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*

Governor's Office of Planning & Research

DEC 04 2019

STATE CLEARINGHOUSE

December 3, 2019

Richard Felsing
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, California 95023

**Subject: Panoche RV Park (Project)**
**MITIGATED NEGATIVE DECLARATION (MND)**
**SCH No. 2019109057**

Dear Mr. Felsing:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration from San Benito County for the 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, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code. Although the comment period has ended, CDFW hopes that these comments will assist San Benito County in their planning efforts.

## 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.

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, construction activities resulting from 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.

**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, 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).

**Water Pollution:** Pursuant to Fish and Game Code section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures, implementation of the Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize these watercourses include the following: increased sediment input from road or structure runoff; toxic runoff associated with development activities and implementation; and/or impairment of wildlife movement along riparian corridors. The Regional Water Quality Control Board and United States Army Corps of Engineers also have jurisdiction regarding discharge and pollution to Waters of the State.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** Frank Saunders

**Objective:** The Project proponent proposes to develop 2.5 acres behind the Panoche Inn into 21 RV stalls. Internal circulation consists of aggregate base drive aisles, RV stalls, and dual access driveways onto Panoche Road at the northeast and northwest lot corners. A sewage pump-out station will serve all stalls and the facility as a whole. Water hookups will serve all stalls. The first row of seven RV stalls will have full hookups (water, sewer, electricity). Septic and water system improvements include installation of a new septic tank and leach field, water well for drinking, and fire suppression equipment consisting of five hydrants and a water tank. Ninety-one trees will be planted as a windbreak, for visual screening, and to shade RV stalls.

**Location:** The Project site is within 2.5 acres of a 6.52-acre site that is home to the Panoche Inn. The Project site is generally situated on the southern edge of the Panoche Valley at 29960 Panoche Road, Paicines, California 95043; 36.6062, -120.8856; Assessor Parcel Number (APN): 027-280-011. As summarized in the Biological Survey Report prepared for the Project, the Project site is comprised of annual grassland.

**Timeframe:** Unspecified.

## COMMENTS AND RECOMMENDATIONS

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

### I. Environmental Setting and Related Impact

Review of the California Natural Diversity Database (CNDDB) reveals records for several special-status species within the vicinity of the Project area, including the State and federally endangered and State fully protected blunt-nosed leopard lizard (*Gambelia sila*); the State and federally endangered giant kangaroo rat (*Dipodomys ingens*); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); and the State threatened San Joaquin antelope squirrel (*Ammospermophilus nelsoni*) (CDFW 2019a). Review of aerial imagery also reveals the presence of suitable habitat for these species both on and immediately adjacent to the Project area, despite the Project area itself having been disked and used as a storage yard in association with the Panoche Inn. In addition, an un-named blue-line stream bisects the Project area's southeast corner. The Project's MND discounts both the presence of the blue-line stream and the potential for the species mentioned above to occur in the Project area and provides no avoidance, minimization, or mitigation measures for these biological resources within the body of the MND itself, but instead refers the reader to the "mitigations recommended by the consulting biologist." In addition, the "Summary Form" circulated with the MND states that "applying the biologists' recommendations as requirements will reduce any potential effects below a significant level." However, there are only two mitigation measures identified in the Biological Survey Report attached to the MND, one of which points the reader to best management practices included in the report. These best management practices are not enforceable and include recommendations such as "the work will be done as quickly as possible." For this reason, the measures are unlikely to be sufficient in minimizing impacts to the species listed above to a level that is less than significant. An analysis of

potential impacts and recommended mitigation measures summarized by species follows below.

**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)?**

**COMMENT 1: Blunt-nosed leopard lizard (BNLL)**

**Issue:** BNLL have been documented to occur within 1 mile of the Project area (CDFW 2019a). Suitable blunt-nosed leopard lizard (BNLL) habitat includes areas of grassland and upland scrub that contain requisite habitat elements, such as small mammal burrows. In addition, BNLL also use open space patches between suitable habitats, including disturbed sites and unpaved access roadways. The Biological Survey Report prepared for the Project states that the Project area is comprised of annual grassland, a suitable habitat type for BNLL. The MND discounts the suitability of the Project area for BNLL because of the absence of "stream cut-banks, riparian rocks, or giant kangaroo rat burrow systems." However, the Project site is comprised of and surrounded by suitable habitat for BNLL; therefore, increasing the likelihood of BNLL being present onsite. The Biological Survey Report also states that California ground squirrel burrows, a requisite habitat feature for BNLL, were present onsite, despite the fact that the MND states that friable soils are not present. In addition, the conclusion that the site does not support suitable BNLL habitat is based on a single-day reconnaissance-level survey conducted on August 29, 2019 in which no BNLL were observed. This level of effort is likely insufficient in detecting BNLL presence (Germano 2009).

**Specific impact:** Without appropriate avoidance and minimization measures for BNLL, potentially significant impacts associated with Project activities include burrow collapse, nest abandonment, reduced reproductive success, reduced health and vigor of eggs and/or young, and direct mortality.

**Evidence impact is potentially significant:** Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to BNLL (ESRP 2018). In fact, currently the amount of habitat lost since the species' listing is greater than the amount of habitat protected (Stewart et al. 2019). Therefore, development of the Project has the potential to significantly impact local BNLL populations.

**Recommended Potentially Feasible Mitigation Measure(s)**
To evaluate potential impacts to BNLL associated with Project development, CDFW recommends conducting the following evaluation of the Project area and including the following measures as conditions of approval for the Project.

**Recommended Mitigation Measure 1: BNLL Surveys**

Given that the MND acknowledges that the Project site is comprised of suitable habitat, prior to initiating any Project activities, CDFW recommends conducting surveys in accordance with the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFW 2019b). This recommended survey protocol, designed to optimize BNLL detectability, reasonably assures CDFW that ground disturbance will not result in take of this fully protected species.

CDFW advises completion of BNLL surveys 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 and that within these time periods there are specific protocol-level date, temperature, and time parameters which must be adhered to. As a result, protocol-level surveys for BNLL are not synonymous with 30-day "preconstruction surveys" often recommended for other wildlife species

**Recommended Mitigation Measure 2: BNLL Take Avoidance**

BNLL detection during protocol-level surveys warrants consultation with CDFW to discuss how to implement Project activities and avoid take.

**COMMENT 2: Giant Kangaroo Rat (GKR)**

**Issue:** GKR are known to occur in the vicinity of the Project area (CDFW 2019a). GKR inhabit areas with sandy-loam soils with gentle slopes vegetated with annual grasses and scattered shrubs (ESRP 2019). The MND discounts occurrence of GKR in the Project area, stating that the Project area does not support friable soil. However, the Project area is comprised of Panoche loam soils (UC Davis 2019), which are friable and suitable for burrowing by GKR. In addition, the Biological Resources Report attached to the MND states that California ground squirrel burrows were observed in the Project area, further underscoring the friability of the soils onsite, and thus, the suitability of the Project area for occupation or colonization by GKR.

**Specific impact:** Without appropriate avoidance and minimization measures for GKR, significant impacts resulting from Project activities include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

**Evidence impact would be significant:** Habitat loss resulting from development is the primary threat to GKR. Very few small and isolated GKR colonies persist in San Benito County and therefore,if GKR are present on or in the vicinity of the Project

area, Project activities have the potential to significantly impact populations of this species (USFWS 2010, ESRP 2019).

**Recommended Potentially Feasible Mitigation Measure(s)**
Because potentially suitable habitat for GKR is present on and within the vicinity of the Project area, CDFW recommends conducting the following evaluation of the Project area and including the following measures as conditions of approval for the Project.

**Recommended Mitigation Measure 3: GKR Habitat Assessment**

The MND discounts the suitability of the Project area for occupation by GKR, citing a lack of friable soils. However, the Biological Resources Report states ground squirrel burrows are present, indicating that the Project area's soils are friable, but does not specifically discuss the potential for GKR. Given this discrepancy between the two documents, 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 4: GKR Trapping Surveys**

If suitable habitat is present, CDFW recommends that a trapping plan for determining presence of GKR be submitted to and approved by CDFW prior to subsequent trapping efforts. CDFW recommends these surveys be conducted by a qualified biologist who holds a Memorandum of Understanding with CDFW for GKR. CDFW further recommends that these surveys be conducted between April 1 and October 31, when kangaroo rats are most active and well in advance of Project activities in order to determine if impacts to GKR could occur.

**Recommended Mitigation Measure 5: GKR Avoidance**

If suitable habitat is present and trapping is not feasible, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrows. Alternatively, if GKR are found within the Project area during preconstruction surveys or construction activities, consultation with CDFW is advised to discuss how to implement the Project and avoid take.

**Recommended Mitigation Measure 6: GKR Take Authorization**

If avoidance of GKR is not feasible, CDFW recommends acquiring an ITP prior to any ground-disturbing activities, pursuant Fish and Game Code section 2081(b).

**COMMENT 3: San Joaquin Kit Fox (SJKF)**

**Issue:** The Project's MND discounts the suitability of the Project area for occupation by SJKF as a result of no tracks or scat being observed during a single-day reconnaissance-level survey of the Project area. However, the Project area is comprised of and surrounded by annual grassland, a suitable habitat type for SJKF. Therefore, SJKF have the potential to occur on or in the vicinity of the Project area or be attracted to the Project area during ground-disturbing activities. SJKF den in right-of-ways, vacant lots, etc., and populations can fluctuate over time. Presence/absence in any one year is not necessarily a reliable indicator of SJKF potential to occur on a site. 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. As a result, there is potential for SJKF to occupy or colonize the Project area. However, the Project's MND does not currently include any mitigation measures for SJKF and the Biological Survey Report only requires a preconstruction survey conducted within 14 days of initiation of construction to assess the presence of SJKF if construction will occur between January 15 and September 15. This measure does not specify a species-specific survey protocol, and as such, may not be suitable in detecting the species.

**Specific impact:** Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with the Project's construction include den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

**Evidence impact is potentially significant:** Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJKF. The Panoche Valley represents highly suitable habitat, further increasing the likelihood of SJKF to occur on or in the vicinity of the Project area (Cypher et al. 2013), and therefore, the likelihood of the Project to impact the species.

**Recommended Potentially Feasible Mitigation Measure(s)**
To evaluate potential Project-related impacts to SJKF, CDFW recommends conducting the following evaluation of the Project site prior to construction and editing the Project's CEQA document to include the following measures.

**Recommended Mitigation Measure 7: SJKF Surveys**

CDFW recommends assessing presence/absence of SJKF by conducting surveys following the USFWS (2011) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance." Specifically, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less

than 14 days and no more than 30 days prior to beginning of ground-disturbing activities.

**Recommended Mitigation Measure 8: SJKF Avoidance**

If SJKF dens are found during surveys, CDFW recommends implementing no-disturbance buffers, as described in the USFWS "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" around den sites.

**Recommended Mitigation Measure 9: SJKF Take Authorization**

SJKF detection warrants consultation with CDFW to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081(b).

**COMMENT 4: San Joaquin Antelope Squirrel (SJAS)**

**Issue:** SJAS have been documented to occur within the vicinity of the Project area (CDFW 2019a). Suitable SJAS habitat includes areas of grassland, upland scrub, and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows. The MND currently does not provide any measures that address Project impacts to SJAS.

**Specific impact:** Without appropriate avoidance and minimization measures for SJAS, potential significant impacts include nest abandonment, which may result in reduced reproductive success such as reduced health or vigor of young, in addition to direct mortality in violation of Fish and Game Code.

**Evidence impact is potentially significant:** Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJAS (Cypher et al. 2019). As a result of these development pressures, the species' distribution throughout its historic range has been contracted. Small populations currently persist in the Panoche Valley and the area is identified as a core area for the species (USFWS 1998, Cypher et al. 2019). Therefore, impacts resulting from the Project may be significant.

**Recommended Potentially Feasible Mitigation Measure(s)**
To evaluate potential impacts to SJAS associated with Project development, CDFW recommends conducting the following evaluation of the Project area and including the following measures as conditions of approval for the Project.

**Recommended Mitigation Measure 10: 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 11: 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. CDFW further advises that these surveys be conducted between April 1 and September 20, during appropriate conditions. Conditions considered appropriate for SJAS include daytime temperatures between 68–86° F (CDFG 1990).

**Recommended Mitigation Measure 12: SJAS Avoidance**

If suitable habitat is present and surveys or trapping are not feasible, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrows of suitable size for SJAS.

**Recommended Mitigation Measure 13: SJAS Take Authorization**

SJAS detection 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(b).

**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 5: Lake and Streambed Alteration**

**Issue:** The Biological Survey Report prepared for the project acknowledges the presence of a blue-lined stream that bisects the Project area. However, the report states that the "nearest riparian and wetland resources to the Project area…are all well over 100 feet away", thereby discounting the potential impact of the Project on the on-site stream. In addition, the Project's MND states that this feature "may not be extant", further discounting the potential for the Project to impact it. The MND therefore does not include guidance on how to evaluate the need for a Streambed Alteration Agreement. It also doesn't require Notification pursuant Fish and Game Code section 1602 should an evaluation find that activities within this feature are subject to CDFW's lake and streambed alteration regulatory authority.

**Specific impact:** Work within water features has the potential to result in substantial diversion or obstruction of natural flows; substantial change or use of material from the bed, bank, or channel (including removal of riparian vegetation); deposition of debris, waste, sediment, toxic runoff or other materials into water causing water pollution and degradation of water quality.

**Evidence impact is potentially significant:**

Lake and Streambed Alteration

Activities within streams may be subject to CDFW's lake and streambed alteration regulatory authority. Construction activities within these features have the potential to impact downstream waters. Streams function in the collection of water from rainfall, storage of various amounts of water and sediment, discharge of water as runoff and the transport of sediment, and they provide diverse sites and pathways in which chemical reactions take place and provide habitat for fish and wildlife species. Disruption of features such as these can have significant physical, biological, and chemical impacts that can extend into the adjacent uplands adversely effecting not only the fish and wildlife species dependent on the stream itself, but also the flora and fauna dependent on the adjacent upland habitat for feeding, reproduction, and shelter.

Water Diversion

Water diversions can impact flow regimes. Prolonged low flows can cause water features to become degraded and cause channels to become disconnected from floodplains (Poff et al. 1997). This process decreases available habitat for aquatic wildlife species. In addition, alterations to flows can affect the health of riparian vegetation, reducing habitat quality for wildlife species.

**Recommended Potentially Feasible Mitigation Measure(s)**

**Recommended Mitigation Measure 14: Stream and Wetland Mapping, and Lake and Streambed Alteration**

CDFW recommends that formal stream mapping and wetland delineation be conducted by a qualified biologist to determine the location and extent 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 as well as what activities require Notification pursuant to Fish and Game Code section 1602 differ. Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as what activities may require Notification to comply with Fish and Game Code. Fish and Game Code section 2785 (g) defines wetlands; further, section 1600 et seq. applies to any area within the bed, channel, or bank of any river, stream, or lake. It is important to note that while accurate wetland delineations by qualified individuals have resulted in

more rapid review and response from the United States Army Corps of Engineers and CDFW, substandard or inaccurate delineations have resulted in unnecessary time delays for applicants due to insufficient, incomplete, or conflicting data. CDFW advises that site map(s) designating wetlands as well as the location of any activities that may affect a lake or stream be included with any Project site evaluations.

**Recommended Mitigation Measure 15: Notification of Lake or Streambed Alteration**

Fish and Game Code section 1600 et seq. 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 and Streambed Alteration Agreement. For additional information on Notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593.

## II. Editorial Comments and/or Suggestions

**Nesting birds:** The Project area likely provides nesting habitat for birds. CDFW encourages Project implementation occur during the bird non-nesting season. However, if ground-disturbing 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 Codes as referenced above.

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

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

**Federally Listed Species:** CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, blunt-nosed leopard lizard, giant kangaroo rat, and San Joaquin kit fox. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

## 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.)

**CONCLUSION**

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

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (https://www.wildlife.ca.gov/Conservation/Survey-Protocols). Questions regarding this letter or further coordination should be directed to Renée Robison, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014, extension 274, or by electronic email at Renee.Robison@wildlife.ca.gov.

Sincerely,

Julie A. Vance
Regional Manager

cc: Mark Ogonowski
United States Fish and Wildlife Service
2493 Portola Road, Suite B
Ventura, California 93003

Office of Planning and Research
Post Office Box 3044
Sacramento, California 95814

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