habitat within the Project vicinity (CDFW 2021). Undeveloped and agricultural land in the surrounding area provide suitable foraging habitat for SWHA. Any trees in or near the Project area may also provide suitable nesting habitat.

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SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat limits their local distribution and abundance (CDFW 2016). Approval of the Project may lead to subsequent ground-disturbing activities that involve noise, groundwork, construction of structures, 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. In addition, conversion of undeveloped and agricultural land can directly influence distribution and abundance of SWHA, due to the reduction in foraging habitat. Groundwater pumping and habitat conversion may result in loss of riparian habitat and subsequent loss of potential nesting habitat. Without appropriate avoidance and minimization measures for SWHA, potential significant 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. All trees, including non-native or ornamental varieties, near the Project site may provide potential nesting sites.

Recommended Mitigation Measure 17: Focused SWHA Surveys

CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to Project implementation.

Recommended Mitigation Measure 18: SWHA Avoidance

CDFW recommends that 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, a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of when or how it was detected, 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 19: SWHA Take Authorization

CDFW 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 ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Recommended Mitigation Measure 20: Loss of SWHA Foraging Habitat

CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's

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Hawks” (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report: for projects within one mile of an active nest tree, a minimum of one acre of habitat management (HM) land for each acre of development is advised; for projects within five miles of an active nest but greater than one mile, a minimum of $\frac{3}{4}$ acre of HM land for each acre of development is advised; and for projects within 10 miles of an active nest tree but greater than five miles from an active nest tree, a minimum of $\frac{1}{2}$ acre of HM land for each acre of development is advised.

Recommended Mitigation Measure 21: SWHA Tree Removal

CDFW recommends that the removal of known SWHA nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ration of 3:1 at or near the Project area or in another area that will be protected in perpetuity, to offset the local and temporal impacts of nesting habitat loss.

COMMENT 6: Bank Swallow (BASW)

Issues and Impacts: BASW occurrences have been documented in the Project vicinity (CDFW 2021). The NOP acknowledges the potential for the Project to disturb and permanently alter suitable habitat for special-status species and to directly impact individuals if present. In the summer, BASW are restricted to riparian, lacustrine, and coastal areas with vertical banks, bluffs, and cliffs with fine-textured or sandy soils, into which it digs nesting holes. The species’ range in California has been significantly reduced since 1900 (CDFG 1989) and only about 110 to 120 colonies remain. The majority of breeding population in California occurs along banks of the Sacramento and Feather rivers. Other colonies persist along the central coast from Monterey to San Mateo counties (Remsen 1978, CDFG 1999).

Channelization and stabilization of riverbanks, and other destruction and disturbance of nesting areas, are major factors causing the marked decline in numbers in recent decades. Project activities including noise, vibration, odors, visual disturbance, and movement of workers or equipment could affect nesting individuals. Without appropriate avoidance and minimization measures, potential significant impacts associated with subsequent activities may include nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Recommended Mitigation Measure 22: Focused BASW Surveys

To reduce potential Project-related impacts to BASW, CDFW recommends that a qualified wildlife biologist conduct focused surveys for BASW following standard

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survey methodology developed by the Bank Swallow Technical Advisory Committee (2017) prior to Project initiation, within the Project area and a 500-foot buffer around the Project area. In addition, if Project activities will take place during the typical avian breeding season (February 1 through September 15), CDFW recommends that additional preconstruction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction.

Recommended Mitigation Measure 23: BASW Buffers

If an active BASW nest or a nest colony is found during protocol or preconstruction surveys, CDFW recommends implementing and maintaining a minimum 500-foot no-disturbance buffer 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 site or parental care for survival.

Recommended Mitigation Measure 24: BASW Take Authorization

If a 500-foot no-disturbance nest buffer is not feasible, consultation with CDFW is warranted and acquisition of an ITP for BASW may be necessary prior to project implementation, to avoid unauthorized take, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 7: Tricolored Blackbird (TRBL)

Issues and Impacts: TRBL are known to occur in the Project area (CDFW 2021, UC Davis 2021). Review of aerial imagery indicates that the Project area includes suitable habitat types including wetlands, ponds, and flood-irrigated agricultural land, which is an increasingly important nesting habitat type for TRBL (Meese et al. 2017).

Potential nesting habitat for TRBL is present within the Project vicinity. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014), and approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). In addition, TRBL have been forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, 55% of the species' global population nested in only two colonies in silage fields (Kelsey 2008). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, disturbance to nesting colonies can cause entire nest colony site abandonment and loss of all unfledged nests, significantly impacting TRBL populations (Meese et al. 2014). Without appropriate avoidance and minimization measures for TRBL, potential significant impacts associated with subsequent development include nesting habitat loss, nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

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Recommended Mitigation Measure 25: TRBL Surveys

CDFW recommends that the Project activities be timed to avoid the typical bird-breeding season of February 1 through September 15. If Project activity that could disrupt nesting must take place during that time, CDFW recommends that a qualified biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence or absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 26: TRBL Colony Avoidance

If an active TRBL nesting colony is found during surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer, in accordance with CDFW's (2015a) "*Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015*", until the breeding season has ended or until a qualified biologist has determined that nesting has ceased and the young have fledged and are no longer reliant upon the colony or parental care for survival. TRBL colonies can expand over time and for this reason, CDFW recommends that an active colony be reassessed to determine its extent within 10 days prior to Project initiation.

Recommended Mitigation Measure 27: TRBL Take Authorization

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss whether the Project can avoid take and, if take avoidance is not feasible, to acquire an ITP pursuant to Fish and Game Code section 2081 subdivision (b), prior to any Project activities.

COMMENT 8: Blunt-nosed Leopard Lizard (BNLL)

Issues and Impacts: The NOP acknowledges the potential for the Project to disturb and permanently alter suitable habitat for special-status species, and to directly impact individuals and local populations if present. Portions of the Project area are within the western most boundary of BNLL distribution (USFWS 1998), and BNLL have been documented within the Project area (CDFW 2021). Suitable BNLL habitat includes areas of grassland and upland scrub that contain requisite habitat elements, such as small mammal burrows. BNLL also use open space patches between suitable habitats, including disturbed sites, unpaved access roadways, and canals. Review of aerial imagery indicates that undeveloped portions of the Project area and its vicinity are composed of these habitat features.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to BNLL (ESRP 2021c). The Project and surrounding area contain

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undeveloped land with suitable habitat features, and ground disturbing activities and conversion of habitat may occur. Without appropriate avoidance and minimization measures for BNLL, potentially significant impacts associated with ground-disturbing activities include habitat loss, burrow collapse, reduced reproductive success, reduced health and vigor of eggs and/or young, and direct mortality.

Recommended Mitigation Measure 28: BNLL Surveys

CDFW recommends conducting surveys in accordance with the “Approved Survey Methodology for the Blunt-nosed Leopard Lizard” (CDFW 2019) prior to initiating any vegetation- or ground-disturbing activities. This survey protocol is designed to optimize BNLL detectability. CDFW advises that BNLL surveys be completed no more than one year prior to initiation of ground disturbance. Please note that protocol-level surveys must be conducted on multiple dates during late spring, summer, and fall of the same calendar year, and that within these time periods, there are specific protocol-level date, temperature, and time parameters that must be adhered to. In addition, the BNLL protocol specifies different survey effort requirements based on whether the disturbance results from maintenance activities or if the disturbance results in habitat removal (CDFW 2019).

Recommended Mitigation Measure 29: BNLL Take Avoidance

BNLL detection during protocol-level surveys warrants consultation with CDFW to discuss how to implement vegetation- and ground-disturbing activities and avoid take. Because BNLL is a State Fully Protected species, no take incidental or otherwise, can be authorized by CDFW.

COMMENT 9: California Tiger Salamander (CTS)

Issues and Impacts: CTS are known to occur in the Project area and its vicinity (CDFW 2021). Review of aerial imagery indicates the presence of several wetland features in the Project’s vicinity that have the potential to support breeding CTS. In addition, the Project area or its immediate surroundings may support small mammal burrows, a requisite upland habitat feature for CTS.

Up to 75% of historic CTS habitat has been lost to development (Shaffer et al. 2013). Loss, degradation, and fragmentation of habitat are among the primary threats to CTS (CDFW 2015b, USFWS 2017a). The Project area is within the range of CTS and is both composed of and bordered by suitable upland habitat that could be occupied or colonized by CTS. Without appropriate avoidance and minimization measures for CTS, potential significant impacts associated with any construction or ground disturbing activity include burrow collapse; inadvertent entrapment; reduced reproductive success; reduction in health and vigor of eggs, larvae and/or young;

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and direct mortality of individuals. In addition, depending on the design of any activity, the Project has the potential to result in creation of barriers to dispersal.

Recommended Mitigation Measure 30: CTS Habitat Assessment

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

Recommended Mitigation Measure 31: Focused CTS Surveys

If the Project area does contain suitable habitat for CTS, CDFW recommends that a qualified biologist evaluate potential Project-related impacts to CTS prior to ground-disturbing activities using the USFWS's "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (2003). CDFW advises that the survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS.

Recommended Mitigation Measure 32: CTS Avoidance

CDFW advises that avoidance for CTS include a minimum 50-foot no disturbance buffer delineated around all small mammal burrows and a minimum 250-foot no disturbance buffer around potential breeding pools within and/or adjacent to the Project area. CDFW also recommends avoiding any impacts that could alter the hydrology or result in sedimentation of breeding pools. If avoidance is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take.

Recommended Mitigation Measure 33: CTS Take Authorization

If through surveys it is determined that CTS are occupying the Project area and take cannot be avoided, take authorization may be warranted prior to initiating ground-disturbing activities by securing the acquisition of an ITP pursuant to Fish and Game Code section 2081 subdivision (b), before Project ground or vegetation disturbing activities occur. Alternatively, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and obtain an ITP.

COMMENT 10: California Red-Legged Frog (CRLF)

Issues and Impacts: The NOP acknowledges the potential for the Project to temporarily disturb and permanently alter suitable habitat for special-status species, including riparian and wetland habitat, and to directly impact individuals if present. CRLF have been documented within the Project Area including the Salinas River

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(CDFW 2021). CRLF primarily inhabit ponds but can also be found in other waterways including marshes, streams, and lagoons. The species will also breed in ephemeral waters (Thomson et al. 2016).

CRLF populations throughout the state have experienced ongoing and drastic declines and many have been extirpated (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators such as bullfrogs are the primary threats to CRLF (Thomson et al. 2016, USFWS 2017b). All of these impacts have the potential to result from the Project. Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the Project's activities include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

Recommended Mitigation Measure 34: CRLF Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project Area or its immediate vicinity contain suitable habitat for CRLF.

Recommended Mitigation Measure 35: CRLF Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct surveys for CRLF within 48 hours prior to commencing work (two night surveys immediately prior to construction or as otherwise required by the USFWS) in accordance with the USFWS *"Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog"* (USFWS 2005) to determine if CRLF are within or adjacent to the Project area.

Recommended Mitigation Measure 36: CRLF Avoidance

If any CRLF are found during preconstruction surveys or at any time during construction, CDFW recommends that construction cease and that CDFW be contacted to discuss a relocation plan for CRLF with relocation conducted by a qualified biologist holding a Scientific Collecting Permit from CDFW for the species. CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (e.g., November 1 and March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activity daily for CRLF.

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COMMENT 11: Special-Status Plants

Issues and Impacts: State- and federal listed, and other special-status plant species meeting the definition of rare or endangered under CEQA section 15380, are known to occur throughout the Project boundary and surrounding area, including the species listed above, and potentially other special-status plant species.

Many of the special-status plant species listed above are threatened by grazing and agricultural, urban, and energy development. Many historical occurrences of these species are presumed extirpated (CNPS 2021). Though new populations have recently been discovered, impacts to existing populations have the potential to significantly impact populations of plant species. Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts associated with subsequent Project-specific activities include loss of habitat, loss or reduction of productivity, and direct mortality.

Recommended Mitigation Measure 37: 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” (CDFG 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 38: 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 39: 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 is warranted. Take authorization would occur through issuance of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b).

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COMMENT 12: Burrowing Owl (BUOW)

Issues and Impacts: BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used for nesting and cover. BUOW may also occur in some 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). BUOW occurrences have been documented in the Project vicinity, and habitat both within and bordering the Project site supports suitable habitat for BUOW (CDFW 2021).

BUOW rely on burrow habitat year-round for their survival and reproduction. The Project and surrounding area contain remnant undeveloped land but is otherwise intensively managed for agriculture; therefore, subsequent ground-disturbing activities associated with subsequent constructions have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA. Potentially significant impacts to nesting and non-nesting BUOW can also 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.

Recommended Mitigation Measure 40: BUOW Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of implementation of Project activities, to determine if the Project area or its vicinity contains suitable habitat for BUOW.

Recommended Mitigation Measure 41: BUOW Surveys

Where suitable habitat is present on or in the vicinity of the Project area, CDFW recommends assessing presence or absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium (1993) "*Burrowing Owl Survey Protocol and Mitigation Guidelines*" and the CDFG (2012) "*Staff Report on Burrowing Owl Mitigation*". Specifically, these documents suggest three or more surveillance surveys conducted during daylight, with each visit occurring at least three weeks apart during the peak breeding season of April 15 to July 15, when BUOW are most detectable. In addition, CDFW advises that surveys include a minimum 500-foot survey radius around the Project area.

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Recommended Mitigation Measure 42: BUOW Avoidance

CDFW recommends that no-disturbance buffers, as outlined by CDFG (2012), be implemented prior to and during any ground-disturbing activities, and specifically that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Recommended Mitigation Measure 43: BUOW Eviction and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to CDFG (2012), evicting birds from burrows is not a take avoidance, minimization, or mitigation method and is instead considered a potentially significant impact under CEQA. If it is necessary for Project implementation, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW then recommends mitigation in the form of replacement of occupied burrows with artificial burrows at a minimum ratio of one burrow collapsed to one artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance at a rate that is sufficient to detect BUOW if they return.

COMMENT 13: Special-Status Bat Species

Issues and Impacts: Townsend's big-eared bat have been documented to occur in the vicinity of the Project area (CDFW 2021). In addition, habitat features are present that have the potential to support pallid bat, western mastiff bat, and western red bat.

Western mastiff bat, pallid bat, and Townsend's big-eared bat are known to roost in buildings, caves, tunnels, cliffs, crevices, and trees. (Lewis 1994 and Gruver 2006).

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Western red bat is highly associated with riparian habitat (Peirson et al. 2004). 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 44: Bat Roost Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if the Project area or its immediate vicinity contains suitable roosting habitat for special-status bat species.

Recommended Mitigation Measure 45: Bat Surveys

If 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 46: 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 14: Western Pond Turtle (WPT)

Issues and Impacts: WPT are documented in the Project area (CDFW 2021), and a review of aerial imagery shows requisite habitat features that WPT utilize for nesting, overwintering, dispersal, and basking occur in the Project area. These features include aquatic and terrestrial habitats such as rivers, lakes, reservoirs, ponded areas, irrigation canals, riparian and upland habitat. WPT 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 activities have the potential to significantly impact WPT populations.

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Without appropriate avoidance and minimization measures for WPT, 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 47: WPT Surveys

CDFW recommends that a qualified biologist conduct focused surveys for WPT within 10 days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season (March through August).

Recommended Mitigation Measure 48: WPT Avoidance and Minimization

CDFW recommends that any WPT 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 WPT 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 15: Crotch Bumble Bee (CBB) and Obscure Bumble Bee (OBB)

Issues and Impacts: CBB and OBB, rare and endemic bumble bee species, have been documented within the Project area (CDFW 2021). Suitable habitat includes areas of grasslands and upland scrub, open grassy coastal prairies, and Coast Range meadows that contain requisite habitat elements, such as small mammal burrows. These species of bumble bee 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 utilized by mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014).

CBB was once common throughout most of the central and southern California; however, it now appears to be absent from most of it, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2014). OBB historically occurs along the Pacific Coast with scattered records from the east side of the Central Valley. Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance of CBB by 98% and persistence by 80% over the last ten years. Analysis suggests very high population decline range-wide for OBB, including declines in range size by 40%, persistence by 67%, and relative abundance declines by 85%. But the level of population decline is difficult to ascertain, with more surveys needed within this species' historic range

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(Hatfield et al. 2014). Without appropriate avoidance and minimization measures, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with construction of the Project include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality.

Recommended Mitigation Measure 49: CBB and OBB Avoidance

CDFW recommends that all small mammal burrows and thatched/bunch grasses be surveyed for the species during the optimal flight period (April 1-July 31) during peak blooming period of preferred plant species prior to Project implementation. Avoidance of detected queens or workers is encouraged to allow CBB and OBB to leave the Project site on their own volition. Avoidance and protection of a detected nests prior to or during Project implementation is encouraged with delineation and observance of a 50-foot no-disturbance buffer.

COMMENT 16: Other State Species of Special Concern

Issues and Impacts: American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, Northern California legless lizard, and western spadefoot 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 2021).

Habitat loss threatens all of the species mentioned above (Williams 1986, Thomson et al. 2016). 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 50: Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if Project areas or their immediate vicinity contain suitable habitat for the species mentioned above.

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Recommended Mitigation Measure 51: Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.

Recommended Mitigation Measure 52: 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.

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT 17: Wetland and Riparian Habitats

Issues and Impacts: The Project area includes stream and wetland features within an agricultural landscape that also maintains undeveloped habitats. Project activities have the potential to result in temporary and permanent impacts to these features through groundwater pumping, habitat conversion, grading, fill, and related development. Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow. The Fish and Game Commission policy regarding wetland resources discourages development or conversion of wetlands that results in any net loss of wetland acreage or habitat value. Habitat conversion, construction, grading, and fill activities within these features also has the potential to impact downstream waters as a result of Project site impacts leading to erosion, scour, and changes in stream morphology.

Recommended Mitigation Measure 53: 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

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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 as well as the 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 54: 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 EIR 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.

COMMENT 18: Sustainable Groundwater Management Act (SGMA) and Groundwater Dependent Ecosystems:

Issues and Impacts: Many sensitive ecosystems and public trust resources such as streams, springs, riparian areas, and wetlands are dependent on groundwater and interconnected surface waters. The Project boundary overlaps the majority of the boundary for the Paso Robles Area Subbasin (Subbasin No. 3-004.06). A Groundwater Sustainability Plan was prepared for the Paso Robles Subbasin jointly by four Groundwater Sustainability Agencies (GSAs): City of Paso Robles GSA, Paso Basin - County of San Luis Obispo GSA, San Miguel Community Services District GSA, and Shandon - San Juan GSA. The Paso Robles Subbasin is listed as critically overdrafted and designated a high priority Subbasin by the Department of Water Resources. SGMA defines sustainable groundwater management as “management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results (Water Code, § 10721 (v)).” Significant and undesirable results that may result from Project related activities and have adverse impacts to groundwater dependent ecosystems

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include chronic lowering of groundwater levels, reduction of groundwater storage, degraded water quality, land subsidence, and depletions of interconnected surface water that have an adverse impact on beneficial uses of surface water.

According to the NOP, the Groundwater Sustainability Plan prepared for the Paso Robles Subbasin assumes no net increase in pumping demand on the basin in future water budget analysis. The increased pumping that would be allowed by the Project is not accounted for in the Groundwater Sustainability Plan, which currently projects a groundwater storage deficit that would increase under the Project. The increased groundwater pumping due to the Project may result in significant and adverse impacts to groundwater dependent ecosystems including wetland and riparian habitats and the species dependent upon these habitats.

Analysis Recommendations:

- CDFW recommends that the EIR include an analysis of Project-related activities and groundwater pumping in relation to the Paso Robles Subbasin Groundwater Sustainability Plan, including analysis of potential undesirable results and adverse impacts to groundwater dependent ecosystems including the biological resources listed above.
- CDFW recommends that the EIR analyze how the drawdown of groundwater from the Project may affect surface and subsurface water levels, including drawdown from confined aquifers.
- CDFW recommends that the EIR include specific triggers for evaluating changes to surface and ground water levels and monitoring wetland and riparian habitats that would be affected by these changes.

Recommended Mitigation Measure 55: Groundwater Dependent Ecosystem Monitoring and Mitigation:

CDFW recommends that the EIR include requirements to identify, evaluate, and monitor all areas that would be affected by increased pumping, and develop a plan to offset losses of groundwater dependent ecosystems caused by changes in hydrology associated with Project pumping. The plan should address mitigation for impacted habitat value and function, to achieve a minimum no net loss of these habitats, consistent with California Fish and Game Commission policy on Wetlands Resources.

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Editorial Comments and/or Suggestions

Lake and Streambed Alteration: Project activities that have the potential to substantially change the bed, bank, and channel of streams and associated wetlands may be subject to CDFW's regulatory authority pursuant to 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 has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

CDFW encourages that Project implementation occur during the bird non-nesting season; however, if Project activities must occur during the breeding season (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 biologist conduct preconstruction 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

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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 biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers.

Endangered Species Act Consultation: CDFW recommends consultation with the USFWS prior to Project ground disturbance, due to potential impacts to Federal listed species. Take under the ESA is more stringently defined than under CESA; take under ESA may also include significant habitat modification or degradation that could result in death or injury to a listed species, by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Similarly, for potential effects to steelhead and its critical habitat, CDFW recommends consultation with the National Marine Fisheries Service (NMFS). Consultation with the USFWS and NMFS in order to comply with ESA is advised well in advance of Project implementation.

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

<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data> . The completed form can be mailed electronically to CNDDDB at the following email address:

CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by

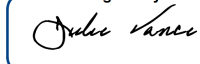
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CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

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

cc: Office of Planning and Research, State Clearinghouse, Sacramento

ec: Annette Tenneboe, California Department of Fish and Wildlife

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Attachment 1

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

PROJECT: Paso Basin Land Use Planting Ordinance

STATE CLEARINGHOUSE No.: 2021080222

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>Before Project Activity</i>	
Recommended Mitigation Measure 1: SJKF Habitat Assessment	
Recommended Mitigation Measure 2: SJKF Surveys and Minimization	
Recommended Mitigation Measure 3: SJKF Take Authorization	
Recommended Mitigation Measure 4: GKR Habitat Assessment	
Recommended Mitigation Measure 5: GKR Surveys	
Recommended Mitigation Measure 7: GKR Take Authorization	
Recommended Mitigation Measure 8: SJAS Habitat Assessment	
Recommended Mitigation Measure 9: SJAS Surveys	
Recommended Mitigation Measure 11: SJAS Take Authorization	
Recommended Mitigation Measure 12: LBV Habitat Assessment	
Recommended Mitigation Measure 13: Focused LBV Surveys	
Recommended Mitigation Measure 14: LVB Buffers	
Recommended Mitigation Measure 15: LBV Nest Avoidance and Habitat Mitigation	
Recommended Mitigation Measure 16: LVBI Take Authorization	
Recommended Mitigation Measure 17: Focused SWHA Surveys	
Recommended Mitigation Measure 18: SWHA Avoidance	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>During Project Activity</i>	
Recommended Mitigation Measure 2: SJKF Surveys and Minimization	
Recommended Mitigation Measure 6: GKR Avoidance	
Recommended Mitigation Measure 10: SJAS Avoidance	
Recommended Mitigation Measure 14: LVB Buffers	
Recommended Mitigation Measure 15: LBV Nest Avoidance and Habitat Mitigation	
Recommended Mitigation Measure 18: SWHA Avoidance	
Recommended Mitigation Measure 23: BASW Buffers	
Recommended Mitigation Measure 26: TRBL Colony Avoidance	
Recommended Mitigation Measure 32: CTS Avoidance	
Recommended Mitigation Measure 38: Special-Status Plant Avoidance	
Recommended Mitigation Measure 42: BUOW Avoidance	
Recommended Mitigation Measure 46: Bat Roost disturbance Minimization and Avoidance	
Recommended Mitigation Measure 48: WPT Avoidance and Minimization	
Recommended Mitigation Measure 49: CBB and OBB Surveys and Avoidance	
Recommended Mitigation Measure 52: Avoidance – American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, California legless lizard, western spadefoot.	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 19: SWHA Take Authorization	
Recommended Mitigation Measure 20: Loss of SWHA Foraging Habitat	
Recommended Mitigation Measure 21: SWHA Tree Removal	
Recommended Mitigation Measure 22: Focused BASW Surveys	
Recommended Mitigation Measure 23: BASW Buffers	
Recommended Mitigation Measure 24: BASW Take Authorization	
Recommended Mitigation Measure 25: TRBL Surveys	
Recommended Mitigation Measure 26: TRBL Colony Avoidance	
Recommended Mitigation Measure 27: TRBL Take Authorization	
Recommended Mitigation Measure 28: BNLL Surveys	
Recommended Mitigation Measure 29: BNLL Take Avoidance	
Recommended Mitigation Measure 30: CTS Habitat Assessment	
Recommended Mitigation Measure 31: Focused CTS Surveys	
Recommended Mitigation Measure 32: CTS Avoidance	
Recommended Mitigation Measure 33: CTS Take Authorization	
Recommended Mitigation Measure 34: CRLF Habitat Assessment	
Recommended Mitigation Measure 35: CRLF Surveys	
Recommended Mitigation Measure 36: CRLF Avoidance	
Recommended Mitigation Measure 37: Special-Status Plant Surveys	
Recommended Mitigation Measure 38: Special-Status Plant Avoidance	
Recommended Mitigation Measure 39: Listed Plant Species Take Authorization	
Recommended Mitigation Measure 40: BUOW Habitat Assessment	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 41: BUOW Surveys	
Recommended Mitigation Measure 42: BUOW Avoidance	
Recommended Mitigation Measure 43: BUOW Eviction and Mitigation	
Recommended Mitigation Measure 44: Bat Roost Habitat Assessment	
Recommended Mitigation Measure 45: Bat Surveys	
Recommended Mitigation Measure 46: Bat Roost disturbance Minimization and Avoidance	
Recommended Mitigation Measure 47: WPT Surveys	
Recommended Mitigation Measure 48: WPT Avoidance and Minimization	
Recommended Mitigation Measure 49: CBB and OBB Surveys and Avoidance	
Recommended Mitigation Measure 50: Habitat Assessment – – American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, California legless lizard, western spadefoot.	
Recommended Mitigation Measure 51: Surveys – American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, California legless lizard, western spadefoot.	
Recommended Mitigation Measure 52: Avoidance – American badger, Tulare grasshopper mouse, Salinas pocket mouse, San Joaquin pocket mouse, California glossy snake, California legless lizard, western spadefoot.	
Recommended Mitigation Measure 53: Stream and Wetland Mapping	
Recommended Mitigation Measure 54: Stream and Wetland Habitat Mitigation	
Recommended Mitigation Measure 55: Groundwater Dependent Ecosystem Monitoring and Mitigation	